

ORIGINALDecision No. 48021

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DONNIE H. BOOTH,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 5419

Donnie H. Booth, in propria persona. Pillsbury,
Madison & Sutro, by John A. Sutro, and Lawler, Felix
& Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint alleges that Donnie H. Booth of 537 East Thirty-second Street, Los Angeles 11, California, prior to September 4, 1952, was a subscriber and user of telephone service furnished by defendant telephone company under number Adams 8415. On or about September 4, 1952, these telephone facilities were disconnected by the Sheriff's Department of Los Angeles County on suspicion of bookmaking. The complaint further alleges that demand has been made upon defendant telephone company to restore the said telephone facilities, which demand has been refused. Complainant states that he did not use and does not now intend to use the facilities in question in violation of the law, and that he has suffered and will suffer irreparable injury and great hardship if the telephone facilities are not restored.

By Decision No. 47806, dated October 9, 1952, in Case No. 5419, this Commission ordered a temporary restoration of the telephone facilities in question, pending a hearing on the matter.

Under date of October 20, 1952, the telephone company filed an answer, the principal allegations of which were that the telephone company had reasonable cause to believe that the telephone facilities in question were being used to violate the law, and that, accordingly, it disconnected and discontinued these facilities pursuant to Decision No. 41115, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing was held in Los Angeles on November 25, 1952, before Examiner Syphers.

At the hearing an officer of the Los Angeles Police Department testified that on September 4, 1952, at approximately 2:00 p.m., he entered the premises at 537 East Thirty-second Street, in company with three other officers. There they found the complainant attempting to flush a scratch sheet down the toilet. There were two telephones, Adams 4-1114 and Adams 8415, which rang several times while the officers were there. The officers answered these telephones and recorded bets on race horses. The complainant was arrested for bookmaking.

The complainant testified that the residence in question is a duplex-style house, that one of the telephones, Adams 8415, was in his name, and the other, Adams 4-1114, was in his son's name, his son living in the other side of the duplex. Both telephones had long extension cords so that they could be placed

in either part of the duplex. He stated that he has been a user of telephone service for twenty-five years, and needs it for personal reasons.

The telephone company presented testimony showing that it had received a letter (Exhibit No. 1) from the Chief of Police of Los Angeles, dated September 5, 1952, directing that the telephones in question be disconnected. Resultantly, these telephone facilities were disconnected. They were reconnected in conformance with Decision No. 47806, supra.

After a consideration of this record we are of the opinion, and hereby find that the telephone company had reasonable cause to believe that the use made or to be made of the telephone facilities in question was prohibited by law, inasmuch as the letter from the Chief of Police of the City of Los Angeles constitutes such reasonable cause under the terms of Decision No. 41415, supra. We further find that the telephone facilities in question were used for bookmaking purposes.

O R D E R

The complaint of Donnie H. Booth against The Pacific Telephone and Telegraph Company having been filed, public hearing having been held thereon, the matter now being ready for decision and the Commission being fully advised in the premises and basing its decision upon the evidence of record in this case and the findings herein,

IT IS ORDERED that the complainant's request for restoration of telephone service be denied, and that the said complaint be, and it hereby is, dismissed. The temporary

interim relief granted by Decision No. 47806, dated October 9, 1952, in Case No. 5419, is hereby set aside and vacated.

IT IS FURTHER ORDERED that upon the expiration of sixty (60) days after the effective date of this order, The Pacific Telephone and Telegraph Company may consider an application for telephone service from the complainant herein on the same basis as the application of any similar new subscriber.

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

Dated at San Francisco, California, this 9th day of December, 1952.

R. J. Dunnington
President
Justin F. Craven
Harold A. Hill
Francis H. Potts
John L. Mitchell
Commissioners