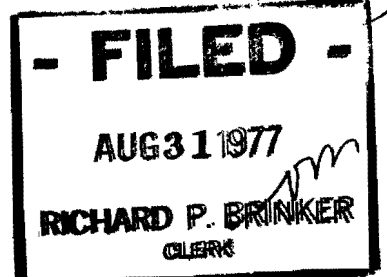


*(2 copies transcript  
of 4-14-77 \$8.00  
included in total)*



IN THE DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

*\$368.25  
(118-21)*

HECTOR CORNILLOT LLANO,

Defendant-Appellant,

-versus-

THE STATE OF FLORIDA,

Plaintiff-Appellee.

(CRIMINAL APPEAL)  
77-1415

TRANSCRIPT OF RECORD ON APPEAL IN CASE NO.  
70-8883 (FORMERLY CRIMINAL COURT OF RECORD),  
IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
CIRCUIT OF FLORIDA, IN AND FOR DADE COUNTY

HONORABLE ALAN R. SCHWARTZ  
JUDGE, CRIMINAL DIVISION OF THE  
CIRCUIT COURT OF THE ELEVENTH  
JUDICIAL CIRCUIT OF FLORIDA  
IN AND FOR DADE COUNTY

NICHOLAS J. CAPUANO,  
SPECIAL ASSISTANT PUBLIC DEFENDER  
ATTORNEY FOR DEFENDANT-APPELLANT  
19 W. FLAGLER STREET-SUITE 701  
BISCAYNE BLDG.  
MIAMI, FLORIDA

HONORABLE ROBERT L. SHEVIN  
ATTORNEY GENERAL  
ATTORNEY FOR PLAINTIFF-APPELLEE  
SUNSET EXECUTIVE CENTER  
8585 SUNSET DRIVE-SUITE 75  
MIAMI, FLORIDA

IN THE DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

CIR/CT/CR1 85

(CRIMINAL APPEAL)

HECTOR CORNILLOT LLANO  
 Defendant--Appellant : TRANSCRIPT OF RECORD-ON-APPEAL  
 IN CASE NO. <sup>77-1415</sup> 70-8883 \*\*

--versus-- : IN THE CIRCUIT COURT OF THE ELEVENTH  
 JUDICIAL CIRCUIT OF FLORIDA IN AND FOR  
 THE STATE OF FLORIDA, : DADE COUNTY  
 Plaintiff--Appellee : \*\* Formerly Criminal Court of Record

..... :

INDEX TO INSTRUMENTS AND MINUTES OF THE CLERK OF THE COURT

<u>Instrument or Proceeding</u>	<u>Date Filed or Entered</u>	<u>Page Numbers</u>
COURT REPORTER'S TRANSCRIPT OF PROCEEDINGS AND TESTIMONY		1 - 173
April 14, 1977		1 - 4
Certificate of Reporter		4
May 31, 1977		5 - 173
Index to Transcript		6
Certificate of Reporter		173
INFORMATION	October 14, 1970	174 - 175
MOTION FOR STATEMENT OF PARTICULARS	November 18, 1971	176 - 185
RESPONSE TO DISCOVERY MOTIONS	December 3, 1971	186 - 188
DEPOSITION OF RICHARD CASTILLO	January 24, 1972	189 - 266
ORDER VACATING JUDGMENT OF CONVICTION AND SENTENCE	April 5, 1977	267
DEFENDANT'S EXHIBIT A	May 31, 1977	268 - 277
JUDGMENT AND SENTENCE	May 31, 1977	278 - 279
MOTION FOR NEW TRIAL AND/OR MOTION FOR ARREST OF JUDGMENT	June 1, 1977	280 - 281
ORDER DENYING MOTION FOR NEW TRIAL	June 13, 1977	282
DESIGNATION TO REPORTER	June 24, 1977	283
DESIGNATION TO REPORTER	June 24, 1977	284
NOTICE OF APPEAL	June 24, 1977	285
ASSIGNMENTS OF ERROR	June 24, 1977	286
DIRECTIONS TO CLERK	June 24, 1977	287 - 288
CERTIFICATE OF THE CLERK OF THE COURT		289

*Withdrawn*  
11-10-77

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT,  
IN AND FOR DADE COUNTY

STATE OF FLORIDA,

CASE NO. 70-8883

Plaintiff (~~xxx~~)

vs.

NOTICE OF HEARING

HECTOR CORNILLLOT LLANO,

Defendant (~~xx~~).

