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Deportation at Stake**Marcello to Seek Voiding of Order**

States-Item Bureau

WASHINGTON — Attorneys for Carlos Marcello were scheduled to go before a federal appeals board here this afternoon seeking to throw out an 18-year-old deportation order against the jailed rackets figure.

A hearing before the three-man U.S. Immigration and Naturalization Service Board of Appeals was scheduled on a request by Marcello lawyers that a deportation order against their client be set

aside on grounds no country will accept him.

Marcello, 61, is serving a six-month sentence for trying to assault an FBI agent.

LAST WEEK, officials of the immigration service confirmed they were making new attempts to deport Marcello to Italy after uncovering a little-noticed Italian court decision holding the rackets figure to be an Italian citizen.

He was ordered deported in 1950 as an undesirable alien on the basis of a 1938 narcotics conviction.

Marcello attorneys contend no country will accept the alleged Mafia boss and say he should not be deported because he has a family and business interests in the U.S.

MARCELLO WAS born in Tunisia in 1910 of Italian parents. The Italian court ruled in 1967 he had taken no substantial action to establish his citizenship anywhere else since his birth and thus was an Italian national. The ruling was not appealed.

If the deportation order is upheld, Marcello could be bound over for deportation following his release March 14 from the Federal Medical Center at Springfield, Mo.

The Italian Embassy has said it cannot force Marcello to go to Italy and does not have to accept him if and when he is deported. Marcello's lawyers say they will fight the deportation order in court.

ATES-ITEM

U.S. Moves Hit By Attorney For Marcello

States-Item Bureau

WASHINGTON — An attorney for Carlos Marcello argued yesterday that the 60-year-old rackets figure cannot be deported because of two false moves on the part of the U.S. government and because of new immigration regulations.

In a hearing before the U.S. Board of Immigration Appeals, attorney Jack Wasserman said a 1961 deportation order for Marcello was falsely based on the assertion that Marcello entered the United States that year from Guatemala.

Wasserman claimed Marcello's entry should not be considered an entry as such, because the government "kidnaped" him when it deported him to Guatemala that year.

WASSERMAN ALSO said that, at a subsequent hearing, the government suppressed evidence showing that the Guatemala deportation was a mistake and that it denied Marcello a due process hearing about that issue.

Wasserman said Marcello, of Metairie, should be granted a new hearing on the current immigration service attempt to deport him because regulations allowing him to name a country for deportation and to claim that he is being persecuted were not in effect at the time of his last hearing.

Irving Appleman, an appellate trial attorney for the Immigration and Naturalization Service, said Marcello cannot qualify for a suspension of the

deportation order now because he is serving a six-month sentence on a conviction of attempting to strike an FBI agent.

THERE IS no point in reopening the case now when Marcello automatically qualifies for suspension attempts next May under a law that allows such attempts 10 years after the fact, Appleman said.

Marcello definitely is deportable, Appleman said, as decided in 1955 by the U.S. Supreme Court regarding his earlier conviction on a narcotics charge and by the Immigration Appeals Board after his alleged illegal entry from Guatemala in 1961.

"The government in no way concedes any impropriety in the 1961 hearing," Appleman said. Wasserman's motion is premature, he said.

"This is the only case we've had where an alien seeks suspension while he is serving in jail," Appleman said. "I see no reason why he should be given privileged treatment."

THE JUSTICE Department has been trying to deport Marcello since 1953 and has asked the State Department to negotiate with the Italian embassy for issuance of travel documents for him.

A 1967 Italian court decision, recognized only recently by U.S. officials, holds that Marcello is an Italian citizen.

The decision, apparently misunderstood until recently by immigration service officials, opens the way for deportation of Marcello to Italy.

Marcello's legal battles with the U.S. government date from 1938, when he was convicted on a federal narcotics charge. Since then, he has been involved in both civil and criminal cases.

A decision on his request to suspend his deportation order is not expected for several weeks.