

ORIGINALDecision No. 51465

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LEO CIMA,

Complainant,

vs.

Case No. 5629

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Leo Cima, in propria persona. Pillsbury, Madison &
Sutro and Lawler, Felix & Hall, by L. B. Conant, for
defendant.

O P I N I O N

The complaint, filed on March 1, 1955, alleges that Leo Cima of 11216 Yukon Avenue, Inglewood, California, prior to February 23, 1955, was a subscriber and user of telephone service furnished by defendant company at that address under number ORchard 7-3016; that on or about February 23, 1955, the telephone facilities were discontinued by disconnected terminals (sic) at applicant's home, and were disconnected at the time the complaint was filed; that complainant has made demand upon the defendant for restoration of the facilities, but said demand has been refused; that complainant has suffered and will suffer irreparable injury to his reputation and great hardship as a result of being deprived of the telephone facilities; and that complainant did

not use and does not intend to use said telephone facilities as an instrumentality to violate the law or in aiding or abetting such violation.

On March 8, 1955, by Decision No. 51179 in Case No. 5629, this Commission issued an order directing the telephone company to restore service to complainant pending a hearing on the matter.

On March 16, 1955, 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. 4930 (47 Cal. P.U.C. 853), had reasonable cause to believe that the telephone service furnished to complainant under number ORchard 7-3016 at 11216 Yukon Avenue, Inglewood, 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 hearings were held in Los Angeles before Examiner Kent C. Rogers on April 14 and 25, 1955. On the latter date the matter was submitted.

The complainant testified that he has a heart disease; that he had been in a hospital as a result of such disease for a period of about one month, terminating about one week prior to February 23, 1955; that during his stay in the hospital his brother-in-law, Joseph Passalacqua, had been staying at complainant's home to care for complainant's children; that on February 23, 1955, complainant, his wife, step-sister, son, and Joseph Passalacqua were at home; that about 4 p.m. four deputy sheriffs entered the complainant's home; that the deputies stated that

there had been bookmaking on the premises; that the deputies found no bookmaking paraphernalia on the premises except a scratch sheet; and that the deputies arrested Joseph Passalacqua and removed the telephone. The complainant further stated that he is ill and needs a telephone for emergencies, and that he has never used the telephone for bookmaking purposes. He said that the telephone has been reconnected.

A deputy sheriff of the Sheriff's Office of Los Angeles County stated that he and two other deputies, acting on information that bookmaking was being carried on at 11216 Yukon Avenue in unincorporated territory in Los Angeles County, arrived at those premises at about 3:45 p.m. on February 23, 1954. Before entering, the witness looked through a window and observed a man, later determined to be Joseph Passalacqua, seated at a table with a telephone, a pad of paper, and a sheet of toilet-type tissue thereon. The witness stated that Joseph Passalacqua answered the telephone on one occasion and made notes on the tissue. The deputies then entered the house. The witness stated that Joseph Passalacqua had disposed of the tissue paper, but a scratch sheet and one betting marker were found on his person when he was searched. The betting marker recorded a bet on a horse running at Santa Anita Race Track that day. While the deputies were in the house the telephone rang on several occasions. The deputy stated that he answered the telephone and was given bets on horses running that day at various horse racing tracks throughout the country. The witness stated that Joseph Passalacqua denied carrying on bookmaking activities at

that location. The deputy said that the complainant was present in the house, but stated he knew nothing about any bookmaking activities. The deputy further testified that no complaint was issued against Joseph Passalacqua.

Exhibit No. 1 is a letter from the Sheriff's Office of Los Angeles County, received by the defendant telephone company on February 25, 1955, requesting that the telephone facilities 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 until ordered to do so by this Commission.

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 is now entitled to a restoration of telephone service.

O R D E R

The complaint of Leo Cima against The Pacific Telephone and Telegraph Company, a corporation, having been filed, public hearings 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 order of the Commission in Decision No. 51179, dated March 8, 1955, temporarily restoring telephone service to complainant, be made permanent, such restoration 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 Los Angeles, California, this 11th day of May, 1955.

John P. Marshall
President

Mathia F. Walker

Paul H. ...

Markus ...

Commissioners