

FRANK'S FINAL PLEA FAILS IN HIGH COURT

Nation's Supreme Tribunal Denies His Appeal for a Writ of Error.

GOVERNOR HIS ONLY HOPE

Lawyers Will Seek a Respite Until Prison Board Can Review Case for Georgia Executive.

Special to The New York Times.

WASHINGTON, Dec. 7.—The United States Supreme Court denied today, without opinion, the writ of error asked by counsel for Leo M. Frank, who was convicted in a Georgia court of the murder of Mary Phagan, a factory girl, in Atlanta, in 1913. In the opinion of lawyers, the action of the Supreme Court ends all hope of a new trial for Frank. There remains the chance of pardon or commutation of sentence by the Governor of Georgia. Unless there is some reprieve from that quarter, it is regarded as certain that the sentence of death will be carried out.

The court's denial of the writ today involved only the simplest ceremony. In granting or denying petitions of the kind presented by Frank's counsel, no reason for the court's action is ever given, and there is nothing to indicate whether the court is divided or not. Today's procedure was no exception to this rule. The case's number was read out along with a list of others, with the bare statement of what the petition asked. The court's decision was given in the one word "Denied."

While counsel for Frank last Monday asked the court's leave to file a petition for a writ of error, the brief that was filed set forth the merits of the plea for the writ of error itself, and what the court denied today was the writ and not merely the request for leave to present it. Henry Alexander of Atlanta of Frank's counsel then conferred by telephone with Louis Marshall of New York, also of counsel, announcing afterward that no further steps would be taken here at present.

Before the petition for a writ was carried to the full bench of the Supreme Court, it had been taken to Associate Justice Lamar and Associate Justice Holmes, in chambers. Both denied it, but in doing so, Justice Holmes said that he gravely doubted whether the prisoner had received due process of law from the trial court that convicted him. It is believed here that this statement by a Supreme Court Justice will greatly strengthen the hands of counsel for Frank in seeking executive clemency.

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