

Decision No. 45706

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

H. N. GRIFFIN,

Petitioner,

vs.

Case No. 5267

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Respondent.

O P I N I O N

The complaint herein alleges that, on or about January 18, 1951, the telephone facilities of complainant were disconnected by the respondent telephone company, and that the telephone company has refused, and does now refuse, to reconnect the telephone facilities involved. The complaint further alleges that the telephone facilities were not used in violation of the law, and that complainant would suffer irreparable injury and damages unless the telephone service is restored.

An order granting temporary interim relief was issued on February 16, 1951, directing respondent telephone company to restore the facilities in question pending a hearing on the complaint. This restoration was effected, and subsequently the telephone company filed an answer to the complaint, the principal

allegation of which was that the telephone company had reasonable cause to believe that, on January 18, 1951, the use made and to be made of the aforesaid telephone service was prohibited by law, and that, accordingly, it was required to discontinue service to the subscriber under the provisions of this Commission's order contained in Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P. U. C. 583).

A public hearing was held before Examiner Syphers in Los Angeles on April 23, 1951, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified to the effect that, on January 10, 1951, he rented a room to Mrs. Elizabeth Magoffin, with the privilege extended to the tenant of using the telephone. According to complainant, Mrs. Magoffin informed him that she was making an advertising survey, in connection with radio and television work. Later in the day the complainant learned that Mrs. Magoffin had been arrested by investigators from the office of the District Attorney on charges of bookmaking. The investigators had physically removed the telephone as evidence.

Further testimony in the hearing disclosed that Mrs. Magoffin, on April 10, 1951, was sentenced to one year in the County Jail, which sentence was suspended, and she was placed on probation for three years and fined \$350.

The evidence in connection with the arrest of Mrs. Magoffin disclosed that she informed the arresting officers that the bookmaking was conducted by her and was not connected with the owner of the premises.

Under date of January 15, 1951, the Sheriff of Los Angeles County addressed a letter to The Pacific Telephone and Telegraph Company, requesting disconnection of this telephone, and disconnection was made. Since this disconnection was made as a result of "written notice to such utility" from an "official charged with the enforcement of the law, stating that such service is being used or will be used as an instrumentality to violate the law", we hereby find that the telephone company acted with reasonable cause, as such term is used in Decision No. 41415 supra.

The specific problem presented by this matter, therefore, is whether or not the activities of the tenant, performed without knowledge of the landlord, in using a telephone for unlawful activities is sufficient grounds to justify the termination of the order granting temporary interim relief, or whether, in view of the owner's apparent innocence in this matter, the aforesaid temporary order should be made permanent.

A fair view of the testimony presented here compels the conclusion that the complainant herein, as owner of the premises, was not involved in the bookmaking activities of his tenant, and, in fact, did not know of them. Further, he had no reason to suspect that she would use the telephone for unlawful activities.

In view of this situation, and limiting our findings to the specific case herein, we hereby find that the complainant is entitled to telephone service, and, accordingly, the temporary order will be made permanent. In making this finding we are mindful of the further testimony that Mrs. Magoffin does not

now rent a room from complainant, and has not done so since the time of her arrest on January 10, 1951, and, further, we have in mind the allegations and testimony of complainant as to his present need for telephone service.

ORDER

The complaint of H. N. Griffin against The Pacific Telephone and Telegraph Company having been filed, public hearings having been held thereon, the case now being ready for decision, 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 granting temporary interim relief, dated February 16, 1951, be, and it hereby is, made permanent, such restoration being subject to all rules and regulations of the telephone company and to the existing applicable law.

The effective date of this order shall be twenty (20) days after the date hereof.

California

Dated at San Francisco this 15th day of May, 1951.

R. F. [Signature]

Justice J. [Signature]

Harold [Signature]

COMMISSIONERS