

Clarification Asked In Marcello Case

Supreme Court Justice Hugo L. Black asked the Justice Department today to clarify its opposition to pleas by Carlos Marcello, who is seeking to avoid prison while battling for a new trial.

The move pushed back a high court ruling on the motions at least until tomorrow.

Justice Black asked for the clarification in a secret list of questions sent U.S. Solicitor General Erwin N. Griswold, who last week opposed Marcello's attempts to remain out of jail on \$25,000 bail while the 5th Circuit Court of Appeals studied his motions for a new trial on assault charges.

MARCELLO WAS scheduled to begin a two-year jail term two weeks ago on a 1968 conviction of trying to punch an FBI agent.

A series of court litigations, however, has kept the portly rackets figure free and two prison reporting dates have

been suspended pending court rulings.

An aide to Justice Black refused to elaborate on the questions sent today, saying they were "private."

The aide said the request probably will delay a ruling by the justice until "tomorrow or perhaps later."

GRISWOLD OPPOSED Marcello's motions Friday, saying his claims of federal harassment were insubstantial. Black asked Griswold for an opinion before ruling.

Marcello's legal efforts contend the FBI fooled him into thinking the agent at whom he took a punch, Patrick J. Collins, was a reporter covering his arrival at New Orleans International Airport in 1966.

His conviction was upheld by the 5th Circuit earlier this year. The Supreme Court has refused to hear the case.

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IN THE EVENT Black rules against Marcello's latest motions, it will probably not mean the end of his attempts to stay out of jail.

Cecil M. Burglass Jr., a Marcello attorney, has given notice he intends to file further motions with the Appeals Court aimed at keeping the 61-year-old Marcello from setting foot behind bars.