

Decision No. 46841**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MILDRED G. CLARK,

Petitioner,

vs.

ASSOCIATED TELEPHONE
COMPANY, LTD., a corporation,

Respondent.

Case No. 5343

Mildred G. Clark in propria persona. Walter V. Clark in propria persona. Associated Telephone Company, Ltd., by Marshall K. Taylor and Albert M. Hart, for respondent.

O P I N I O N

The complaint alleges that Mildred G. Clark resides at 13500 East Los Angeles Street, Baldwin Park, California, and that on or about the 19th day of September 1951, the complainant was advised by the respondent telephone company that the telephone facilities at the above address, under number Fleetwood 7-5583, were to be disconnected as a result of information received by the respondent telephone company to the effect that these communication facilities were being used as an instrumentality to violate the law or in aiding or abetting such violation. The complaint further alleges that immediately thereafter the telephone facilities were disconnected and that as a result the complainant has suffered and will suffer irreparable injury to her reputation, and great hardship.

It should be noted that at the hearing in this matter it developed that Mildred G. Clark was not the subscriber to the telephone service in question, but rather that the actual subscriber was her husband, Walter V. Clark. Upon the agreement of parties, Walter V. Clark was added to the complaint as a complainant, and paragraph VIII of the complaint, wherein it was alleged that the facilities were not used as an instrumentality to violate the law nor in aiding or abetting such violation, was stricken from the complaint.

On December 4, 1951, in Decision No. 46457 in Case No. 5343, this Commission issued an order granting temporary interim relief, directing the respondent telephone company to restore telephone service to the complainant pending a hearing. On December 17, 1951, respondent telephone company filed an answer which, in effect, denies the allegation made in the complaint and affirmatively alleges that Walter V. Clark is the subscriber of record for the telephone service in question, and that the respondent telephone company disconnected the telephone service in question, pursuant to a letter from the Sheriff of Los Angeles County, dated September 19, 1951, requesting respondent telephone company to disconnect said telephone service, pursuant to the decision of this Commission, No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing was held before Examiner Syphers on January 17, 1952, at Los Angeles, at which time evidence was adduced and the matter submitted.

At the hearing Walter V. Clark testified that it was necessary to have a telephone because it was used in his business, and also for personal calls.

On or about September 19, 1951, according to this witness, the telephone was disconnected and he and a Mrs. Douglas were arrested by deputies of the Sheriff's Office of Los Angeles County, and charged with bookmaking. The charges against Clark were subsequently dismissed.

Additional testimony was presented by two deputy sheriffs of Los Angeles County, wherein the statements attached to Exhibit "A" of the answer of respondent company were adopted. In substance this testimony points out that on the 19th of September 1951, at about 2:00 P.M., deputy sheriffs of Los Angeles County went to the Clark residence at 13500 East Los Angeles Street, Baldwin Park, California, and there observed Mrs. Douglas seated at the telephone with a small notebook in her lap. Upon examining this notebook it was found to contain the names of a number of horses reportedly running at various race tracks on that date, and it also contained notations as to various amounts of money wagered on these horses. Likewise, the deputies found a scratch sheet and two betting markers. At that time Mrs. Douglas advised the deputy sheriffs that she had been engaged in bookmaking at various locations in Baldwin Park for the last four weeks, and, further, that she had been at that telephone most of the day taking bets on horse races. During the time the deputy sheriffs were in the house, one of them answered the telephone several times and recorded bets which were made.

Upon a full consideration of the evidence herein, we find that the telephone facilities here in question, under number Fleetwood 7-5583, were used as an instrumentality to aid and abet the violation of the law, and that the telephone company exercised due care in taking the action it did and that this action was based upon reasonable cause, as that term is used in Decision No. 41415, supra.

O R D E R

The complaint of Mildred G. Clark and Walter V. Clark against Associated Telephone Company, Ltd. having been filed, public hearing having been held thereon, the matter now being ready for decision, and the Commission being fully advised in the premises and basing its decision upon the evidence of record in this case and the findings herein,

IT IS ORDERED that the complainants' request for restoration of telephone service be denied and that the said complaint be, and it hereby is, dismissed. The temporary interim relief granted by Decision No. 46477, dated December 4, 1951, in Case No. 5343, is hereby set aside and vacated.

IT IS FURTHER ORDERED that, upon the expiration of sixty (60) days after the effective date of this order, Associated Telephone Company, Ltd. may consider an

application for telephone service from the complainants herein, or either of them, on the same basis as the application of any similar new subscriber.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 11th day of March, 1952.

J. J. [Signature]
President
Justice S. [Signature]
Harold P. [Signature]
[Signature]
Commissioners