

ORIGINAL

Decision No. 57532

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

I. L. DOMNITZ and THELMA GARRETT,
Complainants,

vs.

Case No. 6153

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Joseph Forno for complainant.
Lawler, Felix & Hall, by Thomas E. Workman, Jr., for
defendant.
Harold Kennedy, County Counsel, by Alister McAlister,
Deputy County Counsel, for the Sheriff's Department
of Los Angeles County, intervener.

O P I N I O N

The complaint of I. L. Domnitz and Thelma Garrett of 505 West Garvey Boulevard, El Monte, California, filed on July 17, 1958, alleges that prior to June 18, 1958, complainants were subscribers and users of telephone service furnished by defendant under numbers GILBERT 8-222 (sic) and GILBERT 8-4815 at 505 West Garvey Boulevard, El Monte; that on about June 18, 1958, the telephone facilities were removed by the defendant pursuant to instructions from the Los Angeles County Sheriff's Office which office caused Ezra C. Domnitz to be arrested on or about said date on a charge of suspicion of violation of Section 337a of the Penal Code, bookmaking; that

complainants have made demand upon defendant to have said telephone facilities restored but that defendant has refused and does now refuse to do so; that complainants have suffered and will continue to suffer irreparable injury to their reputations and business and will suffer great hardship in the operation of the new and used retail furniture business located at said address.

On July 29, 1958, by Decision No. 57049, in Case No. 6153, the Commission issued an order restoring said telephone service to the complainants pending a hearing on the matter.

On August 7, 1958, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930, (47 Cal. P.U.C. 853), on or about June 20, 1958, had reasonable cause to believe that the telephone service furnished to complainants under numbers Gilbert 8-2222 and Gilbert 8-4815 at 505 West Garvey Boulevard, El Monte, 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 it disconnected said telephone service on June 27, 1958, pursuant to said Decision No. 41415.

The matter was called for hearing in Los Angeles before Examiner Kent C. Rogers on August 27, 1958, and was continued for hearing to September 23, 1958. On the latter date the matter was heard and submitted.

Complainant I. L. Domnitz testified that he and Thelma Garrett own a retail furniture store at 505 West Garvey Boulevard,

El Monte; that prior to June 18, 1958, they had two telephones therein; that on said date the telephones were removed in his absence; that the telephones have since been restored; that the telephones are necessary to the complainants' business; and that the witness had no knowledge that the telephones were ever used for any illegal purpose.

Exhibit No. 1 is a copy of a letter from the Sheriff's Department of the County of Los Angeles to the defendant advising the defendant that on June 18, 1958, the complainants' telephones were being used for disseminating horse racing information in connection with bookmaking in violation of Section 337a of the Penal Code; that the telephones had been confiscated; and requesting that the service be disconnected. It was stipulated that this letter was received by the defendant on June 20, 1958; that the telephones were disconnected on June 27, 1958, pursuant to said letter; and that the telephones were reconnected on July 31, 1958, pursuant to an order of this Commission. 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 telephones inasmuch as it had received the letter designated as Exhibit No. 1.

A Los Angeles County Deputy Sheriff, attached to the Vice Detail, testified that on June 18, 1958, he called telephone number Gilbert 8-2222 and placed a horse race bet with a party who identified himself as Ezra; that he and his partner went to 505 West Garvey Boulevard, El Monte, and arrested an Ezra Domnitz and removed both

telephones; that Ezra Domnitz was the only person in the premises; that no betting paraphernalia was found except that there were numerous National Daily Reporter scratch sheets in the store; that Ezra said he memorized the bets called in, that he took only small bets, and that he did not call bets out to anyone; and that Ezra did not reply to a question whether some other person called him to receive the bets.

After full 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 the record in this action does not contain facts upon which we could conclude that the complainants permitted the telephones, or either of them, at 505 West Garvey Boulevard, El Monte, California, to be used for illegal purposes. For that reason the temporary restoration of telephone service will be made permanent.

O R D E R

The complaint of I. L. Domnitz and Thelma Garrett 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. 57049, dated July 29, 1958, in Case No. 6153, temporarily restoring telephone service to the complainants, 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 29th day of October, 1958.

E. J. Fox President
John C. McArthur
Paul J. ...
Walter ...
Theodore ... Commissioners