

25 Feb 71

Marcello Appeal Rejected In Deportation Attempts

States-Item Bureau

WASHINGTON — The U.S. Immigration Board of Appeals today rejected an appeal by Carlos Marcello to block efforts to deport him to Italy.

The three-man board, handing down its lengthy ruling, said the move by Marcello attorneys to have deportation orders against the 61-year-old rackets figure lifted

are "premature."

Marcello, confined to a federal prison serving a six-month term for attempting to punch an FBI agent, is due to be released March 14.

HE ASKED THE appeals board to block his deportation and requested the board reopen a hearing on two outstanding deportation orders on grounds he has been a U.S. resident, legally, for more 10 years.

"Since Marcello is deportable, either under a deportation order issued in 1961 or under another one issued in 1953, it would be a useless act to reopen proceedings to permit him to apply for relief for which he has not yet established his eligibility."

An original order to deport Marcello was issued by the Immigration Service in 1953 based on a 1938 narcotics conviction. Marcello was declared "an undesirable citizen" as a result of the conviction.

IN 1961 A second order was issued and Marcello was flown to Guatemala after a fake birth certificate for the rackets figure turned up in an obscure Central American village. He returned to the U.S. several months later.

In its ruling, the board said Marcello will have "adequate opportunity" to reinstate his appeals against the deportation orders when he is released from his current prison term.

Marcello's attorneys are challenging the 1961 deportation order as invalid and as part of their strategy they are seeking a ruling that would declare Marcello as having

been legally inside the U.S. for 10 years. They are also seeking to prove he should not be deported because no country will accept him.

Declaring Marcello a U.S. resident for more than 10 years would bolster an appeal for revocation of the deportation orders.

THE BOARD NOTED it does not appear likely the Immigration Service will attempt to oust Marcello before June, at which time he will have completed 10 years of U.S. residency since his return from Central America. They said he will have a new opportunity to present his case to the board and the courts if necessary.

Meanwhile, the State Department is continuing efforts to have the Italian government issue travel papers accepting Marcello's deportation.

A spokesman for the Italian Embassy in Washington said today there have been no developments in that regard.

An Italian government spokesman said three weeks ago even if Marcello were deported, Italy does not have to accept him and could not force him to enter the country.