

Pencil Factory, she never heard any employee, male or female, say that defendant was a man of bad character, and had never seen any wrong doing on his part.

Defendant shows that at the trial, the Solicitor General put several witnesses on the stand to testify to the bad character of the defendant, and further that the defendant knew Mary Phagan. The Solicitor General proved by the said Dewey Hewell that she had worked at the pencil factory four months and had seen the defendant talk to Mary Phagan two or three times a day in the metal department and had seen him hold his hand on her shoulder, and that he called her "Mary" and would stand pretty close to her, Frank had stated before the trial (such statement being in evidence), and again on the trial, that he did not know Mary Phagan by name. This little girl, Dewey Hewell was trained, as she now swears, to say that Frank must have known Mary's name, since he called her "Mary", and was further trained falsely to say that she saw Frank with his hands on Mary Phagan. Dewey Hewell's testimony was very hurtful to Frank and must have influenced the jury in their finding especially for the reason that the state insisted that Frank was seeking to be familiar with Mary Phagan and killed her because she resisted said familiarity.

Defendant here and now offers to show and prove to the Court all 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.

The 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, and that said facts were unknown to the defendant and his counsel, and it was impossible to have ascertained the same by the exercise of proper diligence, the fact that said Dewey Hewell was 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.

9. Defendant further shows that he should be granted a new trial upon the newly discovered evidence of Miss Ruth Robertson