

Decision No. 46152**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MALACHI MONDY,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

Case No. 5300

O P I N I O N

The complaint herein alleges that, on or about April 28, 1951, the telephone facilities of complainant were discontinued, and that subsequent thereto the telephone company has refused to restore telephone service to the complainant. The complaint further alleges that the telephone facilities were not used in violation of the law, and that service is necessary in the conduct of complainant's business.

An Order to Satisfy or Answer was issued on June 8, 1951, and as a result, on June 19, 1951, The Pacific Telephone and Telegraph Company filed an Answer stating that the telephone service was discontinued by the telephone company inasmuch as it had reasonable cause to believe that the use made, or to be made, of the said 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 in Los Angeles before Examiner Syphers on August 24, 1951, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that, prior to April 28, 1951, he had a telephone at his residence located at 13403 Grape Avenue, Compton, California. This telephone was installed in the kitchen, and had a twenty-five foot cord so that it could be moved to other rooms in the house. On April 28, 1951, when complainant returned to his home in the evening, he found the telephone had been removed, and subsequently he learned that one Peggy Brown, a tenant in the house, had been arrested for bookmaking. He further testified that he had no knowledge as to the bookmaking activities of this Peggy Brown and that he personally had not used the telephone for any unlawful purpose.

Peggy Brown testified that, about two weeks prior to April 28, 1951, she had rented a room from Mrs. Malachi Mondy and had stayed there until about April 28, 1951, at which time she was arrested for bookmaking. She further testified that neither Mr. Mondy nor Mrs. Mondy had any knowledge of her bookmaking activities. Complainant's wife, Rosa Lee Mondy, presented testimony confirming the fact that she had rented a room to Peggy Brown, and that she had stayed there for about two weeks.

She likewise testified that she had no knowledge of bookmaking activities, and that she had not used the telephone for any unlawful purpose.

A deputy sheriff of Los Angeles County presented testimony to the effect that, on April 28, 1951, Peggy Brown was arrested at the premises at 13403 Grape Avenue in Compton, and that at the time of her arrest she was seated at a table whereon there were copies of various bookmaking papers. During the time the deputy sheriff and his accompanying officers were in the house the telephone rang several times, and bets were recorded. At the time of the arrest the telephone facilities were physically removed.

Exhibit No. 1, presented in evidence, is a letter dated April 28, 1951, from E. W. Biscailuz, Sheriff of Los Angeles County, to The Pacific Telephone and Telegraph Company, requesting that the telephone service be discontinued because it had been used for bookmaking purposes.

It is the contention of the telephone company, and we hereby find, that, since the 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", the telephone company acted with reasonable cause, as such term is used in Decision No. 411415, supra.

A fair view of all the evidence in this matter impels the conclusion that the complainant, as owner of the premises, was not involved in the bookmaking activities of the tenant, and, in fact, did not know of them. Furthermore, the evidence fails to show that either the complainant or his wife had any reason to suspect that the tenant would use or was using the telephone facilities for unlawful activities.

On this record, therefore, we find that the activities of the tenant, performed without knowledge of the landlord, in using a telephone for unlawful activities, do not constitute sufficient grounds to justify a further discontinuance of the telephone facilities.

O R D E R

The complaint of Malachi Mondy against The Pacific Telephone and Telegraph Company having been filed, public hearing 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 Pacific Telephone and Telegraph Company shall restore telephone service to the complainant at his residence, 13403 Grape Avenue, Compton, California,

such restoration being subject to all rules and regulations of the telephone company and to existing applicable law.

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

Dated at San Francisco, California, this 4th day of September, 1951.

R. T. [Signature]
President

Justice J. [Signature]
Harold P. [Signature]

[Signature]
[Signature]
Commissioners