

The attorneys for the defendant, under the law, propounded in this case certain questions to Dr. H. F. Harris, sworn by the State on the trial of this case, said Harris not having been asked either by the State or the defendant any question with reference to the hair. Said Harris, before D. O. Smith, Commissioner duly appointed to take his evidence in answer to questions propounded by defendant's attorneys, testified substantially as follows, viz: "I am state health officer and director of laboratories of the State Board of Health. I made two examinations of the body of Mary Phagan. The Solicitor General sent some hair found on a machine and asked me to compare this hair with hair taken from the corpse of Mary Phagan. I examined these specimens under a microscope. I did not make an exhaustive examination, though the examination was sufficient to show that the hair given me was almost certainly that of a female, and was certainly from the head of a Caucasian. The specimen of hair given me by the Solicitor General's assistant, and that obtained from the head of Mary Phagan resembled each other so much that it was impossible for me to say definitely that it was not Mary Phagan's hair. I have recently examined hair taken from the head of several persons, and have found that individual hairs from the same individual differ as much in shape as the hair given me by Mr. Dorsey."

The State will show, in opposition to this ground of the motion, the entire evidence obtained by the State from Dr. H. F. Harris, and the State contends that in no view of the facts developed under the law does this constitute any ground for a new trial being granted.

The contention of the State was, under the evidence adduced as shown by the brief of evidence, that this was the hair of Mary Phagan. The State now insists that the evidence adduced warranted the contention that it was the hair of the deceased, and the State did not ask the question of Dr. H. F. Harris because the State was fully apprised as to the fact that said Harris' evidence could not have any probative effect.