

ORIGINAL

Decision No. 48283

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EVELYN GOOLD,

Complainant

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 5427

Evelyn Goold 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 Evelyn Goold who resides at 1642 West 42nd Place, Los Angeles 62, California, prior to September 1, 1952, was a subscriber and user of telephone service furnished by defendant company under number AXminister 3-3402. On or about September 1, 1952, these telephone facilities were disconnected by the Los Angeles Police Department on suspicion of bookmaking. The complainant has made demand upon the defendant telephone company to restore the telephone service but it has refused to do so. The complaint also alleges that the complainant will suffer irreparable damage if she is deprived of the use of her telephone and, further, that she did not use and does not now

intend to use the telephone facilities as an instrumentality to violate the law.

Under date of November 26, 1952, this Commission, by Decision No. 47975, in Case No. 5427, issued an order granting temporary interim relief, directing the telephone company to restore telephone service to complainant pending a hearing in the matter. On December 5, 1952, the defendant telephone company filed an answer, the principal allegations of which were that the defendant telephone company had reasonable cause to believe that the use made or to be made of the telephone service furnished to complainant under number AXminister 3-3402 was prohibited by law and that said service was being, or was to be used, as an instrumentality directly or indirectly to violate or to aid and abet the violation of the law and that defendant having reasonable cause was required to disconnect the 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 January 19, 1953, before Examiner Syphers, at which time evidence was adduced and the matter submitted.

At the hearing a police officer for the City of Los Angeles testified that on September 26, 1952, he and two other officers entered the premises at 1642 West 42nd Place. The premises consisted of a one-story dwelling house and as the officers entered they found one Joe Rizzo standing near the front door. In the living room on a table there were a telephone and some scratch sheets. Also, in the kitchen scraps

of paper were found which, when pieced together, were found to be betting markers for races which had been run the previous day. At approximately 4:15 p.m. the phone rang and was answered by the police officer. A voice asked for Joe and proceeded to place a bet over the telephone. The complainant Mrs. Goold was in the house at the same time and the police officers arrested both of them.

The complainant herein presented testimony which corroborated the testimony of the police officer as to the raid on September 2, 1952. However, the complainant stated that she had no knowledge or connection with any bookmaking and that subsequent to her arrest she was released at the preliminary hearing for lack of evidence. She further testified that Joe Rizzo was the husband of one of her friends and that occasionally they visited complainant's house. On the occasion of September 2, 1952, she stated that Joe Rizzo had taken his wife to a beauty shop or the doctor and was waiting at complainant's house. At the time of the raid he had been there for approximately one-half hour. She further stated that she needs the telephone inasmuch as she works nights, and, also, her mother who lives with her is old and under doctors' care.

Exhibit No. 1 is a copy of a letter dated September 4, 1952, from the Los Angeles Police Department to the telephone company requesting that telephone service at 1642 West 42nd Place under number AXminister 3-3402 be disconnected. The position of the telephone company was that it had acted upon reasonable cause in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1

After consideration of this record we find that the telephone company's action was based upon reasonable cause as such term is used in Decision No. 41115, supra. We further find that the telephone facilities here in question were used as an instrumentality to aid and abet the violation of the law. However, there is no evidence in this record to show that the complainant had any connection with or any knowledge of the bookmaking activities. The officer who received the bet over the telephone testified that the party placing the bet had asked for Joe. In the light of this record the order granting the temporary interim relief will be made permanent.

O R D E R

The complaint of Evelyn Goold against The Pacific Telephone and Telegraph Company having been filed, public hearings 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 order of this Commission in Decision No. 47975, dated November 26, 1952, in Case No. 5427, temporarily restoring telephone service to complainant be made permanent, such restoration being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

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

Dated at San Francisco, California, this 17th day of February, 1953.

A. J. Dunning
President
Justice F. Caswell
Harold Kula
Franklin B. Trotter
John L. Mitchell
Commissioners