TO:

Hon. RICHARD E. GERSTEIN,  
State Attorney,  
1351 N. W. 12th Street  
Miami, Florida

RICHARD P. BRINKER  
CLERK, CIRCUIT & COUNTY CLERK  
DADE COUNTY, FLA.  
03

77 OCT -4 AM 7 52

FILED FOR RECORD

YOU ARE HEREBY NOTIFIED that the undersigned will  
MOTION TO CORRECT WORDING  
call up for hearing, OF JUDGMENT AND SENTENCE

before the Honorable Alan R. Schwartz , one of the Judges  
of the above-styled Court, in Chambers, at the Metro Justice Bldg.,  
~~County Courthouse~~, on Thursday , the 6th day of October,  
19 77 , at 9:00 o'clock A. M., or as soon thereafter as  
the same may be heard.

PLEASE GOVERN YOURSELF ACCORDINGLY.

*Nicholas J. Capuano*

NICHOLAS J. CAPUANO  
Attorney for Defendant-LLANO  
19 West Flagler Street  
Miami, Florida 33130  
373-2652

The undersigned hereby certifies that a true copy of  
the above and foregoing Notice of Hearing was mailed ~~to the~~  
~~to the~~ to the above addressee (~~x~~), this 3rd day of October,  
19 77 .

*Nicholas J. Capuano*

Attorney for Defendant-LLANO  
NICHOLAS J. CAPUANO

X

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT,  
IN AND FOR DADE COUNTY

CASE NO. 70-8883

STATE OF FLORIDA, :  
 :  
 Plaintiff, :  
 :  
 vs. :  
 :  
 HECTOR CORNILLOT LLANO, :  
 :  
 Defendant. :  
 :  
 \_\_\_\_\_ :

MOTION TO CORRECT WORDING  
OF JUDGMENT AND SENTENCE

RICHARD P. BRINKER  
CLERK  
DADE COUNTY, FLA.  
03

77 OCT -4 AM 7 52

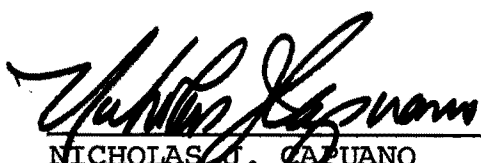
FILED FOR RECORD

COMES NOW the Defendant, HECTOR CORNILLOT LLANO, by and through his Court appointed attorney, and moves the Court to strike those certain provisions in the words and figures of the sentence entered on May 31, 1977 NUNC PRO TUNC: May 5, 1972, as follows:

"It is further considered, ordered and adjudged that you be imprisoned by confinement at hard labor in the State Penitentiary for a term of Ten (10) years, credit to be given you for time served in the Dade County Jail prior to sentencing, to-wit: Two Hundred Seven (207) days."

In lieu of such stricken provisions the Defendant respectfully prays, pursuant to and in accordance with his letter dated September 28, 1977, a copy of which is attached hereto and made a part hereof, by reference thereto, that such sentence be corrected to read as follows:

"It is further considered, ordered and adjudged that you be in prison in the State Penitentiary for a term of Ten (10) years, with credit for all time served in the State of Florida, prior to sentencing.  
Done and Ordered in open court at Miami, Dade County, Florida, this 31st day of May, A.D., 1977 NUNC PRO TUNC: May 5, 1972."

  
\_\_\_\_\_  
NICHOLAS J. CAPUANO  
Attorney for Defendant - LLANO  
19 West Flagler Street  
701 Biscayne Building  
Miami, Florida 33130  
373-2652

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was this 3rd day of October, 1977 mailed to Hon. RICHARD E. GERSTEIN, State Attorney, 1351 N. W. 12th Street, Miami, Florida.

  
NICHOLAS J. CAPUANO

INSTITUTION V. C. I CELL NUMBER 65-215  
NAME SECTOR LLANO NUMBER A-034883  
JOB ASSIGNMENT DENTAL LAB DATE 9-28-77

DEAR MR. CAPUANO:

I hope that this letter finds you in the best of health and spirits; the purpose of it is to ask you to intercede in my behalf with Hon Judge Allan Schwartz for the purpose of requesting him to change the wording used in my sentence of May 31, 1977.

Because of the way that the sentence was written it has meant a hitch in my tentative expiration date of over four hundred days, from 12-5-77 to 4-29-79. It all has to do with loss of statutory gain time due to my escape. When Hon. Schwartz sentenced me, he made it "NUN PRO TUNC TO MAY 5, 1972". He meant to give me credit for time served, of course. However, it also subjects me to institutional punishment for the '76 escape, in addition to the six month already imposed by the Palm Beach courts. If you would intercede for me, and if Judge Schwartz would change the wording of the sentence to the effect that "the new sentence is to start on May 5, 1977 with credit for all time served in Florida" this would mean... release on Dec. of 1977.

