

ORIGINAL

Decision No. 57733

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DONALD GRAVES,

Complainant,

vs.

Case No. 6178

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a CORPORATION,

Defendant.

Walter L. Gordon, Jr., and Robert J. Hall, by
Robert J. Hall, for the complainant.
Lawler, Felix and Hall, by Thomas E. Workman, Jr.,
for the defendant.
Roger Arnebergh, City Attorney, by D. H.
Von Wittenburg, Deputy City Attorney, for
the Police Department of the City of Los
Angeles, intervener.

O P I N I O N

By the complaint herein, filed on September 15, 1958,
Donald Graves alleges that he has been and is conducting the
Jerry Anderson Beauty Shop at 4207 South Central Avenue, Los
Angeles, California; that he was the subscriber to telephone
service at said place of business furnished by defendant under
number ADams 2-8706, and that said telephone service was necessary
to the conduct of said business; that police officers disconnected
said telephone without cause and against the will of the complain-
ant;

On September 26, 1958, the telephone company filed an answer in which it alleges, inter alia, that prior to September 4, 1958, the Jerry Anderson Beauty Shop was a subscriber to telephone service furnished by defendant under number ADams 2-8706 at 4207 South Central Avenue, Los Angeles, California, and that on or about September 2, 1958, it had reasonable cause to believe that the telephone service furnished under number ADams 2-8706 at 4207 South Central Avenue, Los Angeles, 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 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).

The matter was set for hearing in Los Angeles on November 3, 1958, at which time it was called and continued to November 18, 1958. On November 18, 1958, a public hearing on the matter was held in Los Angeles before Examiner Kent C. Rogers, and the matter was submitted.

Complainant testified that he is not the subscriber to the telephone; that a Mr. McGee was the subscriber; that complainant is the manager of the barber shop located at 4207 South Central Avenue, Los Angeles, known as the Turf Barber Shop; that there are three barbers employed thereat; that there is a partition in the rear and a telephone was located in the back of the partition; that the telephone is necessary in the conduct of the business; that in October, 1958, the telephone was removed by police officers; that complainant was arrested on suspicion of bookmaking and was

subsequently released, with no complaint having been filed; and that the telephone was never used for bookmaking purposes.

On cross-examination the complainant testified that he was arrested on the premises on July 8, 1958, on suspicion of bookmaking, and again on August 28, 1958, for the same offense, and at the latter time the telephone was removed, and that there have been several arrests on the premises within the last two years.

A police officer of the City of Los Angeles testified that on August 28, 1958, he received information that bookmaking was being carried on at 4207 South Central Avenue, Los Angeles; that he and other officers went to the premises; that he observed the complainant in the rear by the telephone which was on a table with a scratch sheet and a sheet of formica; that complainant appeared to converse on the telephone on occasions and write on a sheet of formica; that people in the premises gave complainant what appeared to be money; that the officers entered and complainant wiped the formica sheet with a rag; that the officers were on the premises from 35 to 40 minutes and the phone rang on numerous occasions but the complainant did not answer; that the witness answered the phone on occasions and the callers hung up without saying anything; that complainant told the witness he knew he was booking horses; and that no complaint was filed against the complainant.

Exhibit No. 1 is a copy of a letter from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the telephone company advising that the telephone had been confiscated; that it had been used on August 28, 1958, for the purpose of disseminating horse racing information in connection

with bookmaking in violation of Section 337a of the Penal Code; and requesting that the telephone be disconnected. An employee of the telephone company testified that this letter was received on September 2, 1958, and that a central office disconnection was effected on September 4, 1958, pursuant to this letter. 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 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 there are strong circumstances indicating that telephone service at the address referred to herein will be used for illegal purposes, although there is no direct showing sufficient to satisfy a court in a criminal action that it was or will be so used. For our purposes, however, there is a reasonable cause to believe that the telephone was being, and if installed will be, used for illegal purposes. Installation of telephone service will be withheld for thirty days from the effective date of this order.

O R D E R

The complaint of Donald Graves against The Pacific Telephone and Telegraph Company 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 telephone service is denied.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainant herein, or other proper person, may file an application for telephone service and if such application is made, The Pacific Telephone and Telegraph Company shall install telephone service at 4207 South Central Avenue, 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 16th day of December, 1958.

E. L. Fox
President

Paul Winter

William J. ...

Theodore ...

Commissioners

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