

ORIGINAL

Decision No. 52480

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROSE AND LLOYD WARNKEN
 Complainant,
 vs.
 THE PACIFIC TELEPHONE AND
 TELEGRAPH COMPANY, a corporation,
 Defendant.

Case No. 5696

Rose Warnken, 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 November 17, 1955, alleges that Rose and Lloyd Warnken live at 1158 South Harvard Boulevard, Los Angeles, California; that prior to October 11, 1955, complainants were subscribers to telephone service at their home; that on or about October 11, 1955, the telephone was removed by the Hollywood Vice Squad; that complainants have demanded that the defendant restore telephone service because Lloyd Warnken is bedridden with arthritis and Rose Warnken is working and absent from the house about ten hours per day; and that the complainants do not intend to use the telephone facilities as an instrumentality in violating the law nor in aiding and abetting such violation.

On December 2, 1955, the telephone company filed an answer the principal allegation of which was that it had reasonable cause to believe that the telephone service furnished complainants under number REpublic 2-0815 at 1158 South Harvard Boulevard, 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, and that having such reasonable cause, the defendant 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 before Examiner Kent C. Rogers in Los Angeles on December 27, 1955, at which time evidence was presented and the matter was submitted.

Rose Warnken testified that she and her husband, the complainant Lloyd Warnken, reside at 1158 South Harvard Boulevard, Los Angeles, California; that prior to October 11, 1955, they had a telephone on the premises; that she works and her husband is a bedridden invalid; that on October 11, 1955, she telephoned home to see how her husband was; that another person answered the call and told her to return home; that she returned home about 1:30 p.m.; that there were four police officers there and she was advised that her husband was under arrest for bookmaking; and that she knew nothing about any bookmaking activities. She further testified that because of her husband's condition a trial was held in her home and the charge against her husband was dismissed; and that she will see that in the future the telephone is not used for bookmaking purposes.

A police officer of the City of Los Angeles testified that on October 11, 1955, he and three other officers were at complainants' premises from about 12:20 p.m. until 2:30 or 3:30 p.m.; that Lloyd Warnken is a bedridden invalid, and has a telephone beside the bed; that while he was on the premises the telephone rang about 15 times; that on some occasions the party calling hung up before he could answer the call but that on some occasions he received bets on horse races over the telephone; that the bets he received totaled over \$300.00; that he found in the room cards with names and telephone numbers which Lloyd Warnken said were names of bettors; that there was a scratch sheet in the room; that there was in the room a man named Dude Jenkins who is a known collector for bookmakers; that the telephone was removed and Dude Jenkins was taken to jail; and that because of his condition Lloyd Warnken was allowed to stay in the room.

Exhibit No. 1 is a letter from the Police Department of the City of Los Angeles advising the telephone company that complainants' telephone had been used for disseminating information in connection with bookmaking; that the telephone had been confiscated; and requesting that the service be disconnected. A supervising special agent of the telephone company testified that this letter was received on October 14, 1955, and that as

a result thereof a central office disconnection was effected. The position of the telephone company was that as a result of the receipt of Exhibit No. 1 it acted with reasonable cause as that term is defined in Decision No. 41415, referred to supra, in disconnecting the service.

After a consideration of this record we now find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415, referred to supra. We further find that the telephone facilities in question were used for bookmaking purposes.

O R D E R

The above-entitled complaint 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 complainants' request for restoration of telephone service be and the same hereby is denied.

IT IS FURTHER ORDERED that on or after the effective date of this order the complainants, or either of them, may file an application for telephone service; and if such filing is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainants' residence at 1158 South Harvard Boulevard, Los Angeles, California, such installation 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 16th day of January, 1956.

[Signature]
President

Justin J. Casper

Paul H. [unclear]

[Signature]

Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.