

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

CRIMINAL DIVISION

STATE OF FLORIDA,)
)
Plaintiff,))
)
-vs-)
)
HECTOR C. LLANO,)
)
Defendant.))
)
)

CASE NO. 70-8883

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The above-entitled case came on for hearing before The Honorable ELLEN J. MORPHONIOS, Judge of the above-styled Court, at the Metropolitan Justice Building, 1351 Northwest 12th Street, Miami, Florida, on Thursday, February 24th, 1977, commencing at or about 9:00 o'clock A.M.

APPEARANCES:

RICHARD EADE,
Assistant State Attorney,
on behalf of the State of Florida.

ROBERT LINK,
Assistant Public Defender,
on behalf of the Defendant.

PRESENT:

STEVE MECHANIC, Esq.

HARVEY SHENBERG, Esq.

* * *

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THE COURT: I don't see Mechanic. Do you want me to pass it?

MR. OSSORIO: I seen Goldstein.

THE COURT: Find out where Steve is, Mr. Ossorio. I would appreciate it.

MR. OSSORIO: Yes, ma'am.

[Thereupon, a recess was taken, during which time other Court proceedings were had, following which this hearing resumed.]

THE COURT: Hector Llano. Let us go. Proceed, please.

MR. MECHANIC: Good morning, Judge. I don't know exactly why I'm here, other than to inform you of some facts.

THE COURT: In that event let's proceed with the hearing on Mr. Llano's motion to vacate.

MR. MECHANIC: Oh, if you are going to actually treat this as an evidentiary hearing, I think there are some other people that should be here such as Mr. Dresnick, the other Defense Lawyer, such as Mr. Kaplan, the State Attorney. God knows where Mr. Kaplan is.

If you want to rely on just my

recollection ---

THE COURT: Yesterday it was set for the hearing. I didn't see any of those people here and it was set for formal hearing yesterday.

MR. MECHANIC: No one informed me of that. I was told to be here because you had some questions concerning why it's even your case.

THE COURT: I don't have any questions at all. I know why it is, because I'm Baker.

MR. MECHANIC: You know this went to Judge Huttoe?

THE COURT: I know. You know, under Court rules, you know, Steve, if Huttoe was sitting, the day he was sitting, he was Baker, too, because it was just sent over to trial, and then back.

Is that not correct, Shirley?

THE COURT: Yes, Your Honor.

MR. MECHANIC: But you recused yourself a long time ago. In 1971 you recused yourself for some reason.

MR. LINK: This was a problem I just became aware of.

THE COURT: I did?

MR. MECHANIC: You knew a witness or your family, I'm not a hundred percent sure. I just

remember you recused yourself and that's why Judge Huttoe got it in the first place.

THE COURT: No, Baker had it because Baker was my alternate.

MR. MECHANIC: You got it from Baker because he was in the Bamm trial. Baker was doing Bamm and you got it. You recused yourself for some reason.

THE COURT: Mr. Shenberg, why? You usually remember. You were one of the Prosecutors.

MR. MECHANIC: He was the Prosecutor because -- he just gave it to Mr. Kaplan to actually try because he was involved in the Bamm case, himself.

THE COURT: I don't remember anything about it, Harvey.

MR. SHENBERG: I remember Your Honor recusing yourself. I would like to look at the motion for it.

THE COURT: There might not have been one.

Shirley, what do you want?

THE CLERK: Oral motion for recusal.

THE COURT: Oral motion.

MR. SHENBERG: There's a written order, I'm almost sure, Shirley.

THE COURT: Does Mr. Llano remember?

MR. MECHANIC: He remembers the same thing I did. You recused yourself because you knew someone on the case, whether it was a witness, police officer, whether it was a Defense witness, I have no recollection.

THE COURT: That's a new twist.

MR. MECHANIC: See, I had mentioned that to Ann Green, who had pulled this file in storage a month ago because I knew he was filing a Rule Three, and was going to come back here. I told the Clerk all that information so when you got the case, you would know all these things, but obviously ---

I also think it was an oral motion.

THE COURT: It certainly has peaked my curiosity because I don't remember anything about that.

Is there any transcript? No, there wouldn't be a transcript of that.

What's the date that the recusal was there and let's find out if Mona or Kathy were reporting in that month.

THE CLERK: January 10th, 1972.

THE COURT: Were you all working with me at that time?

THE CLERK: Nat Corbin was the reporter on that.

THE COURT: Yeah, they were not with Corbin at that time.

MR. MECHANIC: Tom Morgan was the Defense on that date.

THE CLERK: Yes.

MR. MECHANIC: He might know.

MR. LINK: I thought we could go ask Mr. Morgan.

THE COURT: Tom Morgan was the Public Defender in my division then.

MR. MECHANIC: Right.

See, I didn't get -- the whole problem with this Rule Three came about because of that recusal, indirectly, as Morgan was allegedly prepared to try it and here one morning I come to the office and Morgan hits me with the file and says, "All right, this has been transferred to Huttoe. It's going at 12:00 o'clock."

I said, "No, no. Un-huh."

And, of course, I thought those were good grounds before any Judge to say, "I'm not ready," unfortunately, nothing personal against Judge Huttoe, they were not good grounds and he made it go. That's

the basis of the Rule Three.

If anyone would know the reason of the
recusal, it would probably be Mr. Morgan.

THE COURT: Bob, you want to call Tom
Morgan upstairs and see if he remembers?

MR. LINK: Okay.

MR. MECHANIC: Okay, I'll wait.

MR. LINK: You want to wait?

THE COURT: He may remember. Tell him
it was in January of '72.

MR. MECHANIC: Just mention Hector
Llano and he'll remember. He doesn't require a date.

