

ORIGINAL

Decision No. 50088

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MICHAEL VILLANE,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Case No. 5530

Michael Villane in propria persona. Pillsbury,
Madison and 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 Michael Villane, prior to February 11, 1954, was a subscriber and user of telephone service furnished by the defendant telephone company under number NORmandy 2-0959 at 1726 West Silver Lake Drive, Los Angeles, California. On or about February 11, 1954 these telephone facilities were disconnected by officers of the Los Angeles Police Department who arrested the complainant on suspicion of bookmaking. Subsequently, on February 24, 1954, at a hearing in the Municipal Court of the Los Angeles Judicial District the bookmaking charges against complainant were dismissed. The complainant has made demand upon the defendant telephone company for restoration of service but it has refused to do so. It is

further alleged that complainant has suffered and will suffer great hardship as a result of being deprived of the telephone facilities in question, and further that he did not use and does not now intend to use these facilities as an instrumentality to violate the law.

Under date of March 9, 1954, by Decision No. 49767 in Case No. 5530, this Commission issued an order granting temporary interim relief, directing the defendant telephone company to restore service under number Normandy 2-0959. On March 22, 1954 the telephone company filed an answer, the principal allegation of which was that the telephone company had reasonable cause to believe that the telephone service furnished to complainant under number Normandy 2-0959 at 1726 West Silver Lake Drive was being or was to be used as an instrumentality directly or indirectly to violate the law, and that having such reasonable cause the defendant company 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 before Examiner Syphers on May 10, 1954, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that he had operated a cleaning business at 1726 West Silver Lake Drive, but that he had sold this business on May 7, 1954 to Ennice Skinner. He stated that he no longer desires telephone service but that Mrs. Skinner would require it for the conduct of the cleaning business. He further testified that on February 11, 1954 five

police officers entered the premises and removed the telephone and arrested him for bookmaking, the case subsequently being dismissed. He admitted that he had been betting on horse races and that a man would call him once a day and take his bets. He stated that he usually played one or two horses a day.

Exhibit No. 1 is a copy of a letter from the Los Angeles Police Department to the defendant telephone company dated February 17, 1954, requesting that telephone service under number NORmandy 2-0959 be disconnected. Subsequently the telephone company did effect a central office disconnection. The position of the telephone company was that it had acted with reasonable cause in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After a full consideration of this record we now find that the action of the telephone company was based upon reasonable cause, as that term is defined in Decision No. 41415, supra. However, inasmuch as the complainant herein stated that he had sold the business and did not now desire telephone service for himself, we find that this complaint should be dismissed. If the purchaser of the business desires telephone service that should be accomplished by a proper application to the telephone company.

O R D E R

The complaint of Michael Villane 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 and the findings herein,

IT IS ORDERED that the complaint filed herein be and it hereby is dismissed. The temporary interim relief granted by Decision No. 49767 in Case No. 5530 is hereby set aside and vacated.

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

Dated at San Francisco, California,
this 25th day of May, 1954.

John E. Mitchell
President

Justus F. Calmes

Kenneth Dotted

Gene Higgins

Commissioners