

ORIGINAL

Decision No. 56123

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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| COLONEL WILLIAM TURPIN |) |
| |) |
| Petitioner |) |
| |) |
| vs. |) |
| |) |
| GENERAL TELEPHONE COMPANY, a |) |
| corporation |) |
| |) |
| Respondent |) |

Case No. 6007

Philip A. Burg for petitioner.

H. Ralph Snyder for the respondent.

Robert C. Lynch, Deputy County Counsel, for the Sheriff's Department of Los Angeles County, intervener.

O P I N I O N

By the complaint herein filed on November 5, 1957, complainant alleges that he is the owner of a liquor store located at 9734 East Artesia Street, Bellflower, California; that he is the subscriber and user of telephone service furnished by respondent at said address; that on or about October 26, 1957, a customer of petitioner was arrested for bookmaking while in petitioner's place of business; that at said time and place petitioner was also arrested for the same offense; that petitioner's telephone was disconnected at that time; that petitioner had no knowledge of why he was arrested; that the telephone facilities at the above address were not being used as an instrumentality in violating the law or in aiding or abetting said violation; that on October 29, 1957, in

Department 41 of the Superior Court of Los Angeles County the charge against petitioner was dismissed; that despite requests therefor petitioner's telephone facilities were not restored by respondent, and that as a result thereof petitioner is suffering humiliation, embarrassment, injury to his reputation, and pecuniary loss to his business; and that said telephone facilities were never used to violate or to aid in the violation of the law in any manner, and were used purely for the purposes of petitioner's business and for his personal calls.

On November 12, 1957, by Decision No. 55836 in Case No. 6007, the Commission ordered that the telephone service be re-installed pending a hearing on the petition herein.

On November 27, 1957, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), on or about October 27, 1957, had reasonable cause to believe that the telephone service furnished to complainant under number TO 7-3301 at 9734 East Artesia Avenue, Bellflower, 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 respondent was required to disconnect the service pursuant to this Commission's Decision No. 41415, referred to supra.

A public hearing was held in Los Angeles on December 17, 1957, before Examiner Kent C. Rogers.

The complainant testified that the allegations of his verified complaint are true. In said complaint, in addition to the matters hereinbefore alleged, it is alleged that complainant has

been in business in Artesia for the past nine years; that his wife has been active in the Parent Teachers Association in Bellflower, that she is past president of said association at the grammar school in Bellflower, a past president of the association for the junior high school at Paramount, and a past president of the Garden Department in Bellflower; that petitioner and his family are extremely well known in the community and enjoy the reputation of being good citizens and a credit to said community.

A deputy sheriff attached to the Vice Detail of the Los Angeles County Sheriff's Department testified that on October 25, 1957, he went to the petitioner's liquor store in Bellflower to investigate a bookmaking complaint; that he and his partner entered the store and placed the complainant and a Mr. Fowler under arrest; that he asked petitioner how long he had been making book at that place and petitioner said he had not been making book but made his own bets and telephoned them out; that on the premises and under the counter the witness found a scratch sheet which the petitioner said was his, and he found one betting marker on Mr. Fowler which the petitioner said was his bet.

Exhibit No. 1 is a letter dated October 27, 1957, from the Office of the Sheriff of Los Angeles County to respondent, advising respondent that on October 26, 1957, petitioner's telephone, TORrey 7-3301, was being used for the purpose of disseminating horse racing information which was being used in connection with bookmaking in violation of Section 337a of the Penal Code; that the telephone had been confiscated; and requesting that respondent disconnect the service. This letter was received by respondent on October 28, 1957, a central office disconnection was effected

thereafter, and pursuant to the order of the Commission the service was reconnected on November 15, 1957. The position of the telephone company was that it had acted with reasonable cause as that term is used in Decision No. 41415, 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. We further find that the evidence fails to show that complainant's telephone was used as an instrumentality to violate the law.

O R D E R

The complaint of Colonel William Turpin against General Telephone 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 order of the Commission in Decision No. 55836, dated November 12, 1957, temporarily restoring telephone service to the complainant be made permanent, such restoration 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 21st day of January, 1958.

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