

(4th AMENDMENT TO MOTION.)

STATE OF GEORGIA

VS.

LEO M. FRANK.

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Fulton Superior Court

Extraordinary Motion for new trial.

And now comes the defendant, Leo M. Frank, and amends his extraordinary motion heretofore made in said case, and for amendment says:

I: A new trial ought to be granted in this case because of the newly discovered evidence of one Annie Maude Carter, which newly discovered evidence is set out and appears in her affidavit, which is hereto attached and marked Exhibit A, said evidence fully appearing in her said affidavit, and said affidavit being made a part and parcel of this motion for new trial. The facts and circumstances in this affidavit set out, which is the newly discovered evidence of Annie Maude Carter were unknown to this movant at the date of his trial and at the date of the overruling of his motion for new trial and was not known to him until this date.

This movant did not know this Annie Maude Carter and had never heard of her until she made the affidavit hereto attached marked Exhibit A.

This movant shows that said evidence is material to the case of this movant for the reason that upon his trial before the jury the main witness against him was James Conley, who testified that he watched during the time that the said movant was in communication with Mary Phagan and that after Mary Phagan had been killed this movant called the said James Conley to the second floor of the factory and engaged him, the said Conley, to aid this movant in the concealment of the body of Mary Phagan.

This newly discovered evidence, Exhibit A hereto attached, shows that the murderer of Mary Phagan was the said James Conley and that this movant was not the murderer of the said Mary Phagan.

The facts and circumstances of said Exhibit A, hereto attached, are such extraordinary facts and circumstances as would