

# Marcello To Testify Voluntarily

By DALE CURRY

Carlos Marcello has agreed to appear before the legislative committee probing Mafia influence in Louisiana, Tuesday at 9:30 a. m. in the Wildlife and Fisheries Building in New Orleans.

Following a last-minute stay yesterday in the execution of his prison sentence, scheduled to begin today, Marcello's attorneys asked that a temporary restraining order keeping the Jefferson Parish rackets figure from testifying before the committee be recalled.

Marcello was scheduled to go to prison for striking an FBI agent at New Orleans International Airport Sept. 30, 1966.

FEDERAL DISTRICT Judge John V. Singleton of Houston yesterday denied five last-minute motions that would have delayed the sentence but an earlier motion for a new trial was appealed to the Fifth Circuit Court of Appeals and Judge John Minor Wisdom signed an interim stay of Marcello's two-year sentence.

Marcello will remain out of jail until a three-judge panel acts on a motion to delay the sentence pending the appeal to the Fifth Circuit Court.

"We're still in court and it's nice to be in court," Cecil Burglass, a Marcello attorney who filed the motion, said after the stay was granted.

Marcello was not present when a hearing before Federal District Judge Lansing L. Mitchell opened yesterday morning. His attorneys were attempting to keep him out of testifying before the legislative committee on grounds the committee would not cooperate on certain conditions.

DEAN ANDREWS, attorney for Marcello, told the court Marcello would willingly testify but wanted to appear only before an executive session of the committee where tele-



MARCELLO AND ATTORNEY BURGLASS —States-Item photo.

## Mafia

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vision cameras and photographers would not be allowed.

Judge Mitchell suggested seeking to delay Marcello's jail term for one day, call a special session of the committee in New Orleans today and put Marcello before it.

After a two-hour recess for lunch, Marcello showed up and conferred with his and the committee's attorneys in a session in the law library of the Wild Life and Fisheries Building.

At about 3 p. m., Andrews asked Judge Mitchell to continue his case against the committee indefinitely and recall an order keeping Marcello from testifying.

He said Marcello agreed to appear before a regular ses-

sion of the committee.

Burglass said he doesn't know when to expect the three-judge panel to rule on the motion for Marcello's stay of sentence. He said the sentence should be delayed until the Fifth Circuit decides the appeal of the motion denied by Judge Singleton in the Houston court where Marcello was convicted.

Fifth Circuit attaches, however, predicted action on the motion would come today.

**SUBPOENAED ALONG** with Marcello for Tuesday's legislative committee meeting is a set of Marcello's complete tax records dating back to 1965.

In yesterday morning's proceedings Andrews argued the request was unfair since even the state tax collector would not produce such extensive records.

During Marcello's appearance yesterday, he declined any comment to reporters. Earlier, he had been scheduled to surrender himself by 5 p. m. today in Houston to the U.S. marshal for the Southern District of Texas.

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