

ORIGINAL

Decision No. 58075

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AMANDO AGCAOILI,

Complainant,

vs.

Case No. 6212

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Joseph T. Forno, for the complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.
Roger Arnebergh, City Attorney, by D. H. Von
Wittenburg, Deputy City Attorney, for the
Los Angeles Police Department, intervener.

O P I N I O N

The complainant, Amando Agcaoili, by the complaint herein filed on December 15, 1958, alleges that prior to November 11, 1958, he was the subscriber and user of telephone service furnished by defendant under number MADison 2-0570 at 716 Ninth Place, Los Angeles, California; that on or about November 11, 1958, the telephone facilities of the complainant were removed and disconnected by the defendant pursuant to instructions from the Los Angeles Police Department; that complainant has no knowledge of any illegal activities being conducted at said premises nor over said telephone

number, and has no personal knowledge of any arrests made on or about said premises; that complainant has demanded that defendant restore said telephone facilities but defendant refuses to do so; that complainant has suffered hardship and injury to his reputation by being deprived of said telephone; and that complainant did not use and does not intend to use said telephone as an instrumentality to violate or to aid and abet the violation of the law.

On December 29, 1958, 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 November 13, 1958, had reasonable cause to believe that the telephone service furnished by defendant under number MADison 2-0570 at 716 (East) Ninth Place, Los Angeles, 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 it was required to disconnect the service pursuant to Decision No. 41415, supra.

A public hearing was held in Los Angeles on January 27, 1959, before Examiner Kent C. Rogers.

The complainant testified that on November 11, 1958, he resided at, and was the subscriber to the telephone service furnished by defendant, at 716 Ninth Place, Los Angeles, California; that on that day he had a tenant named Nicolas Adoniz residing with him; that he is a barber and has a shop located in a separate

building on the front of the premises where his home is located; that on November 11, 1958, there was an extension telephone from the telephone in his home to the barber shop; that he had a barber working for him in the barber shop named Santiago Reintar; that on said date he was absent from his home and barber shop, and that when he returned the telephone had been removed; that he was informed that in his absence a Mr. Pearson had used the telephone for illegal purposes and the telephone had been removed; that he knows Mr. Adoniz, Mr. Pearson and Mr. Santiago Reintar; that he does not know and did not know any of them were indulging in bookmaking activities, if they were; that the only person he gave authority to use the telephone in his absence was his tenant, Santiago Reintar; and that he did not give anyone permission to use the telephone for illegal purposes.

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 removed; that on November 8, 1958, said telephone had been used for bookmaking purposes and requesting that the telephone facilities be disconnected. An employee of the telephone company testified that this letter, Exhibit No. 1, was received on November 13, 1958, and that a central office disconnection was effected on said day pursuant to said letter and that service had not been reconnected. The position of the telephone company was that it had acted with reasonable cause as that term is defined in Decision No. 41415, supra.

in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

A Los Angeles police officer testified that on November 8, 1958, he was connected with the Vice Detail of the Los Angeles Police Department; that on said date he and his partners went to the complainant's address; that prior to entering said house they observed from a distance numerous people enter and leave the house and the barber shop in front; that his partner went to the front of the house and he went to the rear of the house; that he observed a person in the house carrying some papers into a rear room; that he entered and took from the person, a man named "Pearson," betting markers and scratch sheets; that when he entered the place there was a man named Nicolas Adoniz cooking some food at the stove; that on a table in the dining room was a radio tuned to the racing results and there were scratch sheets and markers by said radio; that there were two telephones on the premises; that one was in the dining room by the radio with an extension in the barber shop in front; that there was a disconnected telephone in a bedroom; that the complainant was not on the premises; that the witness went to the barber shop and saw Santiago Reintar; that Reintar was arrested in the barber shop; that he took Reintar with him to the house; that while he was in the house with his partners and the arrested parties the telephone rang three times; that on the first two occasions his partner answered and told the witness that the calling parties hung up; that on the third occasion his partner said "hello," the witness listened in,

and the party calling asked if it was Andy and said "I placed a \$1 bet with him on the first race. Can you tell me how it came out?" The witness stated that he did not hear any bets given over the telephone.

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, supra. We further find that the evidence fails to show that the telephone service in question was used for an illegal purpose. Therefore, the complainant is now entitled to restoration of telephone service.

O R D E R

The complaint of Amando Agcaoili 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 the 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 716 East Ninth Place, 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 2nd day of March, 1959.

[Signature]
President

Theodore H. Jensen
Corbett R. Page
Commissioners

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