

Marcello Target Sober, Black Told

(Special to the States-Item)
WASHINGTON — U.S. Supreme Court Justice Hugo L. Black today was told by the Justice Department the FBI agent Carlos Marcello was convicted of intimidating was not drunk at the time of the incident.

Justice Department officials had been queried by Black on several points of the Marcello case in which the rackets figure is seeking a stay of a two-year sentence.

Marcello's plea for the stay has been on the desk of the Supreme Court justice since Sept. 9 and was expected to be ruled upon today.

IN ANSWERING Black's queries, the department also stated the FBI did not round up newsmen at the New Orleans International Airport and plant an FBI agent in the group to trap Marcello.

Marcello was convicted in Houston Federal District Court for hitting agent Patrick J. Collins in 1966. He was sentenced to two years but is out on appeal for a new trial to the Fifth Circuit Court of Appeals. The circuit court denied a stay of sentence but Marcello attorneys appealed the stay to Justice Black.

If Black turns Marcello down, the 60-year-old millionaire will go to jail.

In seeking a new trial, Marcello contends he was set up by the FBI which he claims mixed Collins into a crowd of photographers he attempted to shoo away at the airport.

BEFORE RULING on the stay, Black requested U.S. Solicitor General Erwin N. Griswold to answer several questions regarding the incident.

The reply said Marcello did not use a weapon and did not punch Collins with his fist "in the ordinary sense." He said, however, evidence shows Marcello jabbed at the agent

"making some relatively minor body contact."

Griswold stated: "The government denies Collins was drunk or under the influence of alcohol to any significant extent at the time of the incident."

Collins was accused by Marcello's attorneys of being intoxicated when the incident occurred. They said he spent part of the afternoon at a press party.

GRISWOLD STATED that Collins was standing near a railing that overlooks an automobile drive 25 to 30 feet below and "witnesses at the scene were apprehensive that someone would go over the railing."

He said FBI agents "did not ask members of the local press to be present at the airport to meet Marcello."

However, Griswold added that an FBI agent "called the news media asking whether they expected to have people there in order that he might judge whether to assign more than two agents to the scene."

Griswold stated that Collins "sustained no physical injuries."

Marcello was scheduled to enter prison Sept. 4 but sentencing has been delayed twice.

With the Justice Department replies to Black completed, Black must take the matter under consideration for a final decision.