

FRANK CASE BEFORE LAMAR.

Louis Marshall Presents Habeas Corpus Appeal—Decision After Christmas.

Special to The New York Times.

WASHINGTON, Dec. 24.—Louis Marshall of New York today presented to Justice Lamar of the Supreme Court of the United States an appeal from the decision of Judge Newman of the Federal District Court of Georgia denying a writ of habeas corpus to Leo M. Frank. Mr. Marshall returned to New York late this afternoon on learning that Justice Lamar would give no decision until after Christmas. The appeal was made to Justice Lamar because he is the presiding Justice for the Circuit Court of Appeals of the two Federal districts in Georgia.

Counsel for Frank are following pretty much the same course in their efforts to obtain the release of the prisoner on a writ of habeas corpus as was followed in their previous efforts to obtain from the Supreme Court of the United States or one of its Justices a writ of error. The writ of habeas corpus is sought, too, on pretty much the same grounds as those on which the petition for a writ of error was based.

Mr. Marshall argued at length for his client today before Justice Lamar and presented a detailed brief, which was an elaboration of points cited in regard to the writ of error.

After denying the writ Justice Newman denied to Frank an appeal to the high court in Washington. Today when he argued for the writ Mr. Marshall presented, in addition to his brief, a certificate for the Justice's signature, declaring that there was probably reason for an appeal to the Supreme Court. If Justice Lamar does not sign this certificate it is probable that the appeal will be taken to Justice Holmes and possibly to other Justices. The appeal cannot be taken to the full court before Jan. 4, when it will reconvene after the Christmas recess.

Pending Justice Lamar's decision, Mr. Marshall is withholding his brief from publication. Mr. Marshall said this afternoon that he was not certain yet whether he would return to Washington on Saturday to receive the decision.

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