

## MARCELLO GRANTED STAY

**Judge John Minor Wisdom of the U.S. Fifth Circuit Court of Appeals today granted Jefferson rackets figure Carlos Marcello a delay in the start of his two-year prison sentence for striking an FBI agent. He allowed the delay pending a hearing on a motion for a new trial.**

By DALE CURRY and CHARLES ZEWE

Carlos Marcello today lost a last-minute bid to avoid going to prison tomorrow but a development in the state's organized crime probe still

could give him a one-day respite.

Federal District Judge Lansing L. Mitchell said here he may seek to delay execution of Marcello's sentence long enough for him to testify before a special session of the legislative investigating committee on organized crime.

There was doubt, however, that such a special session could be arranged on short notice.

MEANWHILE, in Houston, Federal District Judge John V. Singleton today turned down six motions filed by Marcello's attorneys to keep him out of jail.

The motions were filed earlier and had no connection

with Judge Mitchell's possible appeal to Judge Singleton to delay execution of Marcello's sentence by a day.

Marcello, a Jefferson Parish rackets figure, is scheduled to surrender before 5 p.m. tomorrow in Houston to begin a two-year prison term for assaulting an FBI agent.

Judge Mitchell said that if the committee session could be held he would call Judge Singleton in Houston and ask for the delay.

ASKED DURING a recess about the possible legislative committee meeting tomorrow, committee attorney John V. Parker said, "The judge threw out a bone and nobody picked it up. It's up to Mar-

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mittee agrees to the conditions we desire."

Andrews said a committee session would produce nothing but "more mileage for the news media" and in the interest of justice the hearing should be private.

"FREEDOM OF the press, ho, ho, ho!" said Andrews. "The news is rigged. News editors are going to get whatever they can out of this."

Asked by the judge if he thought the news is managed, Andrews said:

"I'm flat telling you like it is, judge . . . The press uses all kinds of dippy-doodle devices to cover Marcello."

"THEY'RE GETTING more mileage out of Marcello than he's worth," he added.

At this point Judge Mitchell and the entire court broke up in laughter. The judge said in his years on the bench "this is the first time any lawyer has broken me up."

Andrews said he hoped the committee would agree to his conditions for Marcello to appear and at this point the judge began to speculate on the possibility of delaying the jail term so a special session can be held.

OF THE MOTIONS turned down in Houston, Judge Singleton said five of the six already had been considered

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cello's attorneys to make such a proposal and, if and when they do, then we'll attempt to reach the committee members and see if a meeting can be arranged for tomorrow."

Parker said that if such a proposal is made by Andrews or other Marcello attorneys, he will approach committee chairman Sen. Adrian G. Duplantier with the idea.

During the recess, Andrews stated he could not predict the outcome of the judge's proposal but indicated there is a possibility Marcello could testify tomorrow.

THE ACTION came today early in a hearing on the legislative committee's bid to force Marcello to testify. Marcello was not present and Marcello attorney Dean Andrews said he was in seclusion.

Earlier, the hip-talking Andrews surprised the court by saying Marcello has no objection to testifying before the committee, provided television cameras are excluded from the session. He said he had no objection to the press being there.

YESTERDAY, Judge Mitchell ruled that Life magazine writer David L. Chandler of New Orleans had to testify before the committee. Chandler's lawyers said this ruling would be appealed.

Andrews convulsed Judge

Mitchell and the crowded courtroom with his spicy lingo and his comments on the news media.

"We have no objection to Marcello's standing, sitting or doing anything else before the committee," Andrews said. "All we want is to get those TV cameras and live radio equipment out of there and allow only the regular press to sit in on the meeting."

COMMITTEE ATTORNEY Gordon Kean of Baton Rouge said the committee could not agree to that because "we want whatever comes out of the committee hearings to be a matter of record."

Andrews said "the committee has filed a bunch of funky-knuckle in an effort to get Marcello to appear; all that's not necessary."

He said his client is not trying to avoid the subpoena but said the committee's ob-

jection to a private session is a "lack of discretion."

"This man is still a human being," Andrews said, "He's not completely devoid of feelings."

ANDREWS TOLD the judge, "We've spelled it out like alphabet soup," but the efforts of the committee to get Marcello on the stand are an "exercise in futility, because all they'll get out of him is his name and address."

Andrews charged the com-

mittee wants Marcello only for publicity purposes and said he would use the state constitution and the federal Fifth Amendment to avoid giving self-incriminating testimony.

Andrews turned to a second subpoena by the committee of all of Marcello's tax records dating back to 1965.

"What do you expect his tax records to show, that he bribed Joe Blow for \$10,000?"

I can tell you now that kind of stuff is not in there."

ANDREWS SAID the committee gave only four days' notice for complete tax records covering the five-year period. He asked why Marcello should be expected to produce such extensive records when even the state tax collector would not do that.

He said even the House Un-American Activities Committee did not have such power and asked where the legislative committee obtained its power for such a "broad, blanket" subpoena.

Andrews also indicated there were "third parties" Marcello's testimony may hurt.

"Marcello doesn't ask mercy for himself. He's big enough not to do that. It's the other parties he could hurt," he said.

JUDGE MITCHELL asked Andrews if he didn't really believe Marcello should appear and the rotund attorney replied:

"Yes, I think he should appear but not unless the com-

either by him or by the Fifth Circuit Court of Appeals and rejected.

A sixth motion, to consider reducing the sentence on grounds of health or on grounds that Marcello acted under provocation when he hit the agent, is still under consideration, Judge Singleton said.

"However, this fact does not in any way alter the order of this court that the defendant surrender himself to the U.S. marshal from the Southern District of Texas (Houston) at 5 p.m. Sept. 4," the judge said.

"THIS COURT was not only the trial court but also conducted hearings on July 20 and 21, and is fully and completely familiar with all of the facts of the case and has reviewed and re-reviewed, considered and reconsidered, all of these facts and the circumstances surrounding the conviction and now concludes that no further hearings of any kind are necessary and none will be conducted by this court," Judge Singleton said.

Marcello's attorneys still

have the right to appeal to the Fifth Circuit but this is unlikely to have any effect on the tomorrow's deadline for Marcello to surrender and begin serving his term.