

# HALTS MOVE TO HAVE FRANK RESENTENCED

**Judge Hill Declines to Grant  
Solicitor's Application for  
Immediate Action.**

**WAIT FOR SUPREME COURT**

**Mandate Covering Recent Decision  
Not Yet Handed Down—Lawyers  
May Still Apply for a Rehearing.**

*Special to The New York Times.*

ATLANTA, Ga., May 3.—Solicitor General Dorsey applied today to Judge Hill for a writ of habeas corpus, directing the immediate presence of Leo M. Frank in court for resentence to death as the slayer of Mary Phagan.

Judge Hill announced tonight that he would take no action on the petition before the mandate of the United States Supreme Court is handed down. This is expected about May 20.

Judge Hill says Frank is still in the jurisdiction of the United States Supreme Court, and that that court can revoke its action in refusing to interfere, if it sees fit, between now and the time for handing down the mandate. Judge Hill intimates that for him to act before the Supreme Court mandate is received would cause a clash between State and Federal courts.

Mr. Dorsey's action today was unexpected, and the city's leading lawyers promptly declared that it was a dangerous step, likely to involve him with the Supreme Court. The delay in handing down the court's mandate, it was pointed out, was for the purpose of giving the prisoner's lawyers an opportunity to ask for a rehearing.

Lawyers cited the Jamison case in Macon a few years ago, in which City Attorney Wimberly was adjudged in contempt of the Federal Court for ordering the negro Jamison sent to the chain gang before the mandate of the Supreme Court was received, the court having affirmed the negro's sentence. Mr. Dorsey's contention is that all legal obstacles were removed when the Supreme Court announced its decision, declining to interfere in the Frank case. His sole motive, he says, is to prevent any unnecessary delay in the execution of the decree of the court when Frank was found guilty.

Frank's attorneys were not notified of Dorsey's move, and none of them were in court when the application was filed.

The resentencing of Frank at this time would mean the hastening of the hearing before the Prison Commission of his petition for a commutation of the death sentence to life imprisonment. Should the date of this hearing be pushed forward, it would mean that the case would reach Governor Slaton before the expiration of his term the latter part of June.

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