THE COURT: I haven't read his motion.
Let me see what he is saying in the first place.

[Thereupon, the Court read
the motion.]

THE COURT: Steve?

MR. MECHANIC: Yes.

THE COURT: You're complaining about a
Speedy Trial and he's saying he didn't get one. There
seems to be a little conflict there.

MR. MECHANIC: No, I believe what I'm
alleging is there was inadequate counsel, solely.

THE COURT: I know. I'm being sarcastic.

MR. MECHANIC: Oh, oh, oh.

THE COURT: Donnie, what Court does Tom Morgan work in?

THE BAILIFF: Tom Morgan is in private practice.

THE COURT: That's right.

MR. MECHANIC: Can I be excused for just a minute?

THE COURT: Take him his files, please.

MR. MECHANIC: My car overheated on the Expressway this morning.

THE COURT: Excuses, excuses.

Shirley, does the Court record show that Mr. Llano represented himself? Was the Public Defender there for advice only?

THE CLERK: At the time of trial?

THE COURT: Yeah.

THE CLERK: No, Your Honor. It shows Ron Dresnick and Steve Mechanic.

THE COURT: Okay. Well, Link isn't here.

[Thereupon, a short recess was taken, after which the following proceedings were had.]

THE COURT: What's the progress?

MR. MECHANIC: Mr. Morgan was not in his office or his home.

THE COURT: Nobody knows where Dresnick is or he's on his own?

MR. MECHANIC: No, no. He's on his own.

MR. LINK: I checked with David Weed, who was also associated with the case at one point, and he didn't remember it at all.

THE COURT: We're making great progress. Peg, did you get Nat Corbin on the phone?

THE SECRETARY: Yeah.

THE COURT: Is he typing the January 10th, 1972 transcript?

THE SECRETARY: Yes, he's typing it right away.

THE COURT: If it shows I could not try him because I was prejudiced in some way, that I don't remember at all, it would probably still hold true. I don't see how I can be disqualified in 1972 and qualified in '77. I want to see what it says. It may be something that was just current at that moment. That witness list doesn't ring any bells at all.

MR. MECHANIC: The point is if we'll have to wait for that, obviously, Mr. Llano should have counsel.

THE COURT: He's got the Public Defender.

MR. MECHANIC: Well, but, one of his allegations is ineffective assistance of counsel to-wit: me, as a Public Defender.

THE COURT: Steve, didn't he represent himself? Were you sitting only as assistance counsel?

MR. MECHANIC: Only because the Judge so ordered, I was. The Defendant didn't want me, and rightfully so, because I had only seen him 72 hours in advance of trial, so he thought it was a sham. I can understand that. The Judge, however, wanted to make whatever efforts he could do to protect his Rights. He said, "You just sit there."

And at times things would come up and I would want to object to such and I started to object, and, either Hector, himself, or the Judge, depending on what objection I was making, would say, "Sit down, you're just sitting there," so for a day I sat there.

THE COURT: Wasn't this subject to appeal?

MR. MECHANIC: Yes, it was appealed.

THE COURT: And affirmed?

MR. MECHANIC: Yes. The grounds, though, of the collateral attack, what he's doing now, was never on appeal.

Now, I'm not saying you shouldn't appoint the Public Defender, if you want to ---

THE COURT: Mr. Llano?

THE DEFENDANT: Yes, ma'am.

THE COURT: Do you have money to hire a lawyer?

THE DEFENDANT: No, I don't.

THE COURT: Appoint the ~~Public~~ Defender.

MR. MECHANIC: Okay.

THE COURT: It's all yours.

MR. LINK: Thank you.

MR. MECHANIC: Then can you just set another date and I'll get Morgan and Dresnick?

THE COURT: I guess I'll have to. I don't know what ---

MR. LINK: We'll request the Court to set another date and I'll try to get everyone involved in the case into Court for the evidentiary hearing.

THE COURT: All right.

Mona, give me your best guess how long it will take Nat Corbin to [A] find the notes; and [B]

get it typed?

THE REPORTER: Hopefully, a week.

MR. MECHANIC: I was going to say Hector is wanted back in Palm Beach, if Your Honor could expedite it.

THE COURT: Jerry Cantor asked me that last week.

Well, okay. I can't set it March 2nd. That's a day and a half. We have three or four heavy sanity hearings that day.

How about Tuesday, March 1?

MR. LINK: Uh-huh, fine, fine with me.

THE COURT: Is that all right?

MR. MECHANIC: At 9:00.

THE COURT: All right.

Mr. Llano, your hearing will be Tuesday, March 1, at 9:00 A.M.

MR. MECHANIC: Could he explain that to his people?

THE COURT: That's entirely up to George. He's a security risk. I take no action whatsoever with them.

MR. MECHANIC: Okay.

THE COURT: You may want to bring in Judge Huttoe.

MR. EADE: Who was the Prosecutor?

THE COURT: Somebody named Kaplan.

Harvey had it. Harvey had it for pretrial and right up until the time of trial, and then he was in the middle of the Bamm trial, and that's what they were saying today, and another Prosecutor walked into Huttoe's and tried it.

MR. LINK: Will you have Donald Kaplan or shall I?

THE COURT: You better, Bob. Anybody you want because he's going to forget what I said.

MR. EADE: I'll try.

THE COURT: No offense meant, Rick.

MR. EADE: I'll try to get Kaplan and Judge Huttoe in, I guess.

That's this coming Tuesday?

THE COURT: All right. Let me set a report date prior to the hearing.

MR. EADE: That's why I was asking.

THE COURT: You are right, Rick. You are absolutely right. I'm going to set the report date tomorrow.

All day, keep after Corbin.

[Thereupon, this hearing was concluded.]

