

**ORIGINAL**

Decision No. 53569

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HEEBERT KINNARD,

Complainant,

vs.

Case No. 5758

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

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 herein, filed on April 30, 1956, alleges that prior to March 24, 1956, Herbert Kinnard was a subscriber and user of telephone service furnished by defendant under number NEvada 6-6268 at 1814 West 136th Street, Compton, California; that on March 24, 1956, the telephone facilities were disconnected by the defendant after the Los Angeles County Sheriff's office advised it that the complainant was using the telephone to violate and abet violation of the law; that complainant has not used his telephone for bookmaking purposes nor to his knowledge has any member of his household used the telephone for any such purpose; that complainant has made demand upon the defendant to have telephone facilities restored but defendant has refused and still refuses to do so; that complainant has suffered, and will suffer, great hardship

and loss of reputation as a result of being deprived of said telephone; and that complainant does not use and does not intend to use said telephone facilities to violate or to aid and abet the violation of the law.

On May 15, 1956, by Decision No. 53061, in Case No. 5758, this Commission issued an order directing the telephone company to restore telephone service to complainant pending hearing on the matter.

On May 24, 1956, the telephone company filed an answer, the principal allegation of which was that it had reasonable cause to believe that telephone service furnished to complainant under NEvada 6-6268 at 1814 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 violation of the law, and that having such reasonable cause the defendant discontinued said service pursuant to Decision No. 41415, 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.

Herbert Kinnard testified that he works during the day; that on or about March 24, 1956, he came home and his wife was there with some police officers; that his telephone was disconnected; that his wife was taken to jail; and that he has never used the telephone for any illegal purposes or allowed it to be used for any illegal purposes. He further testified that his wife was arrested in a house across the street; that she was not arrested at his premises; and that the telephone is necessary to his business and occupation.

A deputy sheriff testified that on or about March 24, 1956, he and some other deputies arrested Mrs. Kinnard, the wife of the complainant, at a residence across the street from the complainant's; that the complainant's wife was arrested for alleged bookmaking operations at the neighbor's house; that Mrs. Kinnard was brought to her house to permit her to secure some clothes before she was taken to jail; that Mrs. Kinnard pleaded guilty to possession of bookmaking paraphernalia; and that in his opinion Mrs. Kinnard did not realize that what she was doing was a felony.

Exhibit No. 1 is a copy of a letter from a captain in the Vice Detail of the Sheriff's office of Los Angeles County to the telephone company requesting that the telephone facilities be disconnected. An employee of the telephone company testified that this letter was received on March 27, 1956, and that a central office disconnection was effected shortly thereafter 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.

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 was no evidence that the complainant was engaged in, was directly connected with or permitted the telephone to be used for bookmaking purposes. Therefore the complainant is entitled to restoration of telephone service.

O R D E R

The complaint of Herbert Kinnard 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. 53061, dated May 15, 1956, 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 7<sup>th</sup> day of August, 1956.

John E. Mitchell  
President

Justus J. Galindo

Walter A. Hood

R. Hardy

Commissioners

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