

**ORIGINAL**

Decision No. 57235

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CLEO FELKINS,

Complainant

vs.

THE PACIFIC TELEPHONE & TELEGRAPH  
CO., a corporation,

Defendant.

Case No. 6128

Franklin D. Laven, attorney, for complainant.  
Lawler, Felix & Hall, by Thomas E. Workman, Jr.,  
for defendant.  
Roger Arnebergh, City Attorney, by Patrick Coleman,  
for the Police Department of the City of  
Los Angeles, intervener.

O P I N I O N

The telephone service of Cleo Felkins, 6682 Ampere Avenue, North Hollywood, California, was disconnected. His complaint filed on June 11, 1958, alleges that he is suffering, and has been suffering from a critical heart condition; that he suffers frequent attacks and that on such occasions it is necessary to call his physician; that these attacks occur at all times of the day or night and that it is impossible to use a telephone at any other location; and that his telephone was being used by his wife, Margaret Felkins, and the use was without the knowledge, permission and consent of the complainant.

On June 27, 1958, the telephone company filed an answer, the principal allegation of which was that pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal P.U.C. 853),

the defendant, on or about May 26, 1958, had reasonable cause to believe that the telephone furnished by it to complainant under the number POplar 3-1007 at 6682 Ampere Avenue, North Hollywood, California, was being or was to be used as an instrumentality directly or indirectly to aid and abet the violation of the law and that having such reasonable cause the defendant was required to disconnect the service.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on August 1, 1958, and the matter was submitted.

The complainant testified that he at no time knew that the telephone was being used for illegal purposes; that he knew his wife was using the telephone for an answering service but he knew nothing further about said business; and that if he had known the telephone was being used for any illegal purposes he would not have given his consent to any such illegal use. He further testified that he has a serious heart condition; that he is under the care of a doctor; that he must be in contact with the doctor and ambulance service at all times of the day or night; and that he has frequent heart attacks. He referred to Exhibit A attached to the application, a letter from Dr. Charles F. Vogel, dated June 3, 1958, which states that the complainant must have a telephone at his residence because of his critical heart condition.

Margaret Felkins testified that she is complainant's wife; that on May 21, 1958, she was arrested at her home and charged with bookmaking and the telephone was removed; that she had been taking numbers over the telephone but did not know the reason therefor and was not aware that such activity was in connection with any illegal

purposes; and that the first time she knew what she was doing was illegal was when the officer arrested her on May 21, removed the telephone and advised her that she was engaged in bookmaking activities.

The witness Frank Corea testified that he is a police officer for the City of Los Angeles; that on May 21, 1958, he called the complainant's telephone number from a public pay station and placed a horse racing bet; that a female voice answered the telephone and told him that she could not take the bet but to give her his telephone number; that he gave the woman who answered the telephone the telephone number where he was; that shortly thereafter a call came in to the number; that he gave the caller a horse race bet; that he went to the complainant's house immediately thereafter; that he found a record of the bet he had placed on a slip of paper in the complainant's house; that he was in the premises approximately 45 minutes and the telephone rang 10 or 15 times and his partner answered the telephone; that he had a conversation with Margaret Felkins while he was in the premises; that she stated she had been getting such calls and taking telephone numbers for two weeks; that she did not know who she worked for; that she takes the numbers that come in over the telephone and a man calls her and she gives him the telephone numbers; that she told him that she thought that if she did not take bets she was doing nothing illegal; and that this type of operation is what is known in bookmaking circles as a call-back relay phone spot.

The parties stipulated that Exhibit No. 1 herein could be received in evidence; that this letter was received on May 26, 1958, and that thereafter the telephone service was disconnected by a central office disconnection on June 2, 1958. Exhibit No. 1 is a copy of a letter from the Police Department of the City of Los Angeles to the telephone company dated May 22, 1958, advising the telephone company that complainant's telephone had been confiscated, that it had been used for the purpose of disseminating horse racing information in connection with bookmaking, and requesting that the telephone facilities be disconnected. The telephone has not been reconnected.

The position of the telephone company was that it had acted with reasonable cause as that term is defined in Decision No. 41415, supra, in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After consideration of the 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 the complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horse racing. We further find that the evidence failed to show that the complainant knew the telephone was being so used, that a telephone is necessary to his health and welfare, that he has been without a telephone in excess of two months, and that for that reason the telephone should be restored. It will be so ordered.

ORDER

The complaint of Cleo Felkins 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 granted and that upon the filing by him of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's home at 6682 Ampere Avenue, North Hollywood, 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 26<sup>th</sup> day of August, 1958.

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

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