

ORIGINAL

Decision No. 58508

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOSEPH FAY,

Complainant,

vs.

Case No. 6228

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Joseph Fay in propria persona.

Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.

Alister McAlister, Deputy County Counsel, for the
Office of the Sheriff of Los Angeles County,
intervener.

O P I N I O N

In the complaint herein, filed on February 24, 1959, Joseph Fay alleges that he resides in Apartment 5, 846 Palm Avenue, Los Angeles 46, California; that on February 16, 1959, he was advised by the defendant that it was disconnecting his service under number Olympic 2-4750 on the grounds that the telephone was used as an instrumentality to violate the law; that complainant is in the entertainment business and it is necessary that he maintain a telephone in order to secure work; and that he did not and will not allow the telephone to be used for any illegal purposes.

On March 17, 1959, by Decision No. 58129, in Case No. 6228, the Commission ordered that the telephone service be restored to the complainant pending a hearing on the complaint herein.

On March 27, 1959, 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 February 12, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number Olympic 2-4750, at 846 Palm Avenue, Apartment 5, 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, and that having such reasonable cause the defendant was required to disconnect the service, pursuant to this Commission's Decision No. 41415, supra.

A public hearing on the complaint was held on April 14, 1959, in Los Angeles, California, before Examiner Kent C. Rogers.

The complainant testified that he is in the entertainment business; that he is frequently away from the state for extended periods; that on or about the 1st day of May, 1958, complainant asked his neighbor, having an apartment directly under his, to have an extension telephone from complainant's telephone to the neighbor's apartment so the neighbor could answer complainant's calls; that the complainant's neighbor, unknown to the complainant, was using telephones for illegal purposes, and that as a result thereof, complainant's telephone was removed on or about February 9, 1959; that complainant has never allowed the telephone to be used for illegal purposes and will not do so in the future; and that applicant's livelihood depends upon securing work through the use of the telephone.

Exhibit No. 1 is a letter dated February 11, 1959, from the Office of the Sheriff of Los Angeles County to the defendant apprising the defendant that complainant's telephone was being used as an instrumentality to violate or to aid and abet the violation of the law, and requesting that the telephone service be disconnected. This letter was received by the defendant on February 12, 1959, the service was disconnected pursuant thereto on February 17, 1959, and reconnected pursuant to Decision No. 58129 of this Commission on March 20, 1959. 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.

The Sheriff's Department of Los Angeles County presented no evidence.

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 complainant's telephone was used as an instrumentality to aid and abet the violation of the law, or that if it was so used, the complainant had any knowledge of such use.

O R D E R

The complaint of Joseph Fay 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,

IT IS ORDERED that the order of the Commission in Decision No. 58129, dated March 17, 1959, in Case No. 6228, 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 the date hereof.

Dated at San Francisco, California,
this 22nd day of May, 1959.

[Signature]
President
[Signature]
[Signature]
Theodore Jensen
[Signature]
Commissioners