

8 Feb 72 **Deportation Order Challenged**

U.S. Re-Opens Marcello Case

The U.S. Immigration and Naturalization Service says it is reopening its deportation case against Carlos Marcello, as the Jefferson Parish rackler's figure wants.

A New Orleans spokesman for the service said yesterday the decision to reopen the case came from headquarters in Washington.

Marcello, who refused Friday to sign an application for an Italian passport, has said he plans to apply for a suspension of the deportation order.

AN IMMIGRATION official said that in agreeing to reopen the case "we pass no judgment upon the desirability of granting relief."

Marcello's attorney said last week he understood that the Italian government would ac-

cept Marcello if he voluntarily filled out a passport application.

Marcello, 61, allegedly was born in Tunisia of Italian parents.

The 5th U.S. Circuit Court of Appeals last October ruled that Marcello was entitled to a review of the immigration service's move to deport him.

AT ISSUE IS the government's 1961 removal of Marcello to Guatemala. He returned to the United States within weeks of that removal, and has been fighting re-deportation since.

The 5th Circuit Court said: "It appears that, notwithstanding the validity of the 1961 order, petitioner (Marcello) has now been a resident of the United States for a period of more than 10 years, and is

therefore eligible under the Immigration and Naturalization Service regulation to reopen the 1961 deportation proceedings."

The 10-year factor is the amount of time required for suspension of deportation.

BY GETTING the rehearing Marcello will be able to challenge the 1961 deportation again — this time on grounds he has been in the country long enough to have the order suspended.

The complicated case stems from his guilty plea in 1938 when he said he had sold more than 23 pounds of marijuana. He was sentenced to a year in the federal prison in Atlanta, and the government began trying to get him out of the country a year later.