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Decision No. 11569

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of
ROSS FORSYTH for the cancellation
of the franchise issued to the Kings
River Transportation Company to run
a stage line out of Fresno and for
the issuance to him of said franchise.

)
:
) Application No. 8476
;
)

Hugh P. Graves and H. B. M. Miller
for Applicant.

Earl Fenstermacher for Estate of
J. Y. Scott, R. E. Marshall
and F. S. Kersey.

BY THE COMMISSION,

OPINION

This case was heard before Examiner Eddy at Fresno on January 12, 1923. The facts insofar as they are essential to a disposition of the proceeding by us are as follows:

In 1921 J. Y. Scott, operating an automobile stage line for the transportation of passengers and freight between Fresno and Trimmer Springs via Sanger, Centerville and Piedra, with the consent of this Commission transferred to Ross Forsyth a half interest in the line, known as the Kings River Transportation Company. Shortly thereafter, and likewise with our consent, a one-twelfth interest in the line was sold to F. S. Kersey. On September 25, 1922, Scott died, his estate being left to one Marshall. In the meantime Kersey had left the state and the business of actually conducting the stage line fell entirely upon Forsyth. The latter now asks that the certificate issued to the Kings River Transportation Company be can-

celed and that a certificate covering the same route be issued to him.

It is unnecessary hereto detail the legal questions which have arisen as the result of this complicated situation; they must be disposed of by a court of competent jurisdiction in appropriate proceedings. Under the statutes a certificate of public convenience and necessity once granted may be revoked by us only for "good cause" and after notice has been given to the grantee thereof and he has had an opportunity to be heard. No such state of facts is here present. Kersey, the owner of a one-twelfth interest in the certificate, was represented by counsel as was also Marshall, who claims an interest in the certificate under the will of Scott. Both opposed the canceling of the certificate. As has been stated, Forsyth is, and since the death of Scott has been, operating the stage line and has rendered accounts monthly to the executor under Scott's will. The business at the present time is just about paying expenses. Daily trips are made between Fresno and Piedra and three times a week trips are made to Trimmer Springs. No complaints have reached us as to the inadequacy or insufficiency of this service and there is therefore upon this record no warrant either for revoking the certificate to the Kings River Transportation Company, a co-partnership, or for granting a new certificate covering the same route to the applicant. When the courts shall have settled the matter in controversy between the parties herein the way will then be open for the filing with us of such an application as the interested parties herein may then agree upon.

ORDER

A public hearing having been held in the above entitled proceeding, evidence submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that the above entitled application for cancellation of the certificate now held by the Kings River Transportation Company, a co-partnership, be, and the same hereby is dismissed, and

IT IS HEREBY FURTHER ORDERED that the application of Ross Forsyth for a certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers and freight between Fresno and Trimmer Springs via Sanger, Centerville and Piedra be, and the same hereby is denied.

Dated at San Francisco, California, this 26 day of January, 1923.

C. C. Henry
James M. Martin
Edwin J. Shere

COMMISSIONERS