

about 2 o'clock he went to his home, some distance from the factory went to sleep and forgot to come back to the factory; that he remained at home until about 6 o'clock went out a while and then returned and spent the night at home.

(d). That this testimony shows that Jim Conley was on Peters street between 4 and 4:30 o'clock.

(e). That this testimony was not known at the trial, nor until after the overruling of the motion for a new trial, nor until the 7th day of April, 1914, by Leo M. Frank or by either of his counsel.

(f). Neither Leo M. Frank, nor his counsel, had any opportunity to know this, nor had they heard, nor had any reason to suppose that the witness J. W. Boozer, had seen Conley, at the time and place above stated.

(g). This evidence is material and ought, if a new trial be granted, to cause a different verdict to be rendered upon the trial against Leo M. Frank.

R. R. Arnold,
Rosser and Brandon,
Leonard Haas,
Herbert J. Haas.

STATE OF GEORGIA,

FULTON COUNTY.

Before the undersigned, personally appeared Leo M. Frank, who upon oath deposes and says that the facts stated in the above and foregoing amended motion for a new trial are just and true and as stated.

Leo. M. Frank,

Sworn to and subscribed before me,

this the 23 day of April, 1914.

C. W. Burke,

Amendment allowed and ordered filed. April 23, 1914.

B. H. Hill,
Judge S. C. A. C.

Filed in office this the 4th day of May, 1914.

John H. Jones, D. Clk.