

Last-Ditch Efforts Failing As Marcello Term Nears

Eleventh-hour legal efforts to keep alleged Mafia boss Carlos Marcello out of jail appeared to be failing today.

A Houston federal judge is not expected to rule on two motions aimed at keeping him out of prison.

The 60-year-old rackets figure has been ordered to begin serving a two-year prison sentence Friday on a 1968 conviction of intimidating an FBI agent.

COURT SOURCES said today they do not expect federal Judge John V. Singleton to rule on the motions filed by Marcello's attorneys before Friday, clearing the way for the Jefferson Parish underworld figure to go to jail.

The sources added, however, Judge Singleton could rule on the motions once

Marcello is in prison, resulting possibly in his release and a new trial on the charges.

Attorneys Cecil Burglass and Anthony Friloux filed motions in federal court last week seeking to block the prison sentence on grounds Marcello is in ill health.

THEY ALSO are seeking to have his conviction overturned on grounds the grand jury which indicted him on the charge was improperly influenced by publicity.

While efforts were under way to stay the prison term in Houston, Marcello today underwent another series of medical tests at the Oschner Foundation Clinic in New Orleans in an attempt to prove his poor health claims.

Defense attorneys told the

court he is suffering from a heart ailment and could not withstand the prison term.

A conference was held in Houston yesterday among Marcello attorneys, Judge Singleton and government attorneys, but the meeting produced only an okay by the government to have Marcello reexamined by doctors.

SOURCES SAY the same defense arguments have been heard before by the court and Judge Singleton might not rule on the motions, allowing them to fall by the wayside once Marcello enters a federal penitentiary either at Atlanta or Leavenworth.

"The judge doesn't have to rule on the motions at all," one of them said, "and it's

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very possible he will not do so before Friday."

Attorneys for Marcello meanwhile declined comment saying they are continuing their efforts to block their client's jail term.

Friloux said he still is hopeful the judge will rule on the motions.

MARCELLO was convicted in 1968 of striking FBI agent Patrick Collins following an incident at New Orleans International Airport. He was fined \$5,000 and sentenced to two years in prison, a punishment that Marcello appealed to the U.S. Supreme Court, which turned him down.

Final motions to keep Marcello out of prison on the charge were filed in federal court in Houston last week.

They alleged Marcello has been harassed and provoked by the FBI and that he did not know Collins was a government employe. Motions also claimed the federal grand jury which indicted him on the charge was improperly influenced by publicity.

IF MARCELLO goes to prison Friday, it will be the third time in 40 years he has been put in jail.

In 1930, when he was 20 years old, Marcello was given a 14-year term in the state penitentiary at Angola for assault and robbery.

He served five years of the sentence and was given a full pardon by then Gov. Oscar K. Allen.

Later, in 1938, Marcello was convicted of selling marijuana and served nine months in the Atlanta federal penitentiary of a year and a day term.

His 1938 conviction was the basis of later abortive attempts by the U.S. Justice Department to have him deported.

ONE SUCH attempt occurred in 1961 when federal agents scooped Marcello up as he was leaving the Masonic Temple in New Orleans and hustled him off to the airport, where he was put on a special plane to Guatemala City.

After a month in Guatemala with his attorney Michel Maroun, of Shreveport, which included an incident in which he supposedly was picked up by the secret police and abandoned on a Honduras mountaintop, Marcello allegedly reentered the country by shrimp boat to Grand Isle.

Back in the U.S., Marcello

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quickly was indicted for illegal reentry and fraud in connection with falsification of a Guatemalan birth certificate, but he was acquitted of both charges in federal court.

ALMOST A year after he was found innocent on the charges, Marcello and Joseph Matassa, secretary-treasurer of the Pelican Tomato Co., Metairie, were indicted for bribing a juror in the case and conspiring to murder a witness.

In a 16-day trial, both Marcello and Matassa were found not guilty.

Marcello's latest conviction stems from a Sept. 30, 1966, incident at the airport in which he allegedly took a poke at Collins after he and his brother, Joseph, were met by newsmen as they returned from a trip to New York to testify before a federal grand jury probing the underworld.

EIGHT DAYS earlier the Marcello pair had been arrested along with 12 others in a police raid on a so-called "Little Appalachin" Mafia meeting in a Queens restaurant.

Courtroom testimony said Carlos and Joseph were surrounded by newsmen at the airport and at one point Marcello angrily asked if photog-

raphers present had gotten enough pictures.

Collins replied, "No," according to the record, and Marcello asked: "Are you looking for trouble?"

"I can handle trouble," Collins was quoted as saying. Marcello then allegedly took a couple of short jabs at the agent.

MARCELLO'S original trial on the charge was transferred from New Orleans to Laredo, Tex., after district Judge Frederick J. R. Heebe ruled the case had received prejudicial pre-trial publicity.

In Laredo, a second trial ended in a deadlocked jury and was moved to Judge John V. Singleton's court in Houston, where Marcello was found guilty of the charges on Sept. 12, 1968.

Since the trial he has been out on bail pending appeals.