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(1st AMENDED MOTION.)

GEORGIA, FULTON COUNTY.

And now comes the defendant, Leo M. Frank, and amends his extraordinary motion for a new trial, and for amendment says:

(a). Because of the newly discovered evidence, of J. W. Boozer, which in substance is that, while collecting for Patrick & Thompson one of his accounts was against Jim Conley, now in jail, and connected with the Mary Phagan murder.

On April 26th 1913, he was unable to get to the pencil factory by 1:30 o'clock in the afternoon, it being his custom to go to the pencil factory each Saturday by that time and get the dollar, but he did not collect at the factory that day: However on the afternoon of April 26th, 1913, after 4 o'clock in the afternoon, as near as deponent can recollect about 4:15 o'clock and certainly somewhere between 4 and 4:30 o'clock on Saturday afternoon, on April 26th, 1913, the said Boozer came upon and met up with Jim Conley on Peters street near Castleberry street; that he knows Jim Conley well, and that Jim Conley was, on the afternoon of April 26th, 1913, between 4 and 4:30 o'clock on said Peters Street, and said Boozer came upon him; said Jim Conley was standing leaning up against a pole, and then and there Boozer and Conley spoke to each other, and had a brief conversation; that he asked Jim Conley for his weekly payment of a dollar on his watch, and that Conley told him that deponent could get the money from Mr. Frank, and that Conley asked said Boozer whether he had been by the factory for the dollar.

(b). That he did not tell these facts to any one at the time nor immediately after the Mary Phagan murder, but that during the month of July, and to the best of his recollection, he did tell these facts to Solicitor Dorsey, that he did not tell any of lawyers of Leo M. Frank.

(c). That the above stated testimony is material for the reason that Jim Conley was the main witness for the State, testifying that he had an agreement with Leo M. Frank to return to the factory and destroy the corpse of Mary Phagan; but