

ORIGINAL

Decision No. 50811

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ARTHUR B. CRIGLER,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY, a corporation,)
)
 Defendant)

Case No. 5571

Arthur B. Crigler, in propria persona. 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 Arthur B. Crigler, of 12710 South Western Avenue, Los Angeles, California, prior to October 1, 1951, was a subscriber and user of telephone service furnished by The Pacific Telephone and Telegraph Company under number Pleasant 5-6262. On or about October 1, 1951 this telephone facility was disconnected by officers of the Sheriff's Department of Los Angeles County, and despite demands upon defendant to have the said telephone facility restored the defendant has refused and does now refuse so to do. The complaint also alleges that the complainant has suffered and will suffer irreparable injury and great hardship as a result of being deprived of this telephone facility, and further that the

complainant did not use and does not now intend to use the telephone facility as an instrumentality to violate or to aid and abet the violation of the law.

Under date of September 23, 1954 the telephone company filed an answer in which it denied various portions of the complaint and affirmatively alleged 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 said telephone facility was being used as an instrumentality to violate or to aid and abet the violation of the law. The answer further alleged that this Commission, by Decision No. 50203, dated June 29, 1954, in Case No. 5528, issued an order dismissing a similar complaint previously filed by this same complainant, and that said order of the Commission has become final.

A public hearing was held in Los Angeles on October 29, 1954, before Commissioner Ray E. Untereiner and Examiner Grant E. Syphers, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that he has a small building in the front of his property which at the time the telephone facility was disconnected was rented with the provision that the tenant could use the telephone facility. During this tenancy he was advised by neighbors of suspected bookmaking activities by the tenant, whereupon he requested the tenant to move. When the tenant did not comply with this request the complainant advised a deputy sheriff of the situation, and two days later, when complainant came home from work, he found that

the telephone had been disconnected by officers of the Sheriff's Department. The tenant had been arrested.

Subsequently, on March 2, 1954, complainant filed a complaint with this Commission and as a result thereof, by Decision No. 49765, dated March 9, 1954, in Case No. 5528, an order temporarily restoring telephone service was issued pending a hearing in the matter, and the telephone company installed telephone service under number Pleasant 4-9035. The matter was set for hearing on May 27, 1954, but complainant, due to alleged inadvertence, did not appear at the hearing, whereupon his complaint was dismissed by Decision No. 50203, supra. Thereafter the instant complaint was filed. The complainant further testified that he did not use and does not now intend to use the telephone facility for bookmaking purposes. He also testified that the tenant no longer had access to the premises and, as a matter of fact, complainant did not know of the tenant's whereabouts.

Exhibit No. 1 is a letter from the Sheriff's Department received by the defendant telephone company on February 14, 1951, requesting that the telephone facility be disconnected. The position of the telephone company was that as a result of the receipt of this letter it acted with reasonable cause as that term is defined in Decision No. 41415, supra, in disconnecting and refusing to reconnect the service.

In the light of this record we find that the action of the telephone company was based upon reasonable cause, as such term is used in Decision No. 41415, supra. We further find that

there is no evidence to indicate that the complainant herein engaged in or was directly connected with bookmaking activities. Therefore, the complainant now is entitled to a restoration of telephone service.

O R D E R

The complaint of Arthur B. Crigler against The Pacific Telephone and Telegraph Company, a corporation, 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, upon the filing by the complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's property at 12710 South Western Avenue, 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 21th day of NOVEMBER, 1954.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioner Justin F. Graemer, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioners