

Decision No. 50208

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PABLO TORRIENTE,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND TELEGRAPH)
 COMPANY, a corporation,)
)
 Defendant.)

Case No. 5527

Manuel Ruiz, Jr., for Pablo Torriente.
Pillsbury, Madison & Sutro, by John A. Sutro, and
Lawler, Felix and Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint alleges that Pablo Torriente, who owns a shoe repair service at 670-3/4 South Vermont Avenue in Los Angeles, California, prior to February 22, 1954 was a subscriber and user of telephone service furnished by defendant company under number DUnkirk 2-4424.¹ On or about February 22, 1954 these telephone facilities were disconnected by the Los Angeles Police Department. The complainant has made demand upon the telephone company to restore service but it has refused to do so. It is also alleged that complainant will suffer irreparable injury and great hardship if he is deprived of the use of his telephone, and further that he did not use and does not now intend to use the telephone facilities as an instrumentality to violate the law.

Under date of March 9, 1954 this Commission, by Decision No. 49764 in Case No. 5527, issued an order granting temporary

¹ The complaint is in error. The correct number as disclosed at the hearing is DUnkirk 2-4427.

interim relief, directing the telephone company to restore telephone service to complainant pending a hearing on the matter. On March 22, 1954 the telephone company filed an answer, the principal allegations of which were that the telephone company had reasonable cause to believe that the telephone service furnished to complainant under number DUnkirk 2-4427, at 670-3/4 South Vermont Avenue, Los Angeles, 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, such reasonable cause being pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal.P.U.C. 853).

Public hearing was held in Los Angeles on May 27, 1954 before Examiner Syphers, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that on or about February 22, 1954 his telephone facilities were disconnected by officers of the Los Angeles Police Department. No formal charges were ever filed against him, and further he testified that he had not used the telephone to violate the law and did not intend to so use it. An officer of the Los Angeles Police Department testified that on February 19, 1954 he, in the company of two other officers, entered the premises at 670-3/4 South Vermont Avenue in Los Angeles, and there found the complainant in the back of the establishment repairing shoes. While there the telephone rang four times, although the officer was unable to testify as to whether or not bets were received. Some betting markers were found in the rear of the store, but the officer testified they were more than one year old and were not in Torriente's handwriting.

Exhibit No. 1 is a copy of a letter dated February 22, 1954, from the Chief of Police of Los Angeles to the telephone company, requesting that telephone service under number DUnkirk 2-4427 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. However, there is no evidence in this record to show that the complainant used the telephone facilities as an instrumentality to aid and abet the violation of the law. While betting markers were found on the premises, they were more than a year old and were not in the handwriting of complainant.

O R D E R

The complaint of Pablo Torriente 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 order of this Commission in Decision No. 49764, dated March 9, 1954, temporarily restoring telephone service to complainant be made permanent, such restoration

being subject to all 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 29 day of

June, 1954.

John E. Mitchell
President
Justin J. Calmes
Werner Higgins

Commissioners

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