

ORIGINAL

Decision No. 59004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CATHERINE ELIZABETH KELLEY and
JOSEPH KELLEY,

Complainants,

vs.

Case No. 6299

GENERAL TELEPHONE COMPANY OF
CALIFORNIA, a corporation,

Defendant.

Howard B. Hamilton, Jr., for complainants.
Albert M. Hart, H. Ralph Snyder and William W.
Coppinger, by William W. Coppinger, for
defendant.

O P I N I O N

By the complaint herein filed on June 30, 1959, the complainants allege that they were the subscribers to a telephone furnished by the defendant under number EXbrook 9-3730 at 2402 Washington Boulevard, Santa Monica, California; that subscriber Catherine Elizabeth Kelley was charged with violation of Section 337a of the Penal Code, bookmaking; that she was subsequently convicted of a violation of the said Penal Code section, was sentenced to two years probation and paid a fine of \$200; that the telephone was removed by deputies of the Sheriff's Department of Los Angeles County; and that the telephone is necessary for complainants in that complainant Catherine Elizabeth Kelley is an employee of a hospital and must be in contact with the hospital.

On July 10, 1959, the telephone company filed an answer wherein it alleges that pursuant to instructions from the Sheriff of

Los Angeles County complainants' telephone was removed in accordance with the requirements of Decision No. 41415 of this Commission.

A public hearing on the complaint was held in Los Angeles before Examiner Kent C. Rogers on August 6, 1959.

Complainant Catherine Elizabeth Kelley testified that the allegations of the complaint are true; that she was arrested and convicted of bookmaking and her telephone was removed; that she paid a fine for said violation and was placed on probation; that the telephone is necessary for the complainant and her husband; and that she has a son five years of age who is ill and under a doctor's care and a telephone is necessary for the health of said son.

No evidence was presented on behalf of any law enforcement agency. It was stipulated that the telephone was removed pursuant to instructions from the Sheriff of Los Angeles County, and that the defendant had reasonable cause to remove said telephone service pursuant to said instructions.

After full consideration of this record we now find that the telephone company's action was based upon reasonable cause as that term is defined in Decision No. 41415 of this Commission.

We further find that the evidence shows that complainant's telephone was used as an instrumentality to violate the law, but that complainant Catherine Elizabeth Kelley has paid the penalty prescribed by law for said violation, and that the telephone is necessary for the welfare of said complainant and the health of her son.

Upon the evidence herein it appears and we find that the telephone service should be restored to complainants and it will be ordered restored five days after the effective date hereof.

O R D E R

The complaint of Catherine Elizabeth Kelley and Joseph Kelley against General Telephone Company of California 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 complainants' request for restoration of telephone service be granted, and that upon the filing by complainants, or either of them, of an application therefor, defendant shall restore telephone service at complainants' address at 2402 Washington Boulevard, Santa Monica, 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 15th 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.