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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RENE J. PRINCE,

Complainant,

vs.

Case No. 6257

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, San Diego,

Defendant.

René J. Prince in propria persona.
Gray, Cary, Ames & Frye, by Alford Lord, for the
defendant.

O P I N I O N

By the complaint herein, filed on April 14, 1959, René J. Prince alleges that he has a home at 4518 Myrtle Avenue, San Diego, California; that on or about January 21, 1959, the San Diego police removed his telephone having number ATwater 4-2969 from said address; that at that time a Mr. Marvin Kincaid, who was renting the house, was arrested on a charge of bookmaking; that the complainant desires to have the house used by his father, a man eighty years of age, who needs the telephone; and that therefore complainant requests that the telephone be reinstalled.

On April 30, 1959, 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 January 21, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number ATwater 4-2969, at 4518 Myrtle Avenue, San Diego, 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 Decision No. 41415, supra.

A public hearing on the complaint was held on May 22, 1959, in San Diego, before Examiner Kent C. Rogers.

The complainant testified that he lives in Spring Valley but that he has a home in San Diego at 4518 Myrtle Avenue; that he maintains therein a telephone; that about two months prior to January 21, 1959, he rented the premises to a Marvin Kincaid; that on or about January 21, 1959, the police arrested Marvin Kincaid for bookmaking on the premises and removed the telephone which had been subscribed to by complainant; that complainant has not nor will ever allow the telephone to be used for illegal purposes; that he desires to place his eighty-year-old father in the home and that therefore he desires that the telephone be reinstalled.

The San Diego Police Department was not represented but had advised the telephone company that it had no objection to the installation of the telephone.

Exhibit No. 1 herein is a letter dated January 22, 1959, from the Chief of Police of the City of San Diego to the defendant advising defendant that on or about January 21, 1959, complainant's

telephone, under number ATwater 4-2969, at 4518 Myrtle Avenue, San Diego, was being used for the purpose of disseminating horse racing information which was 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 the service. This letter was received by the defendant on January 27, 1959, and a central office disconnection was effected pursuant thereto on February 9, 1959, and the service has not been reconnected. The position of the telephone company was that it had acted with reasonable cause in disconnecting the service inasmuch as it had received the letter designated as Exhibit No. 1.

After full consideration of this record we 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. Complainant is therefore entitled to telephone service.

O R D E R

The complaint of René J. Prince 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 telephone service be granted and that upon the filing by complainant for telephone service, The Pacific Telephone and Telegraph Company

shall install such telephone service at complainant's residence at 4518 Myrtle Avenue, San Diego, 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 the date hereof.

Dated at San Francisco, California, this 23rd day of June, 1959.

[Signature]
 President

[Signature]

[Signature]

Theodore J. James

[Signature]
 Commissioners