

ORIGINAL

Decision No. 54785

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARY T. ZANGARE,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND TELEGRAPH)
 COMPANY, a corporation,)
)
 Defendant.)

Case No. 5810

Mary T. Zangare, in propria persona.

Lawler, Felix and Hall, by John M. Sink
 for defendant.

Eugene J. Didak for the Police Department of the
 City of Los Angeles, intervener.

O P I N I O N

The complaint of Mary T. Zangare filed with this Commission on August 21, 1956, alleges that her telephone was removed through no fault of hers or her husband; that she loaned it to a party while she was at work for one and one-half days; that plain-clothes men broke in and removed the telephone without her knowledge of horse playing; and that she and her husband need the telephone. She requests that the telephone be restored.

On September 5, 1956, the telephone company filed an answer in which it states, inter alia, that on or about July 25, 1956, the Police Department of Los Angeles disconnected and confiscated the telephone instrument used in furnishing telephone service by defendant to complainant under number PLYmouth 4-6230 at 10208 South Vermont

Avenue, Los Angeles; that on or about July 30, 1956, it had reasonable cause to believe that the use made or to be made of said telephone service was prohibited by law and that said service 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 defendant, having reasonable cause, disconnected said service pursuant to the order of this Commission (Decision No. 41115, dated April 6, 1948, in Case No. 4930, 47 Cal. P.U.C. 853).

A public hearing on the complaint was held in Los Angeles before Examiner Kent C. Rogers on October 15, 1956, and, the complainant failing to appear, the complaint was dismissed (Decision No. 54039, dated November 5, 1956, in Case No. 5810). At the request of complainant the Commission entered an "Order Setting Aside And Vacating Order Of Dismissal And Setting Case For Further Hearing" (Decision No. 54565, dated February 25, 1957, in Case No. 5810). On March 11, 1957, a public hearing on the complaint was held in Los Angeles before Examiner Kent C. Rogers, evidence was presented by all parties, including the complainant, and the matter was submitted. It is ready for decision.

The complainant testified that for several years she and her husband Basil Zangare have resided at 10208 South Vermont Avenue, Los Angeles; that prior to July 25, 1956, they had an unlisted telephone in their premises; that on and prior to that date she worked at the Los Angeles International Airport from 4 p.m. to midnight, and her husband worked from 8 a.m. to 4 p.m. but was on call 24 hours a day; that the day before the telephone was removed a woman came to the house and asked if she could make a few telephone calls and the complainant permitted her to do so; that the next day, July 25, 1956, the

woman returned and asked to make some telephone calls and that she permitted her to make them; that she had to leave for work and told the woman that she would leave the door unlocked so the woman could receive the answer to a call she had placed; that later she received a call at work from her husband advising her that when he returned home the window was broken and the telephone removed; that neither she nor her husband used or would allow the telephone to be used for illegal purposes; that she and her husband need a telephone in their occupations; and that she has had no telephone service since its removal on July 25, 1956. On cross-examination complainant testified that the first time she ever saw the woman who made the telephone calls was one day prior to the removal of her telephone; that the woman said she was attempting to rent a house near complainant's and asked if she could make a phone call; that she heard the woman telephoning, but was in another room and could not hear the conversation; that the next day, the day the telephone was removed, the same woman came to her house in the morning and asked and was given permission to use the phone; that complainant had to leave for work about 1 p.m. and she left the back door open for the woman's convenience and that she has never seen the woman since the day the telephone was removed.

A Los Angeles police officer attached to the Vice Detail testified that the day before the 25th of July, 1956, he received information that bookmaking activities were being carried on at complainant's residence; that at 2 p.m. on July 25, 1956, he and two other officers went to the vicinity of complainant's home; that he called complainant's telephone number, PLYmouth 4-6230, a female voice answered and he gave the party a horse race bet which the party said she had; that he and the others went to complainant's residence; that

through the glass door they saw a woman run from the front room; that they entered the house and found a Lucille Waters at the kitchen stove attempting to burn papers; that he recovered about 40 betting markers on horse races being run that day at various tracks; that there was a desk in the living room with a scratch sheet for that day and the telephone on it; that a police matron was called to answer the phone and she received several calls from parties desiring to place bets on horses running at Hollywood Park; that Lucille Waters said she lived in the 3200 block on west 108th Street in Inglewood, she had been asked to be a "phone clerk" and told to go to complainant's address and the door would be open; and that the bets shown by the betting markers were for bets she received that day. The officer further said that the anonymous tipster stated that the operation had been running about three days; that the telephone was removed and Lucille Waters placed under arrest; and the complaint against her was subsequently dismissed by the court.

Exhibit No. 1 is a copy of a letter from the Chief of Police of the City of Los Angeles to the telephone company requesting that the complainant's telephone facilities be disconnected. A telephone company employee testified that the letter was received on July 30, 1956, and a central office disconnection was subsequently effected. The complainant's service has not been reconnected. The position of the telephone company was that it had acted with reasonable cause, as that term is used in Decision No. 41415, referred to supra, in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After consideration of the 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 the complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horseracing, and that complainant either knew that it was so used or was so negligent in the manner in which she permitted it to be used that its use for illegal purposes resulted.

O R D E R

The complaint of Mary T. Zangare 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.

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 10208 South Vermont Avenue, 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 2nd day of APRIL, 1957.

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