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trial of said case, the state insisted that Leo W. Frank carried the deceased, Mary Phagan, back to the metal room in the rear of the factory and killed her, whereas the testimony of this witness shows that the said Mary Phagn went into said Frank's office and came out and that when she came out and went down the steps, that Frank was still in his office. Movant further shows that said testimony completely repudiates the evidence of the negro Jim Conley and corroborates to the fullest extent the testimony of the witness Lemmie Quinn, and shows that it would have been a physical impossibility for Frank to have taken Mary Phgan back to the metal room and killed her at the time the state claimed, to-wit: somewhere between twelve (12) and twelve five (12:05) o'clock. Movant shows that this evidence was never discovered until after his motion for new trial was over ruled, that he exercised all diligence to ascertain all the facts in connection with his case and that the witness never disclosed to either movant or his counsel or to anybody on his behalf what she would testify to until the present moment.

Movant further says that a new trial should be granted him because of the testimony of Mrs. May Barrett as set forth in her affidavit made in this case, the said Mrs. May Barrett testifying that the facts stated by Mrs. Maud Bailey, wherever the same related to the said May Barrett, are true, the importance of the testimony of the said Maud Bailey having been hereinbefore set forth in the ground immediately preceding; and the testimony of May Barrett is newly discovered as well as the testimony of Maud Bailey and the same is important and would produce a different result upon another trial.

The testimony above set out constitutes such an extraordinary state of facts and circumstances as would justify and demand a new trial.

Movant further states that he had no information or knowledge that the said Maud Bailey or May Barrett knew or would testify to the before mentioned facts until the date of said affidavit, nor did his counsel know of same. Movant states that he could not have ascertained the same by any possibility, because movant was ignorant of the fact that the said affiants knew and would