

ORIGINAL

Decision No. 53541

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CECIL COTTON,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 5764

Jacke & Jackson, attorneys, by
Giles B. Jackson, for complainant.

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

O P I N I O N

The complaint, filed on May 8, 1956, alleges that Cecil Cotton resides at 1809 West 136th Street, Compton, California; that prior to April 6, 1956, complainant was a subscriber and user of telephone service furnished by defendant under number NEvada 6-8793 at 1809 West 136th Street, Compton, California; that on April 6, 1956, the telephone facilities were disconnected by defendant after the Los Angeles County Sheriff's office advised it that the complainant was using the telephone service to violate and abet violation of the law; that the complainant has made demand upon the defendant to have the telephone facilities restored but the defendant has refused and does now refuse to do so; that the complainant has suffered and will suffer business loss and injury to

his reputation and also a great hardship as a result of being deprived of said telephone facilities; and that complainant has not and does not intend to use telephone facilities as an instrumentality to violate the law or in aiding and abetting such violation.

On May 28, 1956, by Decision No. 53150 in Case No. 5764, this Commission issued an order directing the telephone company to restore telephone service to complainant pending a hearing on the matter.

On June 7, 1956, the telephone company filed an answer, the principal allegation of which was that on or about April 2, 1956, it had reasonable cause to believe that the telephone service furnished to complainant under NEvada 6-8793 at 1809 West 136th Street, Compton, 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 this Commission's 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 Kent C. Rogers on July 10, 1956, and the matter was submitted.

Cecil Cotton testified that he resides at 1809 West 136th Street, Compton, California; that he had therein a telephone furnished by the defendant under the number NEvada 6-8793; that on or about March 24, 1956, he went to work and that when he returned home about 4:30 p.m., police officers were in the house together with his wife and Mrs. Kinnard from across the street; that the officers informed him that the telephone was being used for

bookmaking purposes; that the officers removed the telephone and arrested Mrs. Kinnard but did not arrest his wife; and that he has no knowledge of any illegal activities connected with the telephone and he will not allow the telephone to be used for illegal purposes in the future.

A Los Angeles County deputy sheriff testified that on March 24, 1956, he and three other deputies went to the vicinity of the complainant's house; that he went to a public phone and called the complainant's telephone number; that someone answered the telephone and he placed a bet over the telephone; he thereupon returned to the vicinity of the complainant's house; that he and the other deputies entered the complainant's premises and found therein complainant's wife, Mrs. Kinnard, and other persons; that Mrs. Kinnard was on a couch beside a table on which there was a telephone, a Daily Reporter scratch sheet and betting markers; that Mrs. Cotton was in the same room; that the witness answered the telephone on several occasions and received bets on horse races; that Mrs. Kinnard said that she was getting about fifty dollars per week for taking the bets; that there were several betting markers on the premises in Mrs. Kinnard's handwriting; and that Mrs. Kinnard was arrested and subsequently pleaded guilty to bookmaking. The officer further testified that in his opinion Mrs. Kinnard did not realize that she was committing a felony and that Mr. Cotton apparently did not know that the bookmaking activities were being carried on his house.

Exhibit No. 1 is a copy of a letter from the Sheriff of Los Angeles County's office to the telephone company requesting

that the telephone facilities be disconnected. A telephone company employee testified that this letter was received on or about April 4, 1956, and a central office disconnection was effected pursuant to that request. 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.

In the light of this record we find that the action of the telephone company 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 complaint of Cecil Cotton against The Pacific Telephone and Telegraph Company 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,

IT IS ORDERED that complainant's request for restoration of telephone service be denied and that the said complaint be and it hereby is dismissed. The temporary interim relief granted by Decision No. 53150 in Case No. 5764 is hereby set aside and vacated.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainant herein may file an application for telephone service, and if such filing is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 1809 West 136th

Street, Compton, 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 7th day of August, 1956.

[Signature]
President
Justin J. Callahan
[Signature]
[Signature]

Commissioners

Commissioner Ray E. Untereiner being necessarily absent, did not participate in the disposition of this proceeding.