

ORIGINAL

Decision No. 55803

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

A. G. HARRIS,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 5969

Oliver L. Linck, Jr. for complainant.

Lawler, Felix & Hall, by L. B. Conant,
for defendant.

Norman G. Oliver, Jr., for the Sheriff's
Department, intervener.

O P I N I O N

The complaint herein was filed on August 20, 1957, by A. G. Harris only. At the hearing it was developed that A. G. Harris married Clarabell Wright subsequent to the time the events set forth herein occurred. For that reason the complaint was amended to include A. G. Harris and Clarabell Wright (Harris), husband and wife, complainants. The complaint contains an affidavit by Clarabell Wright setting forth that she is married to A. G. Harris and that she at no time used the facilities to violate the law of California or to aid and abet any one else in the violation of said law; and that she did not intend to use such facilities as an instrumentality to violate the law or in aiding or abetting such violation.

The complaints allege that A. G. Harris and Clarabell Wright, husband and wife, reside at 2551 North Luder Street, El Monte, California; that prior to April 16, 1957, Clarabell Wright was a subscriber and user of the telephone service furnished by the defendant under number Gilbert 8-3791 at 2551 North Luder Street, El Monte; that the said telephone service was paid for by the complainant A. G. Harris although held in the name of Clarabell Wright; that on or about April 16, 1957, the telephone was torn off the wall by the (Deputy) Sheriff's Department, County of Los Angeles; that no charge was filed against Clarabell Wright; that Clarabell Wright was not involved in any violation of the law; that residing with complainant is Mr. Harris's mother-in-law, an aged woman who is ill; that a telephone is necessary in the residence; that complainant A. G. Harris has made demand upon the defendant to have permanent telephone service restored; that defendant has refused and now refuses to do so; that complainants have suffered and will suffer irreparable injury to their reputation and great hardship as a result of being deprived of said telephone facilities; and that complainants did not use and do not now intend to use said telephone facilities as an instrumentality to violate the law, nor do they intend to use said telephone facilities in aiding or abetting such violation.

On August 27, 1957, by Decision No. 55494 in Case No. 5969, this Commission issued an order directing the telephone company to restore telephone service to complainants pending a hearing on the matter.

On September 5, 1957, the telephone company filed an answer the principal allegation of which was that on or about April 30, 1957,

it had reasonable cause to believe that the telephone service furnished to complainant Clarabelle (sic) Wright under number Gilbert 8-3791 at 2551 North Luder Street, El Monte, 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 the 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 October 14, 1957 and the matter was submitted.

Complainant A. G. Harris testified that he and Clarabell Wright were married on June 5, 1957; that he had been keeping company with said Clarabell Wright prior to March, 1957; that he is in the trucking business and when he married Clarabell Wright he commenced living at her home, 2551 North Luder Street, El Monte, and to use her telephone in his business; that he used such telephone prior to the marriage for his business; that in addition to his wife and himself, his wife's mother and his wife's two small children reside at the premises and a telephone is necessary; that the telephone is not used for any illegal purposes and that it has not been put to any illegal use; and that when the telephone is restored he will see that it is not used for illegal purposes. He further stated that the telephone was removed on or about April 16, 1957, and that it was subsequently restored, and that the telephone had been taken out prior to his marriage to Clarabell Wright.

Clarabell Wright did not testify.

A Deputy Sheriff attached to the Vice Detail of the Los Angeles County Sheriff's Department testified that on April 26, 1957, at about noon he and some other officers went to the vicinity of the complainants' address; that he went across the street and dialed Gilbert 8-3791, the complainants' telephone number; that a female voice answered and said that she did not take bets and that she would have someone else call; that subsequently, the witness called the telephone number again and said he was the person trying to place the horse race bet and left the phone number from which he was calling; that subsequently, a female voice called back and the witness placed a horse race bet with the calling party; that he went to the complainants' address, looked through the window, and saw Clarabell Wright sponging off a formica table top; that he and the other officers entered and arrested Clarabell Wright; that he and the other officers were at the complainants' premises for approximately 1 hour and 45 minutes and that during that time the phone rang approximately 20 times; that he answered the phone on several occasions and the parties calling gave a phone number; that the witness then dialed the phone numbers given by the parties and said okay and was then given a horse race bet over the telephone; and that this type of an operation is known to the Vice Squad as a "call back relay"; that during the time the officers were on the complainants' premises the witness talked to Clarabell Wright; that she said she had been hired by a woman named Jean to take names and numbers given to her by telephone callers; and that Jean called her back frequently and that she would give Jean the names and telephone numbers that she had received over the telephone; that this had been going on for

approximately one month prior to the arrest. The officer stated that he asked Clarabell Wright how long she had been a bookmaker and that she said that she did not know that what she was doing was bookmaking until the witness called on the telephone to place a bet at a race track. The officer further testified that no complaint was filed against Clarabell Wright inasmuch as there was no visible evidence of bookmaking on her premises and the formica table top contained no visible writing thereon. The officer further testified that the formica table top and the sponge are paraphernalia common to bookmaking only.

Exhibit No. 1 is a copy of a letter from the Sheriff of Los Angeles County to the telephone company advising the defendant that Clarabell Wright's telephone number under Gilbert 8-3791 at 2551 North Luder Street, El Monte, was on April 26, 1957, being used for the purpose of disseminating horse racing information in connection with bookmaking; that the telephone had been confiscated; and requesting that the defendant disconnect the telephone services. It was stipulated that this letter was received on April 30, 1957, and that the service was disconnected pursuant to the request contained in the letter.

The position of the telephone company was that it had acted with reasonable cause in disconnecting telephone service 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. 41415, referred to supra. We further find that the telephone facilities in question were used for bookmaking purposes.

O R D E R

The complaint of A. G. Harris and of Clarabell Wright 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 and the findings herein,

IT IS ORDERED that the complainants' request for restoration of telephone service be denied. The temporary interim relief granted by Decision No. 55494 in Case No. 5969 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 complainants herein, or either of them, may file an application for telephone service and if such filing is made The Pacific Telephone and Telegraph Company shall install telephone service at complainants' residence at 2551 North Luder Street, El Monte, California, 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 12th day of November, 1957.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners