

ORIGINAL

Decision No. 55598

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA.

HARRIS G. BRUNTON,)
)
 Complainant)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY,)
)
 Defendant.)

Case No. 5953

Mrs. H. G. Brunton, for the complainant.

Lawler, Felix & Hall, by John M. Sink,
for the defendant.

Roger Arnebergh, City Attorney, by Walter
C. Foster, for the Los Angeles Police
Department, intervener.

O P I N I O N

The complaint herein, filed on July 1, 1957, alleges that Harris G. Brunton resides at 625 East Colden Avenue, Los Angeles, California; that prior to May 3, 1957, complainant was a subscriber and user of telephone service furnished by defendant under number Pleasant 6-4132 at 625 East Colden Avenue, Los Angeles, California; that on or about May 3, 1957, the telephone facilities of complainant were disconnected by police officers of the City of Los Angeles due to a daughter of petitioner using said telephone for bookmaking, and the said telephone facilities were disconnected at the time the complaint herein was filed; that complainant has made demand upon the

defendant to have said telephone facilities restored but defendant has refused, and does now refuse to restore said facilities; that the 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 instrument to violate the law or in aiding or abetting such violation.

On July 15, 1957, by Decision No. 55259 in Case No. 5953, this Commission issued an order directing the telephone company to restore telephone service to complainant pending a hearing on the matter.

On July 29, 1957, the telephone company filed an answer, the principal allegation of which was that on or about May 8, 1957, it had reasonable cause to believe that the telephone service furnished to complainant under number PLYmouth 6-4132 at 625 East Colden Avenue, Los Angeles, 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 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 August 20, 1957, and the matter was submitted.

Mrs. H. G. Brunton testified that she is the wife of the complainant, Harris G. Brunton; that she and Mr. Brunton had been residing at 625 East Colden Avenue, Los Angeles, for approximately six years prior to May 3, 1957; that she and complainant have a daughter, thirty years of age, who is married and lives apart from the complainant and the witness; that this daughter visits the complainant's home occasionally; that approximately four days prior to May 3, 1957, the witness went for a visit and left her daughter at 625 East Colden Avenue; that her husband, complainant herein, remained home but that he works from 8 a.m. or earlier in the morning, to 7:30 or 8 at night; that on May 3, 1957, the witness arrived home at approximately 10:30 a.m., that her daughter was in the house but her husband was absent; that the witness went outside the house for approximately one hour and came back in to take a shower; that her daughter was in the den where the telephone is located; that in approximately one hour thereafter, or about 12:30 p.m., the witness was in the dining room, police officers broke in the door, removed the telephone and arrested the daughter; that the witness asked the police officers why they broke the door and they informed her that her daughter was using the telephone for bookmaking purposes; that the witness's daughter told the police officers that the witness knew nothing about any bookmaking activities; and that the daughter was arrested and the telephone removed. The witness further stated that she did not know that the telephone was being used for illegal purposes and that she will see to it that it is not used

for illegal purposes in the future.

A Los Angeles police officer testified that the police department was informed that bookmaking activities were being conducted over complainant's telephone, number PLYmouth 6-4132; that on May 3, 1957, he and some other officers went to the vicinity of complainant's home, that the witness called complainant's telephone number PLYmouth 6-4132 and placed a horse race bet with a woman who answered the telephone; that thereupon the witness and two other officers went to the complainant's residence; that they entered and found therein Mrs. H. G. Brunton and a Mrs. Judy Harris, who is Mrs. Brunton's daughter; that while the officers were there the telephone rang on several occasions and the calling party would hang up when a male voice answered; that on one occasion the witness answered the telephone and was given a horse race bet over the telephone; that on the table by the telephone was a National Daily Reporter scratch sheet and records of about five days' horse race bets; that the daughter informed the witness that she had been taking bets at the location for about two days, and that her mother had nothing to do with the bookmaking; that the daughter received \$125 per week for recording bets; that the officer found betting markers dated the day of the arrest and for previous days; and that the daughter was arrested and the telephone was removed.

Exhibit No. 1 is a copy of a letter from the Commander of the Administrative Vice Division of the Los Angeles City Police Department to the telephone company, advising the telephone company that the complainant's telephone, PLYmouth 6-4132, was,

on May 3, 1957, being used for the purpose of disseminating horse racing information which is being used in connection with bookmaking; that the telephone had been removed; and requesting that the telephone company disconnect telephone services. A telephone company employee testified that this letter was received on May 8, 1957, 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, as that term is used in Decision No. 41115, referred to supra, 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. 41115, referred to supra. We further find that the telephone facilities in question were used for bookmaking purposes and that the complainant knew or should have known that the facilities were being so used.

O R D E R

The complaint of H. G. Brunton 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. 55259 in Case No. 5953 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 625 East Colton 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 Los Angeles, California, this 24th day of SEPTEMBER, 1957.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners