

ORIGINAL

Decision No. 66569

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Arthur Fernandez,
Complainant,
vs.
Pacific Telephone & Telegraph Co.,
Defendant.

Case No. 7713
(Filed September 10, 1963)

Dwain Clark, for complainant.
Lawler, Felix & Hall, by John M. Maller,
for defendant.

O P I N I O N

Complainant seeks restoration of telephone service at 6034 East Olympic Boulevard, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 66012).

Defendant's answer alleges that on or about July 3, 1963, it had reasonable cause to believe that service to Robert Chavez under PA 2-9415 was being or was to be used as an instrumentality directly or indirectly to violate or aid and abet violation of law, and therefore defendant was required to disconnect service pursuant to the decision in Re Telephone Disconnection, 47 Cal. P.U.C. 853.

The matter was heard and submitted before Examiner DeWolf at Los Angeles on November 22, 1963.

By letter of July 2, 1963, the Sheriff of the County of Los Angeles advised defendant that the telephone under number

PA 2-9415 was being used to disseminate horse-racing information used in connection with bookmaking in violation of Penal Code Section 337a, and requested disconnection (Exhibit 1).

Gustavo Chavez testified that he is part owner and manager of Bob's Taco House with his half brother who is the complainant in this matter for telephone service. He further testified that he and another were arrested and charged with calling bets over the telephone and that he had pleaded not guilty and that his case was set for trial on December 17, 1963. Chavez further testified that he did not use the telephone for placing bets or any other unlawful activity, but at the time of his arrest he was talking to his girl friend. Chavez also testified that complainant was not arrested or charged with any offense and that he did not use the telephone for any unlawful purpose. ✓

Chavez also testified that the business has urgent need of telephone service and that complainant has great need for telephone service and he did not and will not use the telephone for any unlawful purpose.

There was no appearance by or testimony from any law enforcement agency.

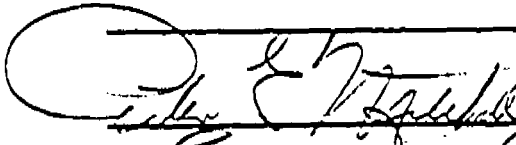
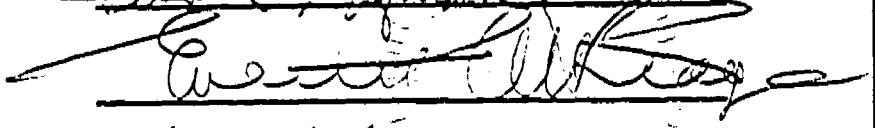
We find that defendant's action was based upon reasonable cause, and the evidence fails to show that the telephone was used for any illegal purpose. Complainant is entitled to service.

O R D E R

IT IS ORDERED that Decision No. 66012, temporarily restoring service to complainant, is amended to show that it is for the installation of new service and, as such, that it be made permanent, subject to defendant's tariff provisions and existing applicable law.

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

Dated at San Francisco, California, this 7th day of JANUARY, 1964.

 President

George W. Hoover
Fredrick B. Hilschoff Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.