

ORIGINAL

Decision No. 58932

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WARD W. ROBINSON, dba
PACIFIC WELDING COMPANY,

Complainant,

vs.

THE PACIFIC TELEPHONE
AND TELEGRAPH COMPANY,
a corporation,

Defendant.

Case No. 6284

Joseph T. Forno, for complainant.

Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.Roger Arnebergh, City Attorney, by Laurence R.
Corcoran, Deputy City Attorney, for the
Police Department of the City of Los Angeles,
intervener.O P I N I O N

The complaint herein, filed on June 8, 1959, alleges that Ward R. Robinson, doing business as Pacific Welding Company at 1714 Albion Street, Los Angeles 31, California, prior to June 2, 1959, was a subscriber and user of telephone service furnished by defendant under number Capital 1-0435 at said address; that on June 2, 1959, said telephone facilities were removed by the defendant pursuant to instructions from the Los Angeles Police Department which caused complainant to be arrested on May 23, 1959, on suspicion of bookmaking; that complainant did not use said facilities to violate the law; and that complainant will suffer damage if the telephone service is not reconnected.

On June 16, 1959, by Decision No. 58602, the Commission ordered that the telephone service be restored to complainant pending a hearing on the complaint.

On June 26, 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 May 29, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number Capital 1-0435 at 1714 Albion Way, Los Angeles, 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 service pursuant to this Commission's Decision No. 41415, supra.

A public hearing on the complaint was held before Examiner Kent C. Rogers in Los Angeles on August 3, 1959.

The complainant testified that he has a welding shop at the address referred to on Albion Way; that on or about May 23, 1959, members of the Los Angeles Police Department entered the premises and arrested complainant for bookmaking and removed his telephone; that the telephone on the premises was never used for any illegal purposes, and particularly has never been used for bookmaking for horse race betting purposes.

On cross-examination it was developed that the complainant had three telephones with three different numbers on the premises; that on the date in question he was arrested and at the preliminary hearing held to answer on a charge of bookmaking.

The complainant further testified that at the time of the arrest he was alone on the premises.

Exhibit 1 is a letter dated May 27, 1959, from the Chief of Police of the City of Los Angeles to the defendant advising the defendant that on or about May 27, 1959, complainant's telephone under number Capital 1-0435 at 1714 Albion Way was being used for receiving and forwarding bets, and requesting that the telephone company disconnect the services. This letter was received by defendant on May 29, 1959, and a central office disconnection was effected pursuant thereto on June 3, 1959, and reconnected pursuant to this Commission's Decision No. 58602, supra, on June 19, 1959.

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 service inasmuch as it had received the letter designated as Exhibit 1.

A police officer connected with the Vice Detail of the Los Angeles Police Department testified that on May 23, 1959, he was on the premises at a time when the complainant was in the custody of another officer; that there were two telephone instruments on a desk in complainant's office; that one was under number Capital 1-8864 and the other under number Capital 1-0435; that while on the premises the telephone with number Capital 1-8864 rang on numerous occasions; that the witness's partner answered the telephone; that on the desk by the telephone with number Capital 1-8864 there was a scratch sheet for the date of the arrest; that in the waste basket near the desk there were two torn-up betting markers which were not in the complainant's handwriting; that prior to the

arrest the officer had called telephone number Capital 1-8864 and placed a horse race bet with the person answering; that there were no betting markers for the day of the arrest; that there were betting markers near the telephone for two days prior to the day of the arrest; and that there were no calls to or from telephone number Capital 1-0435 and no wagers were made over number Capital 1-0435. The officer testified that at the time of the arrest the telephone under number Capital 1-8864 was removed.

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 shows that one of complainant's telephones on the premises was used to violate or to aid and abet the violation of the law, and that it is reasonable to suppose that the other telephone was used for the same purposes. It will, therefore, be ordered that complainant's request for restoration of telephone service be denied.

O R D E R

The complaint of Ward W. Robinson 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 restoration of telephone service is denied and that the temporary interim relief granted by Decision No. 58602, dated June 16, 1959, in Case No. 6284, be and it is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of ten days after the effective date of this order the complainant herein

may file an application for telephone service, and if such application is made The Pacific Telephone and Telegraph Company shall install telephone service at complainant's place of business at 1714 Albion Way, 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 25th day of August, 1959.

Ernest R. [Signature]
President

[Signature]

[Signature]

Theodore [Signature]

Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.