

SMITH IS GIVING HIS SERVICE FREE TO JAMES CONLEY

Family of His Client Unable to Furnish Funds for His Defense, Says Attorney for Negro Sweeper.

SMITH WILL PUSH PLEA FOR NEW CONLEY TRIAL

Even Though Judge Should Decline Frank New Trial, Extraordinary Motion Will Delay Execution Date.

Attorney William M. Smith, counsel for Jim Conley's defense, is furnishing his services to the negro with no expectation of financial remuneration. Ever since the earlier stage of Conley's participation in the famous Phagan mystery, Smith has not received a penny. This was brought out on yesterday afternoon.

Smith was originally employed by contract in the case, however, but was later dismissed. Because of the negro's insistent plea for him to keep the case, and because of the attorney's conception of legal ethics, he decided to continue his services.

He would have little to say regarding the disclosure when a Constitution reporter visited him in his offices Tuesday afternoon, except to admit the fact that he was receiving no fee, and that he anticipated none, inasmuch as his client's family connections were unable to furnish funds even for expenses.

Keeps Case at Loss.

He also stated that he intended to continue in the case, although at a financial loss to himself. "It is merely a matter of legal principle," he told the reporter. "He was unable to employ a competent lawyer, and, as I had originally entered the case with the intention of fighting it to the end, I could see nothing else to do but to stick it out."

Smith was employed shortly after Conley had begun making his series of startling confessions at police headquarters. The attorney's retainers were officials of a publishing concern in Atlanta. He took the case, he stated, in good faith to the client whom he was to represent.

The breach between employer and counsel came, however, it is declared, when Smith's retainers informed him that they expected him to divulge the nature of every conference between client and counsel. This, it was stated, was for the purpose of publication, which was resented.

As a result of the heated argument which followed between the attorney and his employer, Smith's services were dispensed with. He had been employed for less than a week. Conley, upon being informed of the breach, pleaded with the lawyer to continue with his case.

Had to Keep Case.

"And that was the situation," Smith said. "He was locked up in prison, unrepresented, without money, and thrown upon the mercy of Providence alone. I could do nothing ethical but resume his case, which I did."

"Had I deserted him, he would have had to get another lawyer. He had no money, and would have been forced to resort to some inexperienced, untrained attorney, who would take the case undoubtedly for nothing more than the publicity he would get out of it."

"I felt that it was my professional duty to continue with Conley. And, after his case had reached such a stage where it would have been nothing short of criminal to desert him, I made up my mind to stick the fight out to the end."

Smith assured the reporter, too, that he would remain throughout the case. It has been an interesting fight, he said, and productive of invaluable training.

In speaking of the proposition made by his original retainers, the publication firm, Smith said:

"It would have been grossly unethical for me to have divulged the transactions between my client and me. And, anyway, no agreement like that was made in the contract under which I was employed. After the proposition was made, it was well that they discharged me. Otherwise, I would have quit on my own accord."

Will Rush New Trial Plea.

Smith's next move in the Conley case will be the effort to be made next Saturday to rush Conley's new trial plea. It will likely come up next week before Judge Ben Hill, who will also hear the extraordinary motion for a new trial for Leo Frank.

An interesting aspect has been cast upon the proposed motion extraordinary by the fact that, even though Judge Hill decides adversely on the application, the execution sentence will be delayed while the supreme court will be passing upon the action of the superior court judge.

A great amount of new evidence, it is stated in offices of counsel for the defense, will be embodied in the retrial plea. A small amount of this evidence has already been made public through the press in affidavits attested to by witnesses.

The exact date on which the plea will be filed has not yet been definitely set. It is expected, however, about April 10, ten days before the date fixed for the convicted man's death.

Detective Burns and Leonard Haas arrived in New York Tuesday morning. They will return some time during the latter part of the week. Their exact mission in Gotham is still a mystery.

Dan Lehon, superintendent of the southern division of the Burns' service, who is en route from New Orleans, will arrive some time this morning. Reservations have been made for him at the Georgian Terrace, at which hotel his chief is stopping.

Lehon will take charge of the case while Burns is away. He will be assisted by Guy B. Biddinger, considered the most important figure in the Burns' organization, who is assistant manager of the service.

Biddinger will arrive probably this afternoon.