

had been down in the basement; that the defendant knew that he was in the basement, that there would be ladies in defendant's office, sometimes two and sometimes one; that he visited the Pen oil factory with Daisy Hopkins; that said Daisy Hopkins introduced said Dalton to defendant in defendant's office before Christmas; that Daisy Hopkins accompanied said Dalton down to the basement where there was an old cot and stretcher; that defendant had coca cola, lemon and lime and beer in his office; that Daisy Hopkins knew defendant and Dalton had seen her talking to him.

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. Neither this defendant nor his counsel knew of the existence of Dalton until he was put upon his trial had no knowledge nor could have known that he would make the statements above outlined. They did not know that he would make the statements here made out until after the motion for new trial was over ruled.

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 she was in possession of the state of facts herein set forth being unknown to the defendant and his counsel until after the motion for a new trial had been heard and passed on.

14-1/2. Defendant further shows that he should be granted a new trial upon the newly discovered evidence which has come to the knowledge of defendant and of his counsel since the original motion for new trial was heard and passed on and which is as follows; that the notes found by the body of Mary Phagan and which it is admitted were written by Jim Conley, were written on waste paper found in the basement of the factory by the body of Mary Phagan; that on the note written on yellow carbon order blank, about 8 lines from the bottom of said sheet is a faint