

Decision No. 53969

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MATTHEW J. GLAVIANO,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY, a)
 corporation,)
)
 Defendant.)

Case No. 5790

Joseph T. Forno, for complainant.

Lawler, Felix & Hall, by L. B. Conant,
for defendant.

O P I N I O N

The complaint, filed on June 25, 1956, alleges that prior to May 15, 1956, complainant was a subscriber and user of telephone service furnished by defendant at 1715 Primrose, Alhambra, California, under telephone No. Atlantic 25332; that on or about May 15, 1956, the telephone facilities of complainant were disconnected by/or at the request of the Alhambra Police Department and/or the Los Angeles County Sheriff's Office who arrested complainant on suspicion of bookmaking; that on May 28, 1956, at the preliminary hearing in the Alhambra Municipal Court, the case was dismissed against complainant for lack of proper cause or evidence in the matter of the arrest, and there was no evidence introduced at said hearing that would indicate that the

telephone at that address was being used for receiving bets or for any illegal purpose; that complainant has suffered and will continue to suffer irreparable injury and great hardship in connection with the loss of his telephone; and that complainant did not and does not now intend to use said telephone facilities as an instrumentality to violate the law, nor in aiding or abetting such violation.

On July 2, 1956, by Decision No. 53317 in Case No. 5790, this Commission issued an order directing the telephone company to restore telephone service to complainant pending a hearing on the matter.

On July 10, 1956, the telephone company filed an answer, the principal allegation of which was that on or about May 28, 1956, it had reasonable cause to believe that the telephone service furnished to complainant under number Atlantic 2-5332 at 1715 Primrose Avenue, Alhambra, 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, and that having such reasonable cause the defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

Public hearings in the matter were held in Los Angeles before Examiner Kent C. Rogers on September 19 and 28, 1956, and the matter was submitted.

Matthew J. Claviano testified that he resides at 1715 Primrose, Alhambra; that on May 15, 1956, he was arrested at that address on suspicion of bookmaking and the telephone was

removed; that the case was dismissed at the preliminary hearing; that prior to May 15, 1956, he had never used the telephone to receive wagers; that on May 15, 1956, several friends asked him to take bets for them; that on the day of the arrest he received bets over the telephone; that he has been out of work for two years and was trying to see if he could pick up some money; and that the arresting officer found a scratch sheet in a waste basket in his home. He further testified that he has an invalid mother-in-law and a spastic daughter residing at home, and he needs a telephone.

Exhibit No. 1 is a copy of a letter from the Chief of Police of the City of Alhambra to the defendant, advising the defendant that complainant's telephone under number Atlantic 2-5332 at 1715 South Primrose Street, was used in connection with bookmaking on May 15, 1956, that it had been confiscated, and requesting that the service be disconnected. The parties stipulated that the letter was received by the telephone company on May 28, 1956, 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.

In the light of this record we find that the action of the telephone company was based upon reasonable cause as that term is used in Decision No. 41415, referred to supra. We further find that the telephone facilities in question were used for bookmaking purposes.

O R D E R

The complaint of Matthew J. Claviano 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 complainant's request for restoration of telephone service be denied and that the said complaint be and it hereby is dismissed. The temporary interim relief granted by Decision No. 53317 in Case No. 5790 is hereby set aside and vacated.

IT IS FURTHER ORDERED that upon the expiration of thirty days after 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 residence at 1715 Primrose Avenue, Alhambra, 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 Los Angeles, California,
this 23rd day of OCTOBER, 1956.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners