

ORIGINAL

Decision No. 56272

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOSEFINA R. QUIJADA,

Complainant,

vs.

Case No. 6027

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

F. Fernandez Solis, attorney for complainant.

Lawler, Felix & Hall, by Thomas E. Workman, Jr., for
defendant.

Terry C. Smith, Deputy County Counsel, for the
Sheriff's Department, intervener.

C P I N I O N

By the complaint herein, filed on December 12, 1957, Josefina R. Quijada of 744 South Ford Boulevard, Los Angeles, alleges that prior to May 1957 she was a subscriber of telephone service having telephone number ANgelus 3-5442; that in May 1957, without just cause, the defendant caused said telephone to be removed from the premises of the complainant; that complainant believes that the removal of said telephone was caused by a suspicion by the defendant corporation that said telephone was being used for bookmaking purposes; that if said telephone was so used it was without her knowledge or consent.

On December 30, 1957, the telephone company filed an answer the principal allegation of which was that on or about May 17, 1957, it had reasonable cause to believe that the telephone service furnished to the complainant under number ANgelus 3-5442 at 744 South Ford Boulevard, Los Angeles, 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 January 31, 1958, and the matter was submitted.

Mr. Eddy M. Quijada appeared as a witness for the complainant and testified that he is the husband of the complainant; that he and the complainant reside at 744 South Ford Boulevard, Los Angeles County; that the complainant is ill and was unable to attend the hearing; that the telephone service of the complainant was disconnected about six months ago; that complainant and the witness' residence at the time the telephone service was disconnected was about one mile from the witness' then place of business and the complainant worked there with him as a bookkeeper from 8:00 a.m. to 6:00 p.m.; that a boy by the name of Art Vasquez rented a room in the house at the time the telephone was removed; that he and his wife came home on the particular day and the telephone was gone, and Art Vasquez said that the telephone had been removed by police officers, and a friend of his had been arrested; that neither he nor his wife knew this man and gave no permission

to him nor to any other person to use the telephone for any purposes; that neither he nor his wife ever permitted the telephone to be used for bookmaking. The witness further testified that he has a sick mother in Arizona and needs the telephone to keep in contact with her; that he has a daughter, a deputy sheriff with the County of Los Angeles, who lives at his premises about sixty percent of the time and needs a telephone; and that he has a daughter in Mexico City whom he calls on the telephone.

It was stipulated by the parties that the defendant received a letter from the Sheriff of Los Angeles County on May 17, 1957, and that the telephone service was disconnected on May 21, 1957, pursuant to that letter. This letter was introduced in the evidence by stipulation as Exhibit No. 1 and recites that on May 14, 1957, the telephone under number ANgelus 3-5442, to which Josefina R. Quijada was the subscriber was being used for the purpose of disseminating horse racing information to be used in connection with bookmaking in violation of Section 337a of the Penal Code; that the telephone had been confiscated by the Sheriff and requesting that the service be disconnected. It was the position of the telephone company 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

A deputy sheriff attached to the Vice Detail of the Sheriff's Department of Los Angeles County testified that he knows James Nicola; that on May 14, 1957, he arrested this man, and that the witness had previously called in a horse racing bet over an

outside telephone to complainant's telephone number; that the call was answered by a male voice and the bet was taken; that he and his partner went to complainant's premises; that Mr. Nicola was observed leaving the house and jumping over a hedge and throwing away certain papers; that Nicola was arrested and the papers were recovered; that these papers were betting markers; that Arturo Vasquez was on the complainant's premises at that time; that Arturo, in the presence of Nicola, advised the witness that he did not know Nicola but that Nicola had been in the house during the day for about three weeks answering the telephone; that the witness questioned Nicola and Nicola said he had no key to the house and was not bookmaking; that the witness found a key to the premises on Nicola's person; that Arturo Vasquez said he did not give the key to Nicola; that after Nicola's arrest the witness remained on the premises approximately 20 minutes; that during that period the telephone rang about 15 times, and the witness answered the telephone and the party calling would give him horse racing bets; that Nicola had been coming to the premises almost every day for a few weeks and that Vasquez stated in front of Nicola that the lady he rented from, the complainant herein, had told him that there would be a man answering the telephone in the house during the day and that this would be all right.

In the light of this record we find that the action of the telephone company was based upon reasonable cause as the term is used in Decision No. 41415, supra. We further find that the telephone facilities in question were used for bookmaking purposes and that the complainant herein knew or should have known that the facilities were so used.

O R D E R

The complaint of Josefina R. Quijada 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,

IT IS ORDERED that complainant's request for restoration of telephone service be and it hereby is 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 744 South Ford Boulevard, 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 25th day of February, 1958.

(Signature) President
(Signature)
(Signature)
(Signature)
(Signature) Commissioners