

ORIGINAL

Decision No. 55912

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DANIEL W. COX, JR.,  
 Complainant,  
 vs.  
 THE PACIFIC TELEPHONE AND TELEGRAPH  
 COMPANY, a corporation,  
 Defendant.

Case No. 5986

Daniel W. Cox, Jr., in propria persona.  
Lawler, Felix & Hall, by Gene Otsea, for the defendant.

Roger Arnebergh, city attorney, by John T. Neville, deputy city attorney, for the Police Department of the City of Los Angeles, intervener.

O P I N I O N

The complaint filed on September 16, 1957, by Daniel W. Cox, Jr., alleges that he resides at 1337 West 65th Street, Los Angeles, California; that the telephone at his residence has not and never will be used for accepting bets; and that he thinks he has been unjustly inconvenienced and his family's welfare jeopardized by not having a telephone in his residence. He requests an order that the telephone service be restored.

On October 2, 1957, the telephone company filed an answer, the principal allegation of which was that on or about April 4, 1957, it had reasonable cause to believe that the telephone service furnished to complainant under number Pleasant 2-2911, at 1337 West 65th Street, 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).

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on November 1, 1957, and the matter was submitted.

Complainant testified that he has been living at 1337 West 65th Street, Los Angeles, since September, 1956; that on March 27, 1957, he was not working and his sister-in-law, Myrtle Owens, was at the house; that between 12:00 and 1:00 p.m. of that day a lady knocked and he opened the door; that two police officers entered the house with this lady; that at that time Myrtle Owens was in the kitchen; that the telephone was in the kitchen; that the officers told him that his sister-in-law was engaged in bookmaking practices at his house and arrested him and his sister-in-law; that he knows nothing further of what happened; and that he now has no telephone and needs it inasmuch as he works at night and his wife and children are alone. On cross-examination the complainant testified that his sister-in-law does not pay him for the use of the telephone, and that at the time of the arrest he did not tell the police officers that his sister-in-law paid him five dollars per week for the use of the house and he never told the police officers that he knew what his sister-in-law was doing.

A policewoman attached to the Vice Detail of the Los Angeles Police Department testified that on March 27, 1957, she was attached to the 77th Street Vice Detail; that on that day, at 12:55 p.m., acting on instructions from her superiors, she called the phone number Pleasant 2-2911; that a female voice answered; that she attempted to place a bet on a horse race being run that day at the Bay Meadows track in California; that she gave her name

as "Gayle" and the female who had answered the phone said she did not know Gayle and refused to take the bet; that thereafter, the witness and other officers immediately went to the complainant's residence and entered; that the complainant and Myrtle Owens were in the house; that complainant stayed in the front room; that the sister-in-law was in the kitchen with a radio, the telephone, scratch sheets for that day, pencils, and pieces of scratch paper; that in the kitchen in the absence of the complainant, Myrtle Owens told the witness that the complainant rented the house and that she paid him five dollars a month for the use of the phone; and that she made \$50 a week taking bets, and that complainant knew what she was doing. The officer further testified that complainant stated to her that he knew what Myrtle Owens was doing in the kitchen. The officer further stated that she was in the complainant's home for a period of 30 or more minutes during which the telephone rang frequently; that she answered the telephone three or four times and that the caller would ask for Myrtle and she would say she was Myrtle and the caller would say that she was not, and hang up.

Exhibit No. 1 is a copy of a letter from the Police Department of the City of Los Angeles to the defendant telephone company, advising that the complainant's telephone number was, on March 27, 1957, being used for the purpose of disseminating horse racing information which was being used in connection with bookmaking; that the complainant's telephone had been removed; and requesting that the telephone company disconnect the service. A telephone company employee testified that this letter was received on March 28, 1957, and that 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 defined

in Decision No. 41415, referred to supra, in disconnecting the 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 Daniel W. Cox, Jr., 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 1337 West 65th 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 10<sup>th</sup> day of December, 1957.

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