

ORIGINAL

Decision No. 50201

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOE PASSALACQUA,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Case No. 5533

M. C. Kristovich for complainant. Pillsbury,
Madison & Sutro, by John A. Sutro, and Lawler, Felix
& Hall, by L. B. Conant, for defendant.

C O P I N I O N

The complaint alleges that Joe Passalacqua of 151 West 121st Place, Los Angeles, prior to March 6, 1954, was a subscriber and user of telephone service under number Pleasant 4-6445 furnished by defendant company. On or about March 6, 1954 these telephone facilities were disconnected by officers of the Los Angeles County Sheriff's Department. The complaint further alleges that he has made demand upon the defendant telephone company for restoration of these facilities, but such demand has been refused, and further that he did not use and does not now intend to use the telephone facilities as an instrumentality to violate the law, and that he has suffered and will suffer irreparable injury and great hardship as a result of being deprived of said telephone facilities.

Under date of March 23, 1954, by Decision No. 49819 in Case No. 5533, this Commission issued an order granting temporary interim relief, directing the telephone company to restore service to complainant pending a hearing on the matter. On April 2, 1954 the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4938 (47 Cal. P.U.C. 853) had reasonable cause to believe that the telephone service furnished to complainant under number Pleasant 4-6445 at 151 West 121st Place, Los Angeles, California, was being or was to be used as an instrumentality directly or indirectly to violate or to aid and abet the violation of the law.

Public hearing was held in Los Angeles on May 27, 1954, before Examiner Syphers. At the hearing the complainant testified that he is a roofing and painting contractor. The premises in question constitute his residence, and the occupants are himself and his two children. On or about March 6, 1954, upon coming home from a painting job to secure additional paint, he found certain friends at his house and also deputy sheriffs of the Los Angeles County Sheriff's Department. The officers entered the premises and took the telephone although no arrests were made. Complainant further testified he is under a doctor's care and needs the telephone for emergency calls, as well as for the operation of his business.

A deputy sheriff of the Los Angeles County Sheriff's Office stated that he and two other deputies and two officers

from the Los Angeles City Police Department entered the premises involved at about 3 p.m. on March 6, 1954. Upon entering the house they found it occupied by Joe Passalacqua, Frank De Saro, Thomas Wickham, and others who were not named. The officers found a scratch sheet but no betting markers, and while they were there the telephone rang about ten times. One of the deputies took a bet over the telephone.

Exhibit No. 1 is a copy of a letter from the Sheriff of Los Angeles County to the telephone company requesting that the telephone facilities in question be disconnected. The position of the telephone company was that it had acted with reasonable cause in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After a consideration of this record we now find that the telephone company's action was based upon reasonable cause as such term is used in Decision No. 41415, supra. We further find that the telephone facilities in question were used for bookmaking purposes.

O R D E R

The complaint of Joe Passalacqua against The Pacific Telephone and Telegraph Company having been filed, public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence of record,

IT IS ORDERED that the complainant's 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. 49819 in Case No. 5533 is hereby set aside and vacated.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainant herein may file an application for telephone service, and if such filing is made The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 151 West 121st Place, Los Angeles, California, such installation being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

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

Dated at San Francisco, California, this 29th day of June, 1954.

John L. Mitchell
President
Walter J. Calver
Warren Duggins

Commissioners

Commissioner Kenneth Potter, being necessarily absent, did not participate in the disposition of this proceeding.