

ORIGINAL

Decision No. 54224

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WALTER W. TRULL,  
 Complainant;  
 vs.  
 THE PACIFIC TELEPHONE AND TELEGRAPH  
 COMPANY, a corporation,  
 Defendant.

Case No. 5828

Walter W. Trull, in propria persona.

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

Harold W. Kennedy, County Counsel, by Roland J.  
Worthy, Deputy County Counsel, for the Los  
Angeles County Sheriff Department, intervener.

O P I N I O N

The complaint of Walter W. Trull, filed on October 5, 1956, alleges that prior to May 4, 1956, complainant was a subscriber and user of telephone service furnished by defendant under number LUDlow 9-4794 at 6127½ Middleton, Huntington Park, California; that on or about May 4, 1956, the said telephone facilities were disconnected by the Sheriff's Department; that complainant has suffered and will suffer irreparable injury to his reputation and great hardship as a result of being deprived of said telephone facilities; and that complainant did not use and does not now

intend to use said telephone facilities as an instrumentality to violate the law, nor in aiding or abetting such violation.

On October 15, 1956, the telephone company filed an answer, the principal allegation of which was that pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), defendant, on or about May 9, 1956, had reasonable cause to believe that the telephone service furnished by defendant under number LUDlow 9-4794 at 6127½ Middleton, Huntington Park, 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 on the complaint was held in Los Angeles before Examiner Kent C. Rogers on November 14, 1956, and the matter was submitted.

The complainant testified that on and prior to May 4, 1956, he resided alone at 6127½ Middleton, Huntington Park, and had a telephone with the number LUDlow 9-4794 therein; that on May 4, 1956, he took a horse race bet over the telephone and shortly thereafter Sheriff's deputies entered the residence and arrested him; that the deputies found betting markers on the premises; that the telephone was removed; that he was subsequently convicted of bookmaking and fined \$150 and placed on probation; and that he is out of work and needs the telephone in order to secure employment.

On cross-examination the complainant testified that the deputies found two or three betting markers on the premises in complainant's handwriting; that he had taken bets over the

telephone for two or three weeks prior to his arrest; that he was running his own book, taking small bets and laying-off the larger bets with another bookmaker; that he knew what he was doing was illegal; that he grossed between \$100 and \$150 per week from the bookmaking; that he is now working three nights per week and is on probation; and that he will not do bookmaking in the future.

Exhibit No. 1 is a copy of a letter from the Los Angeles County Sheriff's Department advising defendant that complainant's telephone, number LUdlow 9-4794, located at 6127 $\frac{1}{2}$  Middleton, Huntington Park, was, on May 4, 1956, being used for the purpose of disseminating horse racing information in connection with bookmaking in violation of Section 337a of the Penal Code, that the telephone had been confiscated and requesting that the defendant disconnect the services. A telephone company employee testified that this letter was received by the defendant on May 8, 1956, and a central office disconnection was effected thereafter. 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.

Two Los Angeles County deputy sheriffs testified concerning the events which transpired at complainant's premises on May 4, 1956. Their testimony conformed to the testimony of the respondent except that it was in more detail. One of the deputies testified that he called the respondent by telephone from across the street and placed a horse race bet

with him and that he and three other deputies entered the complainant's premises and found betting markers in complainant's handwriting for races being run that day, including one reflecting the bet phoned in by the deputy. The other deputy stated that the complainant told him that he made his own book and grossed between \$50 and \$100 per day. This deputy stated that while on the premises the telephone rang and a male voice placed a horse race bet with him.

After 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. 41115, referred to supra. We further find that complainant is entitled to telephone service on the same basis as any other similar subscriber inasmuch as he has paid the penalty for any violation of the penal code which he may have committed, and there is no indication that he will in the future use the telephone facilities in an unlawful manner.

O R D E R

The complaint of Walter W. Trull 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 complainant's request for restoration of telephone service be granted and that, upon the filing by the complainant of an application for telephone

service, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 6127 1/2 Middleton, Huntington Park, 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 11<sup>th</sup> day of DECEMBER, 1956.

[Signature]  
President

[Signature]

[Signature]

[Signature]

[Signature]  
Commissioners