

ORIGINAL

Decision No. 56611

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MABELLE ROSENTHAL, formerly
known as MABELLE HARRIS,

Complainant,

vs.

THE PACIFIC TELEPHONE &
TELEGRAPH COMPANY,

Defendant.

Case No. 6061

Julius L. Samson for the complainant.
Lawler, Felix & Hall, by Thomas E. Workman, Jr.,
for the defendant.
Roger Arnebergh, City Attorney, by John T. Neville,
Deputy City Attorney, for the Los Angeles
Police Department, and William Parker, Chief
of Police.

O P I N I O N

Public hearing was held in this matter on April 7, 1958, in Los Angeles, before Examiner Grant E. Syphers at which time evidence was adduced and the matter submitted.

The complainant Mabelle Rosenthal for some years last past has had telephone service at 14920 Lull Street, in the Van Nuys district of the City of Los Angeles. This telephone service was registered under the name of Mabelle Harris which was the name of the complainant prior to her marriage to Mr. Rosenthal. The number of this service was State 5-5612 and the facilities consisted of a main phone in a bedroom and an extension in the living room.

A second telephone service at this location was under the number of Stanley 3-1388 and was registered in the name of J. Harris, the former husband of the complainant.

On January 18, 1958, an officer of the Los Angeles Police Department phoned the number Stanley 3-1388 and placed a bet on a horse race over that phone. Immediately thereafter two officers went to the location and entered the premises. About one minute later, a Mrs. Kline, who is Mrs. Rosenthal's mother and lives next door, entered the house. She presumably was the person who had received the bet which the officer had called in a few minutes before that time.

The officers found 34 small writing tablets on the premises and during their visit Mabelle Rosenthal returned home. In a conversation with one of the officers she stated that her husband was not an ordinary bookmaker but did take a few bets from some of his friends. Mrs. Kline stated that she had taken the bet over the phone in order to be helpful to her son-in-law. The officers removed the three telephones at that time.

Subsequently, under date of January 22, 1958, a letter from the Los Angeles Police Department was sent to the defendant telephone company requesting that the two phone services hereinabove described be disconnected. The telephone company pursuant to this letter disconnected the services.

Upon this record we find that the telephone company exercised due care in taking the action it did and we further find that this action was based upon reasonable cause as this term is used in Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

The complainant testified that she had not used the telephone service for any bookmaking purposes and had no knowledge of any such use. The house is occupied by her husband and two daughters ages 16 and 4. According to further testimony of the complainant, there is some indication that her husband, Mr. Rosenthal, may have used these telephone facilities for bookmaking purposes. It should be noted that he was present in the hearing room and reference was made to him in the testimony presented by police officers. However, he failed to present any testimony as to whether or not he had engaged in bookmaking activities. While he was not required to present any such testimony, it is clear that in a situation like this, the burden is on the complainant to establish a prima facie case. In the light of the testimony of police officers and in the light of the failure of complainant's husband to make any denial thereof, an inference can be fairly drawn that the testimony of the officers was correct.

Upon this record, therefore, we find that the telephone facilities were used for bookmaking purposes.

O R D E R

The complaint of Mabelle Rosenthal against The Pacific Telephone and Telegraph Company having been filed, a public hearing having been held thereon, the case now being ready for decision, 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 complaint be and the same hereby is dismissed.

IT IS FURTHER ORDERED that upon thirty days after the effective date of this order The Pacific Telephone and Telegraph Company may consider an application for telephone service from the complainant herein on the same basis as the application of any new subscriber.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California,
this 19th day of April, 1958.

[Signature]
President

[Signature]
[Signature]

[Signature]
Commissioners

Commissioner Ray E. Untereiner being necessarily absent, did not participate in the disposition of this proceeding.