

ORIGINAL

Decision No. 51561

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Elaster Booker and Jannie Booker,)
)
 Complainants,)
)
 vs.)
)
 The Pacific Telephone and Telegraph)
 Company, a Corporation,)
)
 Defendant.)

Case No. 5635

Jannie Booker, for complainants.
Pillsbury, Madison and Sutro, and
Lawler, Felix and Hall, by
L. B. Conant, for defendant.

O P I N I O N

The complaint filed on March 22, 1955, alleges that Elaster Booker and Jannie Booker of 1629 East 81st Street, Los Angeles, California, prior to February 2, 1955, were subscribers and users of telephone service furnished by defendant company at that address under number LOgan 0513; that on or about February 2, 1955, the telephone facilities were disconnected by defendant for alleged bookmaking and were disconnected at the time the complaint was filed; that complainants have made demands upon the defendant for restoration of the facilities but said demands have been refused; that complainants have suffered and will suffer irreparable injury to their reputations and great hardship as a result of being deprived of the telephone facilities; and that complainants did not use and do not intend to use said telephone

facilities as an instrumentality to violate the law or in aiding or abetting such violation.

On April 5, 1955, by Decision No. 51278, in Case No. 5635, the Commission issued an order directing the telephone company to restore service to complainants pending a hearing on the matter.

On April 14, 1955, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41145, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853) had reasonable cause to believe that the telephone service furnished to complainants under number Logan 0513 at 1629 East 81st Street, Los Angeles, California, 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.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on May 13, 1955, and the matter was submitted.

Jannie Booker testified that on the day the telephone was removed she had her 17-year-old niece, Iradell Booker, visiting at her home; that on that day she went to work at 7:30 a.m. and returned home at 5:30 p.m.; that her telephone was missing when she returned home; that she called the defendant and was informed that the telephone must have been stolen and it would be replaced at once; that two or three days later the telephone was reinstalled; that two to three days later the telephone stopped working and she called the telephone company and was informed that the telephone had been disconnected on order of the Sheriff's Department of Los Angeles County; that she called the Sheriff's office and was informed that some officer had received a bet over the telephone; that she has never used the telephone for bookmaking purposes, nor permitted anyone else to do so; that her husband is away from home and she is all

alone with a 14-months'-old baby; and that she knows La Verne Brown but has not seen her since the telephone was disconnected.

A deputy sheriff for Los Angeles County testified that 1629 E. 81st Street is in Los Angeles County; that on January 28, 1955, he and three officers from the Los Angeles Police Department went to complainants' house at 3:15 p.m., that they observed Mrs. La Verne Brown at a long table in the home with a telephone in her hand; that the officers entered and questioned Mrs. Brown; that Mrs. Brown said she knew nothing about bookmaking but was on probation for bookmaking; and that the telephone rang on several occasions and one of the officers accepted bets on horses in California. The witness said that Iradell Booker was on the premises; that when Mrs. Brown answered the telephone she made notations on a magic pad and that the magic pad was not found. The officer also stated there was in the room a scratch sheet. The officer said that Mrs. Brown was arrested and booked on suspicion of bookmaking, but the District Attorney refused to issue a complaint on the ground of insufficient evidence.

Exhibit No. 1 is an order from the Sheriff's office, received by the defendant telephone company on February 2, 1955, requesting that the telephone facilities be disconnected. The position of the telephone company was that, as a result of the receipt of this notice it acted with reasonable cause as that term is defined in Decision No. 41415 supra, in disconnecting and refusing to reconnect the service until ordered to do so by this Commission.

In the light of the record we find that the action of the telephone company was based upon reasonable cause, as such term is used in Decision No. 41415, supra. We further find that

there is no evidence to indicate that the complainants herein engaged in or were directly connected with bookmaking activities. Therefore, the complainants are now entitled to a restoration of telephone service.

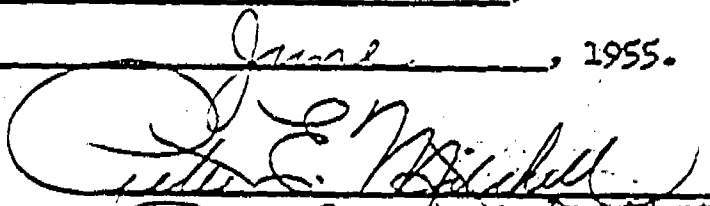
ORDER

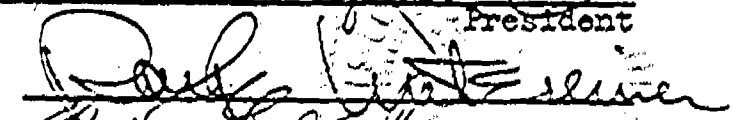
The complaint of Elaster Booker and Jannie Booker against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence of record and the findings herein,

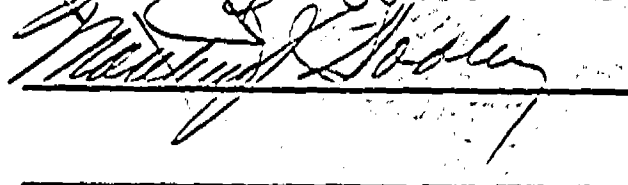
IT IS ORDERED that the order of the Commission in Decision No. 51278, dated April 5, 1955, temporarily restoring telephone service to complainants, be made permanent, such restoration being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

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

Dated at San Francisco, California,
this 9th day of June, 1955.



President




Commissioners
Justin K. Craemer
Commissioner Box Hardy, being
necessarily absent, did not participate
in the disposition of this proceeding.