

ORIGINAL

Decision No. 57728

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

STANLEY C. BARNHART,

Complainant,

vs.

Case No. 6188

THE PACIFIC TELEPHONE & TELEGRAPH CO.

Defendant.

Stanley C. Barnhart, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Harold Kennedy, County Counsel, by Alister
McAlister, Deputy County Counsel, for the
Sheriff's Department, County of Los Angeles,
intervener.

O P I N I O N

By the complaint herein, filed on October 1, 1958, Stanley C. Barnhart alleges that he resides at 623 W. Mariposa Street, Altadena, California; that on May 27, 1958, the Los Angeles County Sheriff's vice squad entered complainant's home and arrested him on suspicion of bookmaking, searched the premises and removed the telephone; that the telephone service is essential to complainant and his wife; and that they will not use it to violate the law.

On October 17, 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 2, 1958, had

reasonable cause to believe that the telephone service furnished to complainant under number SYcamore 7-6667, at 623 West Mariposa Street, Altadena, 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 was required to disconnect the service pursuant to Decision No. 41415, supra.

A public hearing was held in Los Angeles on November 18, 1958, before Examiner Kent C. Rogers, and the matter was submitted.

The complainant testified that on May 27, 1958, he was home; that he was arrested by Sheriff's deputies for bookmaking, was found guilty of that offense after a trial, paid a \$350 fine, and was placed on probation for five years; that he needs a telephone; and that he will not permit the telephone to be used for illegal purposes in the future.

A deputy sheriff testified that on May 27, 1958, he and other deputies arrested the complainant, and that while on complainant's premises several horse race bets were received over the telephone in a 15-minute period.

Exhibit No. 1 is a copy of a letter from the vice detail of the Los Angeles County Sheriff's Office advising the telephone company that complainant's telephone was being used for disseminating horse racing information used in connection with bookmaking in violation of Section 337a of the Penal Code; that the telephone had been confiscated, and requesting that the defendant disconnect such telephone. An employee of the telephone company testified that

this letter was received on June 2, 1958, and a central office disconnection was effected on June 4, 1958, pursuant thereto. 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 telephone inasmuch as it had received the letter designated as Exhibit No. 1.

After full 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 complainant has paid the penalty prescribed by law for the violation herein referred to. Therefore, the complainant is now entitled to have his telephone service restored. It will be so ordered.

O R D E R

The complaint of Stanley C. Barnhart 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 complainant's request for restoration of telephone service be granted and that, upon the filing by the complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's residence at 623 West Mariposa

Street, Altadena, 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 16th day of December, 1958.

[Signature]
 President

[Signature]

[Signature]

[Signature]

Commissioners

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