

Marcello Pushes Case for Retrial

(Special to The States-Item)

HOUSTON — Federal court hearings on a motion for a new trial by Jefferson Parish rackets figure Carlos Marcello resumed here today in a last ditch attempt by Marcello to avoid serving a prison sentence on charges of assaulting an FBI agent in 1966.

During the first day of the hearings yesterday, FBI information officer Joseph Sylvester testified that he telephoned representatives of the news media in September, 1966, to inquire if they intended to cover the ar-

rival of "a certain individual who had been prominently featured in the news."

SYLVESTER TOLD U.S. Dist. Judge John V. Singleton that he called The Times-Picayune, Associated Press and WVUE-TV in New Orleans, then Channel 12.

He said he did not identify himself when he called but added that his voice is well known by the news media.

Sylvester said he had made the calls because only two agents were assigned to cover Marcello's arrival at the airport, and he wanted to be certain they would not be alone.

MARCELLO'S attorneys have insisted the incident involving their client and FBI agent Patrick J. Collins was set up by federal agents.

Marcello was found guilty in 1968 of the charges and received a two-year sentence and \$5,000 fine. The incident took place at New Orleans International Airport.

In other testimony, William Perry Brown Jr., a New Orleans public relations counsel and legal newspaper publisher, testified that he and FBI agent Collins attended a press party before Collins met Marcello at the airport.

BROWN, DESCRIBING Collins as a good friend, said the two went to Brennan's Restaurant in New Orleans' French Quarter to attend a press party for a movie, "The Fortune Cookie."

Brown testified that from noon until 3:30 p.m. he had four or five drinks. He later changed this to six.

He claimed Collins had two or more drinks to every one of his and he believed that when Collins left around 3 p.m., he was "intoxicated."

WHEN THE JUDGE asked Brown if he thought FBI agents were allowed to become intoxicated while on duty, Brown replied, "I don't know about FBI agents, but press people frequently return to work intoxicated."

Collins, who also testified yesterday, referred to Brown as a casual friend. Collins was questioned by Marcello counsel Anthony Friloux.

The FBI agent said he did not remember anything particular about Sept. 30, 1966, the date of the incident, until the time he received the assignment to go to the airport.

COLLINS SAID he and another agent arrived at the airport early to conceal one or two cameras. He had only been in New Orleans a short time, he said, and was unfamiliar with the airport setup.

Collins said that when they arrived at the airport he and another agent realized they could not take photographs from a distance because of all the media, so they mingled with the crowd.

Testimony also was given yesterday by Irby Aucoin, formerly a photographer for Channel 12 and now with the New Orleans Saints.

JUDGE SINGLETON announced that he expected testimony to end by noon today.

Marcello's sentence has been upheld by the U.S. 5th Circuit Court of Appeals, and the U.S. Supreme Court twice has refused to hear his motion for a new trial.

Term Begins In 45 Days, Marcello Told

(Special to the States-Item)

HOUSTON — Carlos Marcello must begin serving his two-year prison sentence on charges of striking an agent of the Federal Bureau of Investigation in 45 days, Federal Judge John B. Singleton ruled yesterday.

Marcello's attorneys were expected to file an appeal from the judge's ruling denying Marcello a new trial or reduction of his prison sentence.

In delaying execution of the sentence, Judge Singleton said:

"WHAT EVER ELSE, Mr. Marcello is a substantial businessman. I hope I don't sound too facetious, but if Mr. Marcello would skip the country, I assume the United States would be happy about it."

Two FBI agents were the only witnesses yesterday. They were Maurice Kelliher and Joseph Avignon, placed on the stand to refute testimony presented by Marcello's counsel.

A New Orleans public relations man, William Perry Brown Jr., testified that the agent Marcello was convicted of having struck was drunk on the day of the alleged slugging. The agent is Patrick J. Collins.

KELLIHER DENIED knowing of telephone calls made by the acting New Orleans agent in charge of the FBI, Joseph Sylvester, to the news media tipping off Marcello's scheduled arrival from New York.

"The first time I knew Mr. Sylvester made a phone call was when I read it in the paper today," Kelliher said.

Avignon said Collins was perfectly normal in speech, walk, behavior and demeanor on the night of Sept. 30, 1966, when Marcello assaulted him at New Orleans International Airport.

JUDGE SINGLETON said he doubted the testimony given by Brown about Collins' alleged intoxication would have changed the verdict. He said the jury may not have believed Brown.

U.S. Attorney J. P. Farris said he was "upset" because Marcello has 45 more days of freedom. "He has had his day in court and now he should go to jail just like any other convicted criminal."

He pointed out that the U.S. Fifth Circuit Court of Appeals has refused to stay its decision rejecting the appeal and that the customary time given to place one's affairs in order is 10 days to two weeks.

Victory OK