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Appeals Court Next Step for Marcello Plea

Lawyers for rackets figure Carlos Marcello today were expected to turn to a federal appeals court in their fight to block his interrogation by a federal grand jury.

U.S. Dist. Judge Lansing Mitchell stayed proceedings in a grand jury probe of organized crime until tomorrow to allow time for the appeal.

Notice of appeal was given yesterday after Judge Mitchell cancelled a temporary restraining order which shielded Marcello from the grand jury probe, scheduled to reconvene its hearing at 10 a.m. tomorrow.

DEFENSE LAWYERS argued the government again was trying to prove Marcello is a regional Mafia boss and he and his family are responsible for organized crime in the New Orleans area.

The government has the right to make such an investigation, argued defense lawyer Cecil Burglass, but it has no right to force Marcello or members of his family to testify in such a probe.

Burglass cited two recent federal court cases which he said backed up his argument that persons who were the "focus of suspicion" could not be forced to testify at a grand jury proceedings.

U.S. ATTY. GERALD Gallinghouse said the grand jury probe is aimed at trying to find out how reputed former Mafia leader Sylvestro "Sil-

ver Dollar Sam" Carollo got back into the country after being twice deported.

Carollo, now 74, was spotted at Touro Infirmary Feb. 21. He was under treatment for a heart ailment. He was indicted by a federal grand jury Friday on a charge that

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he re-entered the country illegally.

Gallinghouse said 25 persons, including Marcello, were subpoenaed in an effort to find out who "aided and abetted" Carollo in his return to New Orleans.

IN ADDITION TO cancelling the temporary restraining order granted Marcello and nine other persons, Judge Mitchell denied such an order in a separate case involving Carollo's relatives.

However, the judge quashed a series of subpoenas for documents issued by the grand jury against Marcello, his relatives and Carollo's relatives. The wording of the subpoenas was too broad, Mitchell ruled.

Also subpoenaed to appear before the jury yesterday were Marcello's five brothers: Joseph Jr., Anthony, Vincent, Peter and Salvador J.

OTHERS SUBPOENAED were Joseph C. Marcello, Carlos' son; Jeff Hampton, his son-in-law; attorney Philip Smith and Dorothy Crowder and Anna M. Haik, identified as employes of Marcello.

Members of "Silver Dollar Sam's" family who were called included his two sons, Anthony Salvador Carollo and Michael Carollo, and his daughter, Mrs. Sarah Misuraca, and her husband, Victor Misuraca.

Meanwhile, attorneys for Marcello today sought a rehearing by the full Fifth Circuit Court of Appeals on a decision by the Appeals court last week upholding a federal court conviction of Marcello for slugging a Federal Bureau of Investigation officer at New Orleans International Airport last summer.

MARCELLO'S ATTORNEY filed the petition for a rehearing by the full 15-man court hoping to reverse the five-year sentence and \$2,000 fine handed down by a federal court judge at Houston.

Reasons for their appeal, they said, are because "the case presents serious constitutional and procedural issues."

The federal court trial of Marcello was held at Houston because attorneys for the Jefferson Parish rackets figure claimed a fair trial at New Orleans would be impossible.