

ORIGINAL

Decision No. 50536

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MORRIS HARRIS GOODMAN,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND TELEGRAPH)
 COMPANY, a corporation,)
)
 Defendant.)

Case No. 5554

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

O P I N I O N

The complaint alleges that Morris Harris Goodman, of 1346 West Third Street, Los Angeles, California, prior to May 29, 1954, was a subscriber and user of telephone service furnished by defendant company under number MADison 6-9902. On or about May 29, 1954, these telephone facilities were disconnected by the Los Angeles Police Department on an allegation that the telephone facilities were being illegally used, although no complaint was issued against the complainant. Demand has been made upon the defendant telephone company to restore the telephone facilities in question, but it has refused and now refuses so to do. It is further alleged that the complainant has suffered and will suffer irreparable injury and great hardship as a result of being deprived of these telephone facilities, and, further, that he did not use and does not now intend to use the telephone facilities in question as an instrumentality to violate the law or to aid and abet such

violation. It is also alleged that the telephone facilities are necessary in the operation of a service station which complainant maintains at the above address.

Under date of June 15, 1954, this Commission, by Decision No. 50144 in Case 5554, issued an order granting temporary interim relief, directing the defendant company to restore the telephone service here in question pending a hearing on the matter.

Under date of June 24, 1954, The Pacific Telephone and Telegraph Company filed an answer, the principal allegation of which was that pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), it had reasonable cause to believe that the use made or to be made of the telephone service furnished by defendant to complainant under number MADison 6-9902 at 1346 West Third Street, Los Angeles, California, was prohibited by law.

A public hearing was held on September 2, 1954, in Los Angeles, before Examiner Grant E. Syphers. At the hearing the complainant testified that he operates a gas station at 1346 West Third Street in Los Angeles, and that on or about May 29, 1954, officers of the Los Angeles Police Department entered the premises and disconnected the telephone. At that time he was arrested for bookmaking, but no complaint was ever filed against him. He further testified that he did not use nor does he intend to use the telephone facilities in violation of the law.

A police officer of the City of Los Angeles testified that on May 29, 1954, three officers entered the above-mentioned gas station, removed the telephone and arrested complainant and one other party. However, no complaint was ever issued thereon. The

gas station was searched, but no bookmaking paraphernalia was found although while the officers were there the telephone rang once and a voice asked for Morrie and placed a bet on a horse race. The complainant denied that this telephone call was for him, although he did admit that his nickname is Morrie.

Exhibit 1 is a letter dated June 16, 1954, from the Chief of Police of Los Angeles to the defendant telephone company, requesting that the telephone service here in question be disconnected. However, no disconnection was made by the telephone company since this letter was received after the issuance by the Commission of its temporary order in Decision No. 50144, supra. From the time the police officers disconnected the complainant's telephone until the telephone company restored service pursuant to Decision No. 50144, supra, there was a period of about three weeks during which complainant was deprived of his telephone.

In view of this record we find that the telephone company's action was based upon reasonable cause, as such term is used in Decision No. 41415, supra. However, since there was no evidence of bookmaking paraphernalia, and since complainant had been deprived of his telephone for a period of three weeks, we now find that the complainant is entitled to retain the telephone service.

O R D E R

The complaint of Morris Harris Goodman 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 and the findings herein,

IT IS ORDERED that the complainant's request for restoration of telephone service be granted, and that the temporary interim relief granted by Decision No. 50144, dated June 15, 1954, in Case No. 5554, be, and it hereby is, 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 13th day of OCTOBER, 1954.

Robert E. Mitchell
President
Justin F. Casner
Werne Higgins
Rae G. K. ...

Commissioners

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