

ORIGINAL

Decision No. 57914

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HARRY WEBBER,

Complainant,

vs.

Case No. 6205

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Joseph T. Forno, attorney, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr., for
defendant.

Harold W. Kennedy, County Counsel, by Alister McAlister,
for Los Angeles County Sheriff's Department,
intervener.

O P I N I O N

By the complaint herein, filed on November 18, 1958, complainant Harry Webber alleges that his address is 3656 East 54th Street, Maywood, California; that prior to October 23, 1958, he was the subscriber and user of telephone service furnished by defendant under number LUdlow 5-7841 at 3656 East 54th Street, Maywood; that on or about October 23, 1958, the telephone facilities of the complainant were disconnected by the defendant pursuant to instructions from the Los Angeles County Sheriff's office, which office caused complainant to be arrested on a charge of suspicion of bookmaking; that complainant has made demand of the defendant to have the telephone facilities restored but defendant has refused and now refuses

to restore the facilities; that the telephone service is necessary to complainant because of illness; and that he did not use and does not intend to use the telephone facilities as an instrumentality to violate the law or to aid and abet its violation.

On November 25, 1958, by Decision No. 57623, in Case No. 6205, the Commission ordered that the telephone service be restored to the complainant pending a hearing on the petition herein.

On December 4, 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 October 27, 1958, had reasonable cause to believe that the telephone service furnished to complainant under number LUdlow 5-7841 at 3656 East 54th Street, Maywood, 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, defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing on the complaint was held in Los Angeles on December 24, 1958, before Examiner Kent C. Rogers.

The complainant testified that the allegations of his verified complaint are true, and that he is ill and needs the telephone. He further testified that on or about October 23, 1958, he was home with a man named William McDonald; that he knew "Bill" was in some kind of business but that he did not know what; and that he did not know of any wagers being taken over the telephone.

A deputy sheriff attached to the Vice Detail of the Los Angeles County Sheriff's office testified that on October 23, 1958, he arrested complainant and a Mr. McDonald at complainant's home address. No evidence was presented that the telephone was used for any illegal purpose.

Exhibit No. 1 is a letter dated October 23, 1958, from the office of the Sheriff of Los Angeles County to the defendant advising the defendant that on October 23, 1958, complainant's telephone under number LUdlow 5-7841 was being used for the purpose of disseminating horse racing information which was being used in connection with bookmaking in violation of Section 337a of the Penal Code; that the telephone had been confiscated; and requesting that defendant disconnect the service. This letter was received by defendant on October 27, 1958, and a central office disconnection was effected on October 31, 1958. Pursuant to order of the Commission, service was reconnected on November 26, 1958.

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 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 the evidence fails to show that complainant's telephone was used as an instrumentality to violate or to aid and abet the violation of the law.

O R D E R

The complaint of Harry Webber 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 the order of the Commission in Decision No. 57623, dated November 25, 1958, temporarily restoring telephone service to complainant 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 Los Angeles, California,
this 27th day of January 1959.

L. L. Fox President
John E. Mitchell
Matthew Dooley
Theodore Jenner
Commissioners