

ORIGINAL

Decision No. 58279

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JEANETTE E. JONES,)
)
 Complainant,)
)
 vs.)
)
 THE)
 PACIFIC TELEPHONE AND TELEGRAPH)
 COMPANY, a corporation,)
)
 Defendant.)

Case No. 5834

Jeanette E. Jones, in propria persona.
Pillsbury, Madison & Sutro and Lawler, Felix & Hall, by L. B. Conant, for defendant.
Walter C. Foster, Deputy City Attorney, City of Los Angeles, for the Police Department, City of Los Angeles, intervener.

O P I N I O N

The complaint of Jeanette E. Jones of 457½ West 79th Street, Los Angeles, California, filed on October 11, 1956, alleges, inter alia, that on coming home from work in the last part of August, 1956, complainant found her back door broken in and the screen ripped; that she entered and found the telephone removed; that she was unaware of the cause for the removal; that subsequently she received a letter from the defendant telephone company; that she needs the telephone inasmuch as she works for a doctor and receives calls from him at different times of night; and that she had no idea the telephone was being used for any violation of law.

On October 31, 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 August 30, 1956, had reasonable cause to believe that the use made or to be made of the telephone

service furnished to complainant under Number Pleasant 1-4057 at 457½ West 79th Street, Los Angeles, California, was prohibited by law, and that such service 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 before Examiner Kent C. Rogers on November 23, 1956, and the matter was submitted.

Complainant testified that on the day the telephone was removed, August 28, 1956, and for about three years prior thereto, she had a roomer named John Westine; that she came home from work late at night and found the telephone gone; that the roomer came home the next day and said that the police took him and the telephone; that the case against John Westine was dismissed; that she was not home when John Westine was arrested; that she does not place bets on horses; that John Westine places bets at the race track; that John Westine still rooms at her place but she has given him notice to move around the first of the year; and she does not want the phone reinstalled until he moves.

Exhibit No. 1 is a copy of a letter dated August 29, 1956, from the Police Department of the City of Los Angeles to the defendant, advising it that the complainant's telephone was being used for the purpose of disseminating horse racing information in connection with bookmaking in violation of Section 337a of the Penal Code, requesting that the telephone service be disconnected, and advising defendant that the telephone had been disconnected. An employee of the telephone company testified that this letter was received by the defendant on August 30, 1956, and a central office disconnection was effected. 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.

A police officer of the City of Los Angeles attached to the vice detail testified that prior to August 28, 1956, he had information that complainant's telephone was being used for book-making purposes; that on August 28, 1956, he placed a telephone call to complainant's number; that a male voice answered and the witness asked if it was too late to place a bet; that the male voice said it did not know what the witness was talking about; that the witness and another officer immediately went across the street to complainant's residence and knocked; that the witness saw a man inside who did not come to the door so they entered; that the witness placed Mr. Westine under arrest; that on the table near the telephone was a scratch sheet and some professional-type betting markers; that Mr. Westine said he had been making book at complainant's premises for two days; that he was paid \$20 per day to take the action and that some man called him after each race and got the action. The witness further testified that while he was in the complainant's premises he was given two horse race bets over the telephone; that the betting markers he found were not filled in; and that Westine said he had flushed the day's betting markers down the toilet.

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 facility in question was used for bookmaking purposes.

O R D E R

The complaint of Jeanette E. Jones 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, and the same hereby is, denied.

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 457½ West 79th Street, 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 18th day of DECEMBER, 1956.

[Signature]
President
[Signature]
[Signature]
[Signature]
[Signature]
Commissioners