I write you because in the hopes that you still wish to help me, and I follow the advise of Mr Mordente, the chief classification officer who also wishes to help me. You may call him here on the phone, and he will answer any questions you may have on the technicalities involved here.

I thank you in advance for your concern and if I can assist you in any way please let me know.

Sincerely yours;  
Sector

**MAILING REGULATIONS  
UNION CORRECTIONAL INSTITUTION**

Inmates will be permitted to correspond with whom they wish with the following exceptions:

1. Correspondence with inmates of other penal institutions will be subject to the approval of the Superintendents of both institutions. If a person advises that he or she does not wish to hear from an inmate, or if the parents or legal guardian of a minor person so advise, the inmate will be so informed. Any subsequent attempt to correspond with these persons will be considered a violation of the rules and will subject the inmate to disciplinary action.

2. No specific limitation is placed upon the total number of letters sent out or received by an individual. Limitation may be imposed on an individual basis if an inmate sends or receives excessive amounts.

3. The institution will provide free postage for a total of two letters per week per inmate with the individual bearing the expense of postage for letters in excess of two letters per week.

4. The institution maintains the prerogative to inspect any mail for contraband, money, money orders, and other enclosures and removal of any of these items which may be unauthorized. Money forwarded by correspondence must be in the form of a money order or cashier's check. Money orders and cashier's checks must contain the sender's name and inmate's committed name and number.

5. Stationery, to include paper and envelopes, will be provided by the institution on an "as needed" basis in a reasonable amount. Letters forwarded from inmates may not exceed five sheets of paper in length or not to exceed the one ounce maximum for first class mail.

6. All letters must contain the following: Include the inmate's number and institutional address in the upper left hand corner of the envelope. Incoming: Inmate's committed name, number and housing assignment.

Name Address Zip Code	
	Inmate's Name, Number P. O. Box 221 Raiford, Florida 32083
	Cell Number

Example: Incoming Mail

Incoming: Inmate's name, identification number and housing assignment.

Inmate Name Number Address	
	Name Address Zip Code

Example: Outgoing Mail

**VISITING REGULATIONS  
UNION CORRECTIONAL INSTITUTION**

Each inmate may establish a social visiting list and receive visits in compliance with the rules and regulations related to this matter.

1. The authorized visiting list may include members of an inmate's immediate family. The immediate family will include parents, brothers, sisters, wife, children and grandparents. Additions or deletions to the visiting list may be approved by the Classification Team. Children under the age of 15 must be accompanied by an adult and all visitors are responsible for presenting proper identification at the time of registration.

2. Visiting for inmates assigned to general population is conducted on Saturday or Sunday (not both days) from 9:00 AM through 3:00 PM and on authorized holidays. Holidays designated for social visits are July 4, Thanksgiving, and Christmas. Entrance into the visiting area is not permitted after 2:00 PM.

3. Individuals who are not on an inmate's approved visiting list may receive special approval from the Superintendent to visit an inmate. All requests for special visiting passes should be directed to the Administrative Assistant for the Superintendent. The request for a special visiting pass must be submitted in writing well in advance of the date of the requested visit. Out-of-state visitors will be permitted to visit three consecutive days not to include a holiday designated for social visits or Sunday.

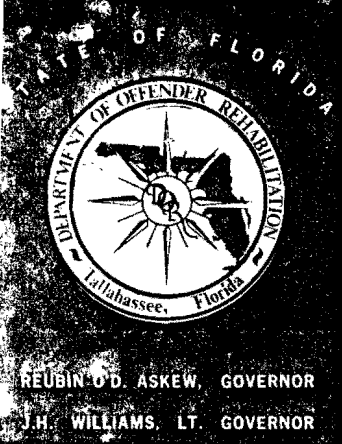
4. Visitors are requested to wear appropriate attire. Appropriate dress for female visitors will include: slacks, pant suits, dresses or skirts. Extra short dresses or skirts are not considered appropriate dress. In the event a dress is considered to be too short by the Main Gate Officer, the visitor shall be informed of such and offered a gown to wear during visit.

5. Institutional visitors shall at all times, while present on institutional grounds be subject to the rules and regulations of the Department, the Division, and the institution, and such visits may be terminated and future visits denied for any violation of such rules and regulations. The extent and duration of such visits may be set and modified as the Superintendent shall direct.

