

# ASK CERTIFICATE WITH FRANK APPEAL

Law Requires That Judge Shall  
Set Out That "Probable  
Cause" Exists.

COURT TO DECIDE TODAY

Both as to Granting Appeal and  
Necessary Certificate—Prisoner's  
Counsel Confident of Success.

Special to The New York Times.

ATLANTA, Ga., Dec. 20.—Whether Leo M. Frank, sentenced to die Jan. 22, 1915, for the murder of Mary Phagan, is to be permitted to appeal to the United States Supreme Court from Federal Judge W. T. Newman's decision denying his petition for a writ of habeas corpus will be definitely determined by Judge Newman tomorrow morning at 10 o'clock.

After Judge Newman went into his chambers yesterday afternoon, following his denial of the petition and his announcement that he was disposed to certify an appeal, Attorney Henry C. Peeples of Frank's counsel called his attention to a law enacted by Congress in 1908, which requires that when a Federal Judge allows an appeal in habeas corpus proceedings he must, to complete the record, issue a certificate, stating that in his opinion there exists "a probable cause for appeal."

This request for a certificate of probable cause for appeal has changed the aspect of the case to some extent. While the court is still disposed to allow the appeal, he will not determine until Monday whether he will certify to probable cause under the section referred to.

Judge Newman discussed the matter at some length with Frank's attorneys and informed them that he would take the question under consideration and announce a decision Monday morning. Frank's attorneys are confident that Judge Newman will grant the appeal, and this opinion seems to be shared by the public.

Upon this decision of Judge Newman depends Frank's last hope of getting his case before the United States Supreme Court and also his last hope of escaping the death penalty except through executive clemency on the part of the Governor. Should Judge Newman allow the appeal it will mean that Frank will get his case on the calendar of the United States Supreme Court. That court, however, will only review the judgment of Judge Newman in denying the writ of habeas corpus.

But in doing this the court will of necessity, if only incidentally, review the grounds upon which Frank applied for a writ of habeas corpus, which were, namely, that the Superior Court of Fulton County lost jurisdiction when it permitted the verdict against him to be returned in his absence from the courtroom and that when this was done his rights as a citizen of the United States were violated.

With Frank's appeal pending in the United States Supreme Court the execution of the sentence would be automatically suspended. Both Solicitor General Dorsey and Attorney General Grice assert that if the case is allowed to go to the United States Supreme Court they will insist upon a speedy decision.

## WOMAN'S BELIEF IN FRANK.

A Letter Sent to Him to Show Southern Womanhood's Attitude in Case.

THE TIMES has received a copy of the following letter written by Mrs. Pattie Stone of Farill, Ala., to Leo M. Frank, who is under sentence of death at Atlanta, Ga., for the murder of Mary Phagan. The letter was written, Mrs. Stone says, so that the belief of Southern women that Frank is the victim of "a lie born of alcohol" in the testimony of the negro, Conley, might be known. Here is her letter:

Farill, Ala., Dec. 12, 1914.

Mr. Leo Frank,  
Atlanta, Ga.

Dear Sir: The hearts of the women of the South who have made a personal and a prayerful study of our case are broken over the way the Georgia Court has treated you. I have done what I could to make the unknowing see the light of truth and justice, but I find the ones against you are hypnotized with the tale of that debauched and drunken negro,—so much so that they have never studied the case from a human-nature standpoint.

From the abundance of the heart, the mouth speaketh. Every word from your lips stands a challenge to every word from the lips of the negro. Your beautiful rhetoric stands out in contrast to the rum-besotted notes of the negro. The Fountain cannot send forth both bitter and sweet. It was as impossible for you to drop to the state of the negro, as it was impossible for the negro to have risen to your position.

I live in the country, and I read the newspapers closely, and I studied your case as I did the Dreyfus case, and I saw that you had even more to contend with than Dreyfus did, for I felt that the lie of the negro had burned itself into the mind of the mob, and that there was no man there to fire into the mob. And yet, I have never felt the superiority of man as I have felt it since your martyrdom. Just to think we can make for ourselves a part that the mob cannot touch! How surely and truly the Christian heart has felt this since your imprisonment. I hope to God that your people will not get the Christian mixed up with the Georgia Court.

If the worst comes to the worst in our lives, our souls are ours to rise triumphant. I feel that from your prison cell will go a light into dark places that will rouse sleeping souls into horror that the word of a drunken negro stood for more than the truth of sober people, and that this will work against alcohol and against ignorance, prejudice and ungovernable passion.

Your God and my God is the same, though you in your way know Him, and I in my way know Him; and He in His way knows us all; and as His children, we will all, in the end, be saved from the powers of evil. This is enough, though it is hard to be reconciled to pain and misery.

If there is aught that I can do, I will be so glad to know it. I wish the preachers would set a special time for us all to pray that the light of truth will be revealed to your enemies before it is too late, so far as this world goes. I fear that prayer is all

that is left to us; but this I want you to know. The good women of the South know you as the martyr to a lie that was born of alcohol.

Yours in deepest sympathy,

(Mrs.) PATTIE STONE.

In a postscript, asking that the letter be made public in the North, Mrs. Stone adds:

"For I want the world to see that there is a multitude of people in the South as much opposed to the great and cruel injustice done to you, by a hypnotized mob, as the North is."