

( M O T I O N T O S E T A S I D E V E R D I C T . )

State of Georgia,                    ( ).                    No. 9410.  
      Vs.                                    ( ).                    Fulton Superior Court.  
Leo M. Frank.                        ( ).

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GEORGIA, FULTON COUNTY.

IN THE SUPERIOR COURT OF FULTON COUNTY, GEORGIA.

CONVICTION OF MURDER.

MOTION TO SET ASIDE VERDICT.

Now comes Leo M. Frank, the defendant in the above stated cause, against whom in said cause a verdict of guilty of murder was received by the Court on August 25th, 1913, and moves the Court to set aside said verdict for the following reasons:

1.

Because at the time that said verdict was received, and the jury trying the cause was discharged, this defendant was in the custody of the law and incarcerated in the common jail of said County. He was not present when said verdict was received, and the said jury was discharged, as he had the right in law to be, and as the law required that he should be. He did not waive said right, nor did he authorize anyone to waive it for him, not consent that he should not be present. He did not even know that said verdict had been rendered and said jury discharged, until after the reception of the verdict and discharge of the jury, and until after sentence of death had been pronounced upon him.

2.

Because while in-point of fact the statements above made are true, yet the presence of this defendant at the reception of said verdict was a legal right of defendant and a requirement of law which could not be waived even by this defendant himself, the charge upon which this defendant was tried being a charge of murder, subjecting him to possible deprivation of his life, and such