

**ORIGINAL**

Decision No. 59183

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CEWIL, INC. AND CECIL E. WILLIAMS,  
Complainants,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Case No. 6332

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

O P I N I O N

By the complaint herein, filed on August 6, 1959, it is alleged that Cewil, Inc., is a California corporation, and Cecil E. Williams is its president and general manager; that said corporation owns and operates the Homestretch Cafe located at 3671 East Colorado Boulevard, Pasadena, California; that prior to July 7, 1959, Cewil, Inc., was a subscriber and user of telephone service furnished by defendant under number SYcamore 3-3998 at said address; that on or about July 7, 1959, telephone facilities were disconnected by the telephone company pursuant to a letter, dated July 7, 1959, from defendant which stated that the communication service was being used as an instrumentality to violate or to aid and abet the violation of the law; that prior thereto, and on or about July 2, 1959, a Los Angeles County deputy sheriff arrested a man at the cafe for

bookmaking, and removed the extension phone at said address; that complainant is not engaged in bookmaking and was not engaged in bookmaking at the time of the arrest; that it needs the telephone service and requests that the telephone service be reconnected.

The original complaint joins as a complainant, the owner and president of Cewil, Inc., namely, Cecil E. Williams, and at the request of complainants' attorney at the hearing, Cecil E. Williams was withdrawn as a complainant.

On August 18, 1959, by Decision No. 58890, in Case No. 6332, the Commission ordered that the telephone service be restored to complainant pending a hearing on the complaint.

On August 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 July 6, 1959, had reasonable cause to believe that telephone service furnished to complainant under number SYcamore 3-3998 at 3671 East Colorado Boulevard, Pasadena, 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, defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held before Examiner Kent C. Rogers in Los Angeles on September 24, 1959.

Cecil E. Williams testified that he is the president and general manager of Cewil, Inc.; that said corporation owns and

operates the Homestretch Cafe located at 3671 East Colorado Boulevard, Pasadena; that on and prior to July 2, 1959, the corporation had an employee named Charles Stark who worked on the premises from 2 a.m. to 10 a.m. as a janitor and handy man; that the telephone with number SYcamore 3-3998 furnished to the corporation by the defendant was located in an office in the rear of the premises with an extension to a bar in the front; that the office itself was kept locked and the extension to the bar had no dial thereon; that on or about July 2, 1959, said Charles Stark was arrested at the premises for allegedly accepting a horse race bet over the non-dial extension in the bar; that Charles Stark has been discharged; that the corporation officers and management will not permit the telephone to be used by the employees for any purposes except business purposes; that the telephone is necessary to the conduct of the business; and that in the future no illegal use will be permitted.

The County Counsel of Los Angeles was advised of the hearing herein but made no appearance.

Exhibit No. 1 is a letter from the captain of the Vice Detail of the Los Angeles Sheriff's Department to the defendant advising defendant that on July 2, 1959, complainant's telephone under number SYcamore 3-3998 at 3671 East Colorado Boulevard, Pasadena, California, 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 extension telephone had been confiscated and requesting that the

defendant disconnect the services. This letter was received by the defendant on July 6, 1959; service was disconnected on July 8, 1959; and was reconnected pursuant to this Commission's Decision No. 58890, supra, on August 21, 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 service inasmuch as it had received the letter designated as Exhibit No. 1.

After full consideration of this record we 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 violate or to aid and abet the violation of the law, and also that if it was so used, that such use was without the knowledge or consent of the corporation or its officers. Complainant is therefore entitled to telephone service.

#### O R D E R

The complaint of Cewil, Inc., 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 order of the Commission in Decision No. 58890, dated August 18, 1959, temporarily restoring telephone service to the complainant, be made permanent, such service being

subject to all duly authorized rules and regulations of the tele-  
phone company and to the existing applicable law.

The effective date of this order shall be five days after  
the date hereof.

Dated at San Francisco, California, this 30th  
day of October, 1959.

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

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