

Decision No. 529S1**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FRED L. WALLS,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 5737

Fred L. Walls, in propria persona.
Pillsbury, Madison and Sutro, and Lawler,
Felix and Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint of Fred L. Walls, filed on March 5, 1956, alleges that there was a telephone located at 5403 South Broadway, Los Angeles, California, which was removed from the premises because of something which did not involve the complainant; that complainant was operating a lawful business which includes delivery service; and that complainant's delivery business has been impaired by the loss of his telephone service. He prays that telephone service be restored to the premises.

On March 22, 1956, the telephone 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), defendant, on or about September 13, 1955, had reasonable cause to believe that the telephone service furnished

by defendant under number PLeasant 2-6327 at 5403 South Broadway, Los Angeles, 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.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on April 11, 1956, and the matter was submitted.

The complainant testified that he resides at 324 West 54th Street, Los Angeles, California; that prior to and since September 9, 1955, he has occupied and maintained a shoe repair and manufacturing business at 5403 South Broadway, Los Angeles, California; that on that date he had a telephone and an extension on the premises under number PLeasant 2-6327; that on that date and for about two years prior thereto he had an employee named Walter O'Neil working on the premises; that on that date he left the premises on business about noon and when he returned police officers had taken out the telephone and extension; that they asked him if he was making book on the premises and he said no; that he has not had a telephone since that day; and that he needs a telephone in his business. On cross-examination the complainant testified that he had been ill and out of his place of business for about five months prior to September 6, 1955, and returned to work on that date; that there were no betting markers on the premises on September 9, 1955, but there was a scratch sheet; that he used to bet on the horses but no longer does; that on the day of the arrest he had not bet on the horses but his employee admitted he had.

Exhibit No. 1 is a copy of a letter dated September 12, 1955, from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the telephone company requesting that the complainant's telephone facilities be disconnected. An employee of the telephone company testified that this letter was received on September 13, 1955, and a central office disconnection was effected pursuant to that request. 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 consideration of this record we now find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41115, referred to supra. We further find that there is no evidence that complainant was engaged in, was directly connected with, or permitted the telephone facilities to be used for bookmaking or other illegal activities. Therefore, the complainant is now entitled to restoration of telephone service.

O R D E R

The complaint of Fred L. Walls against The Pacific Telephone and Telegraph Company, a corporation, 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 and the findings herein,

IT IS ORDERED that 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 place of business at 5403 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 1st day of May, 1956.

[Signature]
President

Justus J. Caswell

Charles W. [unclear]

[Signature]

Commissioners

Commissioner Max Hardy, being necessarily absent, did not participate in the disposition of this proceeding.