

ORIGINAL

51670

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WALTER WIDOWIAK)	
)	
Complainant,)	
)	
vs.)	Case No. 5649
)	
THE PACIFIC TELEPHONE AND)	
TELEGRAPH COMPANY, a corporation,)	
)	
Defendant.)	

Joseph T. Forno, for complainant. Pillsbury,
Madison & Sutro and Lawler, Felix & Hall, by
L. B. Conant, for defendant.

O P I N I O N

The complaint, filed on May 3, 1955, alleges that Walter Widowiak, 4902 South Broadway, Los Angeles, California, prior to February 29, 1955, was a subscriber and user of telephone service furnished by defendant company at that address under numbers ADams 2-9170 and ADams 4-1149; that on or about February 29, 1955, the telephone facilities were disconnected by the defendant pursuant to a request from the Los Angeles Police Department; that complainant has made demand upon the defendant for restoration of said telephone 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 said telephone facilities; and that complainant did not use and does not intend to use said telephone facilities as instrumentalities to violate the law or in aiding or abetting such violation.

On May 17, 1955, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 411415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), had reasonable cause to believe that the telephone services furnished to complainant under numbers ADams 4-1149 and ADams 2-9170, at 4902 South Broadway, Los Angeles, California, were being, or were to be used as instrumentalities directly or indirectly to violate or to aid and abet the violation of the law.

A public hearing was held in Los Angeles on June 17, 1955, before Examiner Kent C. Rogers.

The complainant testified that he was arrested at 4902 South Broadway, Los Angeles, on February 15, 1955, on suspicion of bookmaking; that this alleged violation was reduced to a charge of possession of a betting marker, to which offense he pleaded guilty; that he is not and never has been engaged in bookmaking; that he is engaged in the furniture upholstery business at the said address; that he needs a telephone in the business; that he has no telephone on the premises at present; that he plays the horses occasionally; and that he gives his personal bets to a bookmaker who comes to his place of business and picks them up.

Three police officers of the City of Los Angeles testified concerning the events which took place at the time of the incident involved. Their testimony was that on February 15, 1955, at about 3 p.m., they went to complainant's place of business; that two of them entered the front, while one entered the back; that there was a private telephone and a semi-public telephone with one extension on the premises; that the complainant was standing near a telephone;

that the telephone rang, one of the officers answered it and a woman gave the officer a wager on a horse race; that on the wall by the semi-public pay telephone there were several records of bets; that complainant had a betting marker in his pocket; that complainant was arrested on suspicion of bookmaking; that the complainant stated he had not engaged in bookmaking, but that he himself bets on horses and that his bookmaker has called him on the telephone; and that they had no search warrant.

Exhibit No. 1 is a letter from the Chief of Police of the City of Los Angeles, received by the defendant telephone company on February 23, 1955, notifying it that the telephone facility under number ADams 2-9170 was being used to receive and forward bets and requesting that it be disconnected. Exhibit No. 2 is a letter from the Commander of the Administrative Vice Division of the Police Department of the City of Los Angeles, received by the defendant telephone company on February 17, 1955, advising it that the telephone facility under number ADams 4-1149 was being used for the purpose of disseminating horse racing information and requesting that the telephone be disconnected. The position of the telephone company was that as a result of the receipt of these letters it acted with reasonable cause, as that term is defined in Decision No. 41145, supra, in disconnecting and refusing to reconnect the services until ordered to do so by this Commission.

After 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. 41145, supra. We further find that the telephone facilities were used for bookmaking purposes.

ORDER

The complaint of Walter Wdowiak against The Pacific Telephone and Telegraph Company having been filed, a 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 is denied, and that the said complaint be and it hereby is dismissed.

IT IS FURTHER ORDERED that on 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 place of business at 4902 South Broadway, 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 12th day of July, 1955.

James J. Calmes
President
Raymond W. ...
William D. ...
P. Hardy

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.