

PREFERS CONTINUANCE

Marcello Seeking Venue Shift Reversal

Attorneys for Carlos Marcello filed a motion in federal court today asking Judge Frederick J. R. Heebe to rescind his action yesterday granting Marcello a change of venue for his trial on a charge of assaulting an FBI agent.

Judge Heebe acted yesterday after citing recent publicity in Life Magazine connecting Marcello with racketeering in Louisiana and statements by Gov. John J. McKeithen suggesting that Marcello clear out of this area.

IN THEIR motion today, counsel for Marcello conceded that they had sought a change of venue, but they agreed that they actually preferred a four- or five-month continuance of the case here.

The motion states that the request for a change of venue had been prepared and filed with the court June 27, 1967, prior to the publication of two articles in the magazine concerning crime here and in other sections of the country.

The attorneys told the court that after assessing the nationwide impact from the articles, they felt Marcello could obtain a fairer trial in New Orleans than anywhere else in the United States.

"In New Orleans," the motion states, "the unreliable source of the articles—Aaron M. Kohn (managing director of the Metropolitan Crime Commission)—is known to the public. Outside the state of Louisiana, this fact is not known."

The motion further says that Marcello had instructed his attorneys not to pursue the request for a change of venue after publication of the magazine articles and for this reason the motion was not pressed yesterday.

"IT WAS intended that the motion for a change of venue be abandoned, but counsel for Marcello did not express himself quite so forcefully," today's motion read.

Marcello's attorneys said he does not waive his constitutional right to be tried in this district where the crime is alleged to have been committed and the court is lacking in authority to transfer the case.

Representing Marcello are Jack Wasserman of Washington, D. C.; Michael Maroun, Shreveport, and G. Wray Gill of New Orleans.

When yesterday's hearing was concluded, Wasserman was asked if the ruling surprised him. "It sure did," he replied.

Defense counsel and U. S. Attorney Louis LaCour were instructed by the court to submit three districts each, outside of Louisiana, in 10 days. "I'll make a decision where to transfer the case within 30 days," said Judge Heebe, "though I reserve the right not to accept any of the districts you submit."

"No comment," said Marcello, when asked if the decision surprised him. He had been seated alone when Wasserman began his argument.

WASSERMAN had expressed deep concern about the adverse publicity that has followed Marcello since his arrest in New York state Dec. 22, 1966 for taking part in an "alleged Mafia meeting."

Marcello was, in fact, "arrested as a material witness; there was no crime," he said.

"Then Mr. LaCour of the U. S. attorney's office said this proved there was organized crime in the area; that Mr. Marcello was there representing this area.

"THIS WAS followed by an editorial in the local paper, and by the Life magazine article. Then this week Gov. McKeithen said present laws can't deal with Mr. Marcello. The governor said also that Mr. Marcello was engaged in legitimate enterprise but he still would like to get rid of him.

"In this atmosphere, we are seeking a continuance. We don't think we should be obliged to try this case in the atmosphere at this time. We are not pressing for a change

of venue. The adverse publicity, I feel, may continue for some time."

Wasserman said that "the adverse publicity has a way of coming before an election; it was true in New York state and there is an election coming here in Louisiana in November."

JUDGE HEEBE observed, "I don't believe that Mr. Marcello could get a fair trial here; I wouldn't attempt to say to what district the trial should be transferred, but certainly nowhere in the Eastern or Western Districts of Louisiana."

He added that the Life article more or less put the finger on Louisiana and was probably read with feverish intensity in the state. "There was quite a bit of interest in the article in my house; we read what we are interested in—things close to home.

"In addition, there were statements by the governor. And I don't know that but what there won't be state government investigations because of the article."

LaCour did not oppose the change of venue. "The government stands ready to try this case in any district; it doesn't matter.

Marcello is accused of striking at FBI agent Patrick J. Collins Jr. at New Orleans International Airport Sept. 30, 1966, on Marcello's return from New York.