

(STATES RESPONSE TO-AMENDMENT S 1,2,3, & 4.)

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| State of Georgia, | (). | No. 9410. |
| Vs. | (). | Fulton Superior Court. |
| Leo M. Frank. | (). | Extraordinary Motion for New |
| | (). | Trial. |

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GEORGIA, FULTON COUNTY.

State of Georgia, answering the several amendments to the extraordinary motion for a new trial, as filed by movant, Leo M. Frank, and taking them up in the order in which they were presented to the Court, says:

1. As to the amendment claiming that J. W. Boozer, on the afternoon of April 26, 1913, at about 4:15 o'clock met Jim Conley on Peters street near Castleberry street; The State says that, in the first place, the said Boozer is absolutely mistaken as to the date that he saw said Jim Conley. The State submits that said Jim Conley did see said Boozer on several occasions, and probably the day before, and that the defendant, Leo. M. Frank, was looking after, for the said Jim Conley, the payment of certain dues, which Jim Conley owed on a certain watch. The said Boozer, the State submits, is not sustained by any other witness, so far as this record shows, in his claim as to seeing Conley at the time and place stated, and is flatly contradicted by said Conley, who is sustained as to his whereabouts by Lvey Jones and other witnesses.

But the State submits that at best, even if the affidavit of the said Boozer should be true, that it merely amounts to impeaching evidence, insofar as Jim Conley is concerned, and under the law furnishes no ground for setting aside the verdict of guilty, as rendered against said Frank. This would be true, even if the said Boozer had contradicted the said Conley as to his whereabouts at an hour which would have rendered it impossible for the said Conley to have aided the said Frank in the manner and form as testified to by said Conley on the trial of