

**ORIGINAL**

Decision No. 5304S

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

VERNA CARTER,

Complainant,

vs.

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY, a corporation,

Defendant.

Case No. 5721

George Black, for complainant.

Pillsbury, Madison & Sutro, and Lawler, Felix  
& Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint herein, filed on February 1, 1956, by complainant, Verna Carter, alleges that on or about December 30, 1955, officers from the Culver City Police Department and the Sheriff's office of the County of Los Angeles removed a certain telephone, the number of which was VERmont 8-5770, from complainant's residence at 3639 Schaeffer, Culver City, California; that said officers alleged that complainant's son-in-law, Charles Tripp Welborn, was taking or had taken bets on horse races over said telephone; that the arresting officers did not obtain a complaint against said Charles Tripp Welborn and he was released without being prosecuted; that complainant had no knowledge of any bookmaking activities by her son-in-law and would not permit such activities in her home; that said Charles Tripp Welborn was only living in her home until such time as he could obtain a home for himself and his wife,

complainant's daughter; that said Charles Tripp Welborn no longer resides on the premises; and that complainant has a great need for the telephone service and is suffering serious discomfort in the loss of use of the telephone.

On February 7, 1956, by Decision No. 52599, in Case No. 5271, this Commission issued an order directing the telephone company to restore service to complainant pending a hearing in the matter.

On February 17, 1956, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41415, 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 complainant under number VERmont 8-5770 at 3639 Schaeffer Street, Culver City, 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, California, before Examiner Kent C. Rogers on April 11, 1956, and the matter was submitted.

The complainant, Verna Carter, testified that she resides at 3639 Schaeffer Street, Culver City, California; that she works; that for about three or four months prior to December 30, 1955, her son-in-law and her daughter were residing at complainant's home; that on December 30, 1955, in her absence, the police arrested her son-in-law, Charles Tripp Welborn, for bookmaking; that the charges were later dismissed; that immediately after the arrest her son-in-law moved and she has not seen him since; that she was not aware

that the telephone was being used for bookmaking purposes; and that she cares for children at her home and needs a telephone.

A sergeant in the Los Angeles County Sheriff's office Vice Detail testified that on December 30, 1955, he and other deputies and members of the Culver City Police Department went to the complainant's premises at 3639 Schaeffer Street, Culver City, at about 3 p.m.; that through a window he observed Charles Tripp Welborn at a table with a telephone and a plate; that Charles Tripp Welborn refused to admit the officers and they broke in the door; that all visible markings had been removed from the plate with lighter fluid; that the complainant was not present; that the officer remained on the premises about one and one-half hours and received several bets on horse races over the telephone; that Charles Tripp Welborn said he had been "taking action" for about two days; that the telephone was removed and Charles Tripp Welborn was booked on suspicion of bookmaking; and that the District Attorney refused to issue a complaint and Charles Tripp Welborn was released.

Exhibit No. 1 is a copy of a letter from the Sheriff of Los Angeles County to the telephone company requesting that the telephone facilities in question be disconnected. 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 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 there is no evidence that complainant was engaged in, was directly connected with, or permitted the telephone facilities to

be used for illegal purposes. Therefore, the complainant is now entitled to restoration of telephone service.

O R D E R

The complaint of Verna Carter 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. 52599, dated February 7, 1956, in Case No. 5721, temporarily restoring telephone service to the 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 11th day of May, 1956.

[Signature]  
President

JUSTIS F. GARDNER

ROBERT WINTERMEYER

[Signature]

[Signature]  
Commissioners