

ORIGINAL

Decision No. 55879

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WILLIAM W. BEAUHULD, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 THE PACIFIC TELEPHONE AND TELEGRAPH )  
 COMPANY, a corporation, )  
 )  
 Defendant. )

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Case No. 5981

Joseph T. Forno, for complainant.

Lawler, Felix & Hall, by Gene Otsea, for defendant.

Roger Arnebergh, City Attorney, by John T. Neville,  
Deputy City Attorney, for Los Angeles Police  
Department, intervener.

O P I N I O N

In the above-entitled complaint, filed on September 10, 1957, William W. Beauhuld alleges that prior to June 24, 1957, he was a subscriber and user of telephone service furnished by defendant under number NORmandy 2-4834, at 710 North Normandle Avenue, Los Angeles, California; that on or about June 24, 1957, telephone facilities of complainant were removed by the defendant pursuant to instructions from the Los Angeles County Sheriff's office, which office caused complainant to be arrested on or about said date on a charge of violation of Section 337a of the Penal Code; that subsequently, on August 15, 1957, said charge was dismissed against complainant; that complainant has made demand upon defendant to restore said

telephone facilities and that defendant has refused and still refuses to do so; 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 services as an instrumentality to violate nor to aid and abet the violation of the law.

On September 17, 1957, by Decision No. 55569 in Case No. 5981, this Commission issued an order directing the telephone company to restore service to complainant pending a hearing on the matter.

On September 26, 1957, the telephone company filed an answer, the principal allegation of which was that on or about July 1, 1957, it had reasonable cause to believe that the telephone service furnished to complainant under number NOrmandy 2-4834, at 710 North Normandie 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 the service pursuant to this Commission's Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

The complainant did not appear at the hearing. His attorney appeared and called as a witness one of the police officers who arrested the complainant. This officer testified that on June 24, 1957, he arrested the complainant at his home, 710 North Normandie Avenue, which is a two-story house; that there was in the house at the time of the arrest, a telephone with the number NOrmandy 5-4586

on the second floor; that there was another telephone on the first floor under the number NORmandy 2-4834; and that prior to the arrest the witness had called a number NORmandy 5-4586, the upstairs phone, and placed a horse race bet, and had subsequently removed both the upstairs and the downstairs phone. The NORmandy 2-4834 is the telephone complainant herein is attempting to have restored. The complainant's attorney thereupon rested.

The city attorney called as a witness the same officer who testified that on June 24, 1957, he had called the number NORmandy 5-4586 at about 12:40 P.M.; that a male voice answered; that he placed a bet on a horse running that day at Belmont race track; that the male voice said okay; that he and some other officers thereupon entered the complainant's home and arrested the complainant; that the telephone under number NORmandy 5-4586 was upstairs and there was another telephone downstairs; that in the upstairs room where the telephone with number NORmandy 5-4586 was located the witness found a National Daily Reporter scratch sheet for that day together with pads, pencils and wet sponges; and that there was no notation on the premises of the bet given by the witness over the telephone. The witness further testified that he was on the premises for one hour 15 minutes; that the telephone rang approximately 15 times but that another deputy answered the telephone; that at the time of the arrest he had a conversation with the complainant and that the complainant denied making book and stated that he had rented the room, in which the telephone number NORmandy 54586 was located, to a man; that he found out that this man was making book and told him to leave; but that he came back later on and the man was still there and he told

him again to leave; and that the complainant denied receiving the telephone call related by the witness.

Exhibit No. 1 is a copy of a letter from the Chief of Police of the City of Los Angeles to the defendant advising defendant that on June 24, 1957, complainant's telephone under number NORmandy 2-4834 was being used for bookmaking purposes in violation of Section 337a of the Penal Code; that this telephone and complainant's telephone under number NORmandy 5-4586 had been removed; and requesting that the service be disconnected. The parties stipulated that this letter was received by the telephone company on June 25, 1957, and that complainant's telephone service was disconnected on July 3, 1957, pursuant to said request. The position of the telephone company was that it had acted with reasonable cause, as that term is used in Decision No. 41415, supra, in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After a 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. 41415, supra. We further find that there is no evidence that complainant's telephone under number NORmandy 2-4834 was used for illegal purposes and that complainant is now entitled to have said telephone service restored.

Q R D E R

The complaint of William W. Beauhuld 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 the order of the Commission in Decision No. 55569, dated September 17, 1957, temporarily restoring telephone service to the complainant be made permanent, 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 3<sup>rd</sup> day of December, 1957.

W. L. Mitchell  
President

Paul L. ...  
...

R. ...

E. Lynn Fox  
Commissioners