**PACKAGE PERMITS**

Inmates may receive certain articles from outside sources with proper authorization.

In the event an inmate desires to receive an approved article from outside sources, he must first receive a package permit from the Chief Correctional Officer. The permit will be forwarded to the sender and must be returned with the package.



LOUIE L. WAINWRIGHT, SECRETARY

# DEPARTMENT OF OFFENDER REHABILITATION

1311 Winewood Boulevard • Tallahassee, Florida 32301 • Telephone: 904-488-5021

November 1, 1977

Mr. Nicholas Capuano  
Attorney at Law  
Room 701  
19 W. Flagler Street  
Miami, Florida 33130

Re: Hector C. Llano, #A034883

Dear Mr. Capuano:

This is in reference to our recent telephone conversation regarding the above referenced individual.

Please be advised our records reveal that Mr. Llano was originally received by the Department on June 22, 1972, under sentence of 30 years with credit for 207 days county jail time, imposed May 5, 1972, in Dade County Circuit Court. This sentence was vacated and set aside and subject was re-sentenced on May 31, 1977, to a term of 10 years with credit for 207 days county jail time, Nunc Pro Tunc, May 5, 1972. Based on the Nunc Pro Tunc provision, we compute the 10 year sentence as beginning May 5, 1972, with credit for 207 days jail time, plus 60 days time out of custody on escape, plus 450 days gain time forfeited due to escape conviction and disciplinary actions, with a tentative expiration date of March 23, 1979.

For your information, if the Nunc Pro Tunc provision is removed from the sentence imposed May 31, 1977, with credit for 207 days county jail time credit remaining intact, Mr. Llano's sentence would be computed as beginning May 31, 1977, with credit for 207 days county jail time. Based on the amount of time already served, our policy would permit us to compute the sentence at an accelerated rate of gain time award, and arrive at a tentative expiration date of November 29, 1981. As you can see, under this procedure, Mr. Llano would be required to serve considerably more time than is presently the case. In either event, please keep in mind Mr. Llano has a consecutive six month sentence for escape to take up on completion of the 10 year sentence imposed May 31, 1977.

*Clerk:*

*Please file in case # 70-8883*

**- FILED -**  
NOV 11 1977  
RICHARD P. BRINKER  
CLERK

X

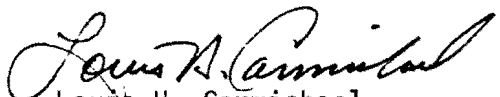


Mr. Nicholas Capuano  
November 1, 1977  
Page Two

I trust the above information will be of some benefit to you and the Court in resolving what should be done in Mr. Llano's case.

Sincerely,

LOUIE L. WAINWRIGHT, SECRETARY



Louis H. Carmichael  
Chief, Bureau of Offender Records

LHC/bdg

BENCH DOCKET  
Criminal Court of Record  
Dade County, Florida  
STATE OF FLORIDA  
VS.

FILED  
MAY 5 1972  
J. F. McCracken, Clerk

**HECTOR CORNILLLOT LLANO**

CHARGE, **Unlawful Throwing, placing or Discharging a bomb** Case No. **70-8883**

J U D G M E N T

It appearing unto this Court that you **Hector Cornillot Llano**

have been regularly tried and convicted of ~~Unlawful Throwing, placing or~~  
**Unlawful Throwing, placing or discharging a bomb**

IT IS THEREFORE THE JUDGMENT of the law and it is hereby adjudged that you are and stand convicted of the offense as above set forth.

What have you to say why sentence should not now be imposed upon you? Saying nothing that could influence the Court in its decision.

S E N T E N C E

IT IS FURTHER CONSIDERED, ORDERED AND ADJUDGED that you be imprisoned by confinement at hard labor in the STATE PENITENTIARY for a term of \_\_\_\_\_

**Thirty (30) years, credit to be given for time**

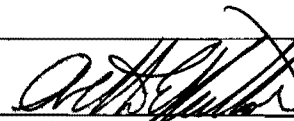
**served in the Dade County Jail prior to sentencing,**

**to-wit: Two Hundred Seven (207) days.**

~~IT IS FURTHER CONSIDERED, ORDERED AND ADJUDGED that~~

DONE AND ORDERED in open Court at Miami, Dade County, Florida, this **5th** day of **May** A. D. 19 **72**

FILED AND RECORDED  
IN CRIMINAL COURT OF RECORD  
MINUTES AS INDICATED HEREON

  
Judge Assigned Circuit Court Judge  
Division

J. F. McCracken, Clerk  
By: **MORIS McVAY**  
Deputy Clerk

BOOK **542** PAGE **557**

# Supreme Court of Florida

MONDAY, SEPTEMBER 18, 1978

HECTOR CORNILLLOT LLANO,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

CASE NO. 54,020

District Court of Appeal,  
Third District  
77-1415

70-8883

RECEIVED  
CLERK OF SUPREME COURT  
DATE: SEP 21 1978  
OFFICE

78 SEP 21 AM 11 38  
DM

This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Fla. R. App. P. 9.120, and it appearing to the Court that it is without jurisdiction, it is ordered that certiorari is denied.

