

# Marcello Arrest Delayed by U.S.

The Justice Department announced today it will not attempt to put Carlos Marcello in jail while he awaits a Supreme Court ruling on his appeal of a lower court's refusal to grant him a stay of sentence.

Marcello was convicted in 1968 of striking an FBI agent and was fined \$5,000 and sentenced to two years in jail. The Jefferson Parish rackets figure has appealed for a new trial on grounds the government suppressed evidence at his first trial and that a witness for the government committed perjury.

Earlier this month the U.S. Fifth Circuit Court of Appeals denied bail to Marcello while he awaited action on his bid for a new trial. The appellate court's decision was appealed

to the Supreme Court and Justice Hugo L. Black Friday deferred action on the request to the full court, which does not meet until Oct. 5.

The Justice Department had the option of attempting to jail Marcello in the interim but has decided to hold off until the Supreme Court rules.

Black's three-page opinion was critical of the government's conduct prior to the incident in which Marcello was arrested for assaulting the FBI man at New Orleans International Airport. He said there was sufficient evidence of government provocation of Marcello to justify a new trial but he said he is not sure whether the full court will vote to accept jurisdiction in the case.