

**ORIGINAL**

Decision No. 53487

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JESSE P. GAONA,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a Corporation,

Defendant.

Case No. 5947

Jesse P. Gaona, in propria persona.

Lawler, Felix & Hall, by John M. Sink, for  
defendant.

Roger Arnebergh, City Attorney, by Philip E. Grey,  
Deputy City Attorney, for the Police Department  
of the City of Los Angeles, intervener.

O P I N I O N

The complaint, filed on June 10, 1957, alleges that Jesse P. Gaona, has operated a tailoring business at 1055 East Vernon Avenue, Los Angeles, California, for over four years; that at all times prior to May 3, 1957, the defendant had furnished complainant with telephone service at said address; that on or about May 3, 1957, the said telephone was removed from said premises without complainant's consent and not as the result of any act or acts on complainant's part; that complainant has requested of the defendant that it restore said telephone service, but defendant has failed and refused to do so; that said telephone has not been used for any illegal purpose; and that the telephone is necessary to enable complainant to conduct his business.

On June 28, 1957, the telephone company filed an answer, the principal allegation of which was that on or about May 8, 1957, it had reasonable cause to believe that the telephone service furnished to complainant under number ADams 2-8596 at 1055 East Vernon Avenue, 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).

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on July 29, 1957, and the matter was submitted.

Complainant testified that he is a tailor and has a shop at 1055 East Vernon Avenue, Los Angeles, and a shop at 2409 $\frac{1}{2}$  Brooklyn Avenue, Los Angeles; that he personally works out of the shop at 1055 East Vernon Avenue which is a single room in which he works with two employees; that for some time prior to May 3, 1957, a man whose name he does not know had been coming around the shop two or three times per day; that on May 3, 1957, two officers in plain clothes came into the shop about 2 p.m., arrested this other man, took the telephone, and searched the place; that the police were there for a period of about 15 minutes, the phone rang two times and the officers answered both times; that neither he nor his tailors were arrested; that he does not use the telephone for illegal purposes, and that he needs the telephone in his business.

On cross-examination the complainant stated that he received two to three telephone calls per week from customers at

the 1055 East Vernon Avenue address, and that the other shop gets 10 to 15 telephone calls per day; that the name of the man who comes to the shop is Black Jack; that he believes he is a bookmaker; that if this man is there complainant lets him take the calls; and that in Black Jack's absence he simply tells the caller that Black Jack is not in.

The intervener presented no evidence.

Exhibit No. 1 is a copy of a letter from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the telephone company advising that the complainant's telephone had been confiscated, that it had been used for the purpose of disseminating horse racing information in connection with bookmaking, and requesting that the telephone facilities be disconnected. An employee of the telephone company testified that this letter was received on May 8, 1957, and that a central office disconnection was effected thereafter. 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 full 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. 41415, referred to supra. While it might be possible to draw an inference that the complainant's telephone may have been used for illegal purposes, the record in this proceeding does not contain facts upon which the Commission could conclude that complainant was engaged in, was directly connected with, or permitted the telephone facilities to be used for, illegal purposes.

ORDER

The complaint of Jesse P. Gaona 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 on 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 complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's shop at 1055 East Vernon Avenue, 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 Los Angeles, California, this 27th day of August, 1957.

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President  
*Paul Hutzinger*  
*R. Hardy*  
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*C. L. Fox*  
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Commissioners  
Peter E. Mitchell

Commissioner S. Matthew J. Dooley being necessarily absent, did not participate in the disposition of this proceeding.