No Motion for Rehearing will be entertained by the Court. See Fla. R. App. P. 9.330(d).

ENGLAND, C.J., OVERTON, SUNDBERG, HATCHETT and ALDERMAN, JJ., concur

A True Copy

TEST:

Sid J. White  
Clerk Supreme Court.

By: *Janyia Carroll*  
Deputy Clerk

TC

cc: Hon. Louis J. Spallone, Clerk  
Hon. Alan R. Schwartz, Judge  
Hon. Richard P. Brinker, Clerk

Nicholas J. Capuano, Esquire  
Paul Mendelson, Esquire

MEMORANDUM

TO **Harold Mendelow**  
**123 N.W. 12 Ave.**  
**Miami, Florida**

FROM **J. F. McCracken, Clerk**  
**Criminal Court of Record**

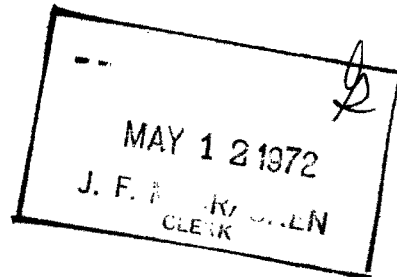
DATE **May 16, 1972**

SUBJECT Appointment as Special  
Assistant Public Defender to  
represent: **HECTOR CORNILLLOT LLANO**

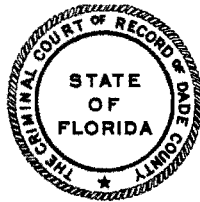
Case No. **70-8883**

On **May 16, 1972** Judge **Paul Baker**  
appointed you as Special Assistant Public Defender to represent  
the above named individual, **in certain Appellate Proceedings.**

I am enclosing a copy of the Information for your convenience.



117.01-134



**DADE COUNTY**  
**CRIMINAL COURT OF RECORD**

J. F. McCracken, Clerk

ROOM 660

METROPOLITAN DADE COUNTY JUSTICE BUILDING

**July 31, 1972**

1351 N. W. 12TH STREET

MIAMI, FLORIDA 33125

TELEPHONE 377-7141

**Mr. Harold Mendelow**  
**Attorney at Law**  
**123 N. W. 12th Avenue**  
**Miami, Florida**

Re: **The State of Florida**  
**vs. #70-8883**  
**Hector Cornillot Llano**

Dear Sir:

Please be advised that the transcript of record-on-appeal, in the above reference cause, has been prepared and you may obtain same from our office, at your convenience.

The record ~~is~~ <sup>was</sup> due to be filed in the Appellate Court on **July 28, 1972,** however, **Court Reporter's transcript was not received until July 28, 1972.**

Very truly yours,

J. F. McCracken, Clerk

IN THE CRIMINAL COURT OF RECORD  
IN AND FOR DADE COUNTY, FLORIDA

Case Numbered #70-8883

THE STATE OF FLORIDA

VS.

Hector Coudlot  
Slano

ORDER ALLOWING WITHDRAWAL  
OF COURT FILE

THE OFFICIAL COURT REPORTER having made application to the Court for an order allowing the withdrawal of the original court file in the above styled and numbered cause and it appearing unto the Court that such reporter requires said file for use in the preparation of the transcript of testimony and proceedings in said cause, and the Court being otherwise fully advised in the premises, it is, upon consideration,

ORDERED AND ADJUDGED that Carole Nelson,  
Official Court Reporter, is hereby granted permission to withdraw the original court file in the above styled and numbered cause for a period of 7 days.

DONE AND ORDERED in Miami, Dade County, Florida this the 11  
day of July A. D., 19 72.

Murray Goodman

Judge

RECEIPT IS HEREBY ACKNOWLEDGED FOR THE ORIGINAL COURT  
FILE in the above styled and numbered cause this 11 day of July  
A. D., 19 72.

Carole Nelson  
Official Court Reporter

FILE RETURNED this 8 day of Aug A. D., 19 72.

Maria Ungaro  
Deputy Clerk