

Decision No. 54893**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LEONARD ENRIGHT, doing business  
as LEONARD'S BARBER SHOP,  
Petitioner,

vs.

PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,  
Respondent.

Case No. 5897

Milton R. Gunther, for petitioner.Lawler, Felix & Hall, by John M. Sink, for respondent.Harold W. Kennedy, County Counsel, by Norman O. Oliver, Jr.,  
Deputy County Counsel, for the Sheriff's Department,  
Los Angeles County.O P I N I O N

The complaint, filed on February 7, 1957, alleges that petitioner, Leonard Enright, operates a barber shop known as Leonard's Barber Shop, at 923 S. Kern Avenue, Los Angeles County, California; that he is a subscriber and user of telephone service furnished by respondent at said address under number ANgelus 3-4466; that on or about January 10, 1957, petitioner was advised by respondent that the respondent had received information that the communication facilities hereinabove described were being used as an instrumentality to violate the law or in aiding or abetting such violation, and that respondent was disconnecting such facilities immediately; that said facilities were disconnected and were

disconnected at the time the complaint was filed; that petitioner has suffered and will suffer irreparable injury to his reputation and great hardship as a result of the act of respondent in disconnecting the said communication facilities; that petitioner will suffer great financial loss and humiliation and embarrassment unless said facilities are restored; and that the facilities were not used for illegal purposes.

On February 26, 1957, the telephone company filed an answer, the principal allegations of which was that pursuant to Decision No. 41415. in Case No. 4930 (47 Cal. P.U.C. 853) respondent furnished by respondent cause to believe that respondent, under number A Avenue, Los Angeles, California, was instrumental in directly or indirectly abetting the violation of the law.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on March 14, 1957, and the matter was submitted. The petitioner testified that he has operated a bank shop at 923 South Kern Avenue for eight years; that on January 1957, he was arrested at that location on suspicion of bookmaking and his telephone was removed; that he was released after one or five hours; that no charges were filed against him subsequently requested of the respondent that it be returned to service but the respondent has refused to do so; that he needs a telephone in his business; that he is embarrassed as a result of the removal of the telephone; and that he has never used the telephone for illegal purposes.

*CORRECTION*

# CORRECTION

THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY

disconnected at the time the complaint was filed; that petitioner has suffered and will suffer irreparable injury to his reputation and great hardship as a result of the act of respondent in disconnecting the said communication facilities; that petitioner will suffer great financial loss and humiliation and embarrassment unless said facilities are restored; and that the facilities were not used for illegal purposes.

On February 26, 1957, the telephone company filed an answer, the principal allegation of which was that pursuant to Decision No. 41115, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853) respondent on or about January 14, 1957, had reasonable cause to believe that the telephone service furnished by respondent under number ANgelus 3-4466 at 923 South Kern Avenue, 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 March 26, 1957, and the matter was submitted.

The petitioner testified that he has operated a barber shop at 923 South Kern Avenue for eight years; that on January 10, 1957, he was arrested at that location on suspicion of bookmaking, and his telephone was removed; that he was released on bail in four or five hours; that no charges were filed against him; that he subsequently requested of the respondent that it reinstall his telephone service but the respondent has refused to do so; that he uses and needs a telephone in his business; that he has lost business and been embarrassed as a result of the removal of the telephone; and that he has never used the telephone for illegal purposes.

A Los Angeles County deputy sheriff attached to the Vice Detail testified that on January 10, 1957, at about 1 p.m., he and one other deputy parked a car across the street from petitioner's barber shop which has an open glass front; that while in the car he observed complainant and several of his customers looking at a newspaper and scratch sheet; that on several occasions he observed petitioner go to the telephone and use it and make notes on a cigarette paper; that other men came in and looked at the scratch sheet, and left; that he observed petitioner make notes on cigarette papers and go to the back room and come out with a white envelope; that he and the other deputies entered petitioner's shop and arrested and searched him; that he asked the complainant how long he had been bookmaking, and the complainant said "six months" and then said he wouldn't say anything further; that he searched the premises and found a National Daily Reporter scratch sheet, a pen and pencil, a writing pad, cigarette papers, and a telephone; that several other men in the place were questioned concerning their businesses and released; and that the telephone was removed and the petitioner taken to jail and booked. The officer further testified that the petitioner and the premises were thoroughly searched, but no betting markers were found, although petitioner had a scratch sheet in his possession. The witness testified that the officers were in the premises about 1-1/2 hours; that the telephone rang on several occasions and the other officer answered. An objection was sustained to a question attempting to elicit from the witness what the officer using the telephone told the witness the conversations were about.

On cross-examination the officer stated that when he was watching the petitioner's place of business from across the street he saw money pass hands, and could see the telephone being used, but he could not hear any of the conversations.

Exhibit No. 1 is a copy of a letter from the Sheriff of Los Angeles County to the telephone company requesting that the telephone facilities be disconnected. A telephone company employee testified that this letter was received on January 14, 1957, and a central office disconnection of petitioner's service was thereupon effected pursuant to this request. The position of the telephone company was that it had acted with reasonable cause, as that term is defined in Decision No. 41415, referred to supra, in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After consideration of the record herein 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 by petitioner's own admission he had been engaged in bookmaking for about 6 months prior to the time of his arrest. There is, however, nothing in the record to indicate that the petitioner's telephone was being used for any illegal purpose and, therefore, the petitioner is entitled to the restoration of his telephone service.

O R D E R

The petition of Leonard Enright against The Pacific Telephone and Telegraph Company, a corporation, for restoration of telephone service having been filed, a public hearing having been

hold 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 petitioner's request for restoration of telephone service be granted and that, upon the filing by the petitioner of an application for telephone service The Pacific Telephone and Telegraph Company shall install telephone service at petitioner's place of business at 923 South Kern Avenue, Los Angeles County, 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 22nd day of APRIL, 1957.

[Signature]  
 President

[Signature]  
[Signature]

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 Commissioners

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

Commissioner C. Lya Fox being necessarily absent, did not participate in the disposition of this proceeding.