

ORIGINALDecision No. 48025

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CHRISTOPHER P. CAREY,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY, a corporation,)
)
 Defendant.)

Case No. 5407

Christopher P. Carey, 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 Christopher P. Carey, of 1318 North Avenue 54, Los Angeles, California, prior to August 4, 1952, was a subscriber and user of telephone service under number Albany 3920, and that on or about August 4, 1952, these telephone facilities were disconnected by the Los Angeles Police Department on suspicion of bookmaking. Although the complainant was arrested, the matter subsequently was dismissed. The complaint further alleges that the telephone company has refused and does now refuse to restore service to complainant even though demand has been made upon that company for such restoration. It is further alleged that Christopher P. Carey did not use and does not now intend to use the telephone facilities in question for any unlawful purpose, and

that complainant will suffer irreparable injury and great hardship if such facilities are not restored.

Under date of September 16, 1952, by Decision No. 47692, in Case No. 5407, there was issued an order granting temporary interim relief, directing the telephone company to restore the telephone service in question pending a hearing upon the complaint.

The defendant telephone company filed an answer on September 26, 1952, the principal allegations of which were 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 and that, accordingly, the telephone company was required to disconnect and discontinue the telephone service pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing was held in Los Angeles on November 24, 1952, before Examiner Syphers.

At the hearing a police officer of the City of Los Angeles described an incident occurring on March 12, 1952, when the complainant was arrested for bookmaking. On that occasion an officer observed complainant seated in an automobile with another man, and looking at a scratch sheet. A search of the automobile disclosed notebooks and a scratch sheet on which complainant admitted he had recorded bets, but stated that he was not engaged in bookmaking.

A second police officer testified that on August 4, 1952, he and four other officers went to the premises at

1318 North Avenue 54, in Los Angeles, and upon entering found a telephone on a chair and a scratch sheet hidden under an extra leaf of the kitchen table. While the officers were there the telephone rang several times, and the witness stated that he recorded two bets on horse races over the telephone.

The position of the telephone company was that it had acted with reasonable cause in disconnecting the telephone facilities, inasmuch as it had received a letter from the Chief of Police of the City of Los Angeles, dated August 5, 1952, requesting that the telephone service here in question be disconnected. As a result, the telephone company contended it was required to disconnect these facilities pursuant to Decision No. 41415, supra.

The complainant presented testimony in which he contended he was not engaged in bookmaking activities. He testified that on April 5, 1952, he had again been arrested for bookmaking as a result of the situation which occurred on March 12, 1952, and that subsequent thereto he was convicted and fined \$50 in Municipal Court in Los Angeles. However, he stated, this conviction is now under appeal.

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. We further find that bookmaking was being conducted over the telephone facilities here in question.

O R D E R

The complaint of Christopher P. Carey against The Pacific Telephone and Telegraph Company having been filed, a 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 complainant's request for restoration of telephone service be denied and that the complaint be, and it hereby is, dismissed. The temporary interim relief granted by Decision No. 47692, dated September 16, 1952, in Case No. 5407, 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.

A. J. Anderson
President

Justin J. Quillen

Harold K. Kula

Thomas H. Patten

Robert E. Mitchell
Commissioners