

1:30 o'clock, on that day, assisting the said Conley to move the body from the second floor to the basement.

The defendant here and now offers to show and prove to the Court all of the facts herein set forth, and swears to the existence of these facts as the truth, and asks the Court to investigate them in this extraordinary motion.

Defendant further submits that the discovery of the foregoing facts is material, and that it is such an extraordinary state of facts as would probably produce a different result on another trial; that said facts were unknown to defendant and his counsel and that it was impossible to have ascertained the same by the exercise of proper diligence, the said Mrs. Ethel Harris Miller and Maier Lefkoff not being witnesses on said trial, and the fact that they were in possession of the facts hereinbefore set forth was unknown to the defendant and his counsel until after the motion for new trial had been heard and passed on.

8. Defendant further shows he should be granted a new trial upon the newly discovered evidence of Miss Dewey Howell, which has just come to the knowledge of this defendant and of his counsel, since the original motion for new trial was heard and passed on, and which is as follows; that the said Dewey Howell was an employee of the National Pencil Company; that she worked for said company for only a few days, and that during the time of her employment there she never met Leo M. Frank to know who he was, and never in her life did she meet Mary Phagan, nor did she ever see Mary Phagan, and that she has never seen the defendant and the said Mary Phagan together; that, at the time of the original trial of the defendant, she was a resident of the home of the Good Shepherd, at Cincinnati, Ohio, and that a Mrs. Bonnifield, the police matron, representing the City Police Department of Atlanta, Georgia, came to Cincinnati, and returned her to Atlanta, where she was used as a witness in the above named case, after which she was again returned to the Home of the Good Shepherd at Cincinnati, that, during her confinement in a large room adjoining the office of Solicitor General Dorsey, the said Dewey Howell met some twelve or fifteen other girls, who, like herself, were to be witnesses against the defendant, among