

# ORIGINAL

Decision No. 59002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RUDOLPH R. FIMBRES,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Case No. 6278

Rudolph R. Fimbres in propria persona.

Lawler, Felix & Hall, by A. J. Krappman, Jr., for  
defendant.

Roger Arnebergh, City Attorney, by Laurence R. Corcoran,  
Deputy City Attorney, for the Los Angeles Police  
Department, intervener.

## O P I N I O N

By the complaint herein, filed on June 4, 1959, Rudolph R. Fimbres seeks restoration of telephone service. The evidence at the hearing shows that the subscriber to the telephone service was complainant's wife and for that reason complainant requested and received authority to amend the complaint for restoration of telephone service. As amended, the complaint shows that the complainant is the owner and operator of a grocery and meat market at 3443 City Terrace Drive, Los Angeles; that there was in the said store and market, a coin operated telephone with the number Angelus 3-9790 with an extension to the meat market; that on May 20, 1959, Los Angeles police officers removed the extension telephone,

arrested the complainant, and charged him with suspicion of book-making; that on May 26, 1959, the complainant was advised that no charge had been filed; that on or about May 28, 1959, the dial telephone was removed from the premises; and that complainant needs the telephone in the conduct of his business.

On June 16, 1959, by Decision No. 58598, in Case No. 6278, 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, prior to May 29, 1959, furnished telephone service to Adela M. Fimbres, under number Angelus 3-9790, at 3443 City Terrace Drive, Los Angeles, California; 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 25, 1959, had reasonable cause to believe that the said telephone service furnished to Adela M. Fimbres 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 was held before Examiner Kent C. Rogers in Los Angeles on August 3, 1959.

The complainant testified that he and his wife Adela operate a meat and grocery market at 3443 City Terrace Drive, Los Angeles; that on May 20, 1959, plain-clothes police officers

arrested him on suspicion of bookmaking and took him to jail; that at that time the telephone extension was removed but not the pay telephone and that later on the pay telephone was removed by the telephone company; and that he does not use the telephone for bookmaking purposes. On cross-examination the complainant testified that he is on probation for bookmaking; that he is not a bookmaker at the present time; and that he stopped bookmaking in July of 1958 at the time of his prior arrest at which time he paid a fine and was placed on probation.

Exhibit No. 1 is a letter dated May 21, 1959, from the Chief of Police of the Los Angeles Police Department to the defendant advising the defendant that on May 21, 1959, the telephone furnished to Adela M. Fimbres at 3443 City Terrace Drive, Los Angeles, under number ANgelus 3-9790, was being used for the purpose of receiving and forwarding bets; that the telephone extension had been confiscated; and requesting that the defendant disconnect the service. This letter was received by the defendant on May 25, 1959, and a central office disconnection was effected pursuant thereto on May 29, 1959, and the service was reconnected pursuant to this Commission's Decision No. 58598 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 No. 1.

A police officer connected with the Vice Detail of the Los Angeles Police Department testified that on May 20, 1959, he and other officers went to complainant's store and arrested the

complainant for suspicion of bookmaking; that while on the premises three phone calls came in within thirty minutes from persons attempting to place horse race bets with the witness; that there was a formica board 20 by 24 inches on the counter, two pads, and three 5 by 7-inch yellow cards; that the pads were betting markers and that the yellow cards were owe sheets.

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 telephone in complainant's store was used as an instrumentality to aid and abet the violation of the law in that it was used for bookmaking purposes.

O R D E R

The complaint of Rudolph R. Fimbres 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 is denied and that the temporary interim relief granted by Decision No. 58598, dated June 16, 1959, in Case No. 6278, is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of thirty 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 the complainant's place of business at 3443 City Terrace Drive, 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 15<sup>th</sup> day of September, 1959.

[Signature]  
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Theodore H. Jenner, being necessarily absent, did not participate in the disposition of this proceeding.