

ORIGINAL

Decision No. 59114

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ALLEN J. DIRRETT, dba Allen's
Business Service and Associates,

Complainant,

vs.

Case No. 6312

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY,

Defendant.

Allen J. Dirrett, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.
Roger Arnebergh, City Attorney, by Samuel C.
Palmer, Deputy City Attorney, for the
Police Department of the City of Los
Angeles, intervener.

O P I N I O N

By the complaint herein, filed on July 13, 1959, it is alleged that Allen J. Dirrett of 2222 South Western Avenue, Los Angeles, California, prior to June 22, 1959, was a subscriber to and user of telephone service furnished by defendant under number REpublic 4-5003 at 2222 South Western Avenue, with an outside extension at 3 Berkeley Square, Los Angeles, California; that on June 22, 1959, the telephone facilities of complainant were disconnected by the Los Angeles Police Department for an alleged case of lottery, and were disconnected at the time of filing this complaint; that the complainant was falsely charged with lottery, and has never in any way participated in or approved of said lottery; that complainant has requested that the telephone service be restored,

and defendant has refused and now refuses to restore said telephone service; that the complainant had never used and does not intend to use said telephone as an instrumentality to violate the law; and that the complainant has suffered great damage to his livelihood by reason of the disconnection of the service.

On July 28, 1959, by Decision No. 58822 in Case No. 6312, the Commission ordered that the telephone service be restored to complainant pending a hearing on the complaint.

On August 7, 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 June 15, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number REpublic 4-5003 at 2222 South Western Avenue, Los Angeles, California, with an outside extension at 3 Berkeley Square, Los Angeles, 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 was held before Examiner Kent C. Rogers in Los Angeles on August 31, 1959.

The complainant testified that he is an accountant, bookkeeper, and income tax consultant; that he has an office at 2222 South Western Avenue, Los Angeles, California; that on June 12, 1959, he also had on the premises at 3 Berkeley Square, Los Angeles, California, a separate telephone with extensions; that 3 Berkeley

Square, Los Angeles, is a large home with sixteen rooms in the house and three rooms above the garage; that he had in the house three extensions from telephone number REpublic 4-5003 and also another telephone with number REpublic 4-2503 with three extensions from said telephone; that approximately three weeks prior to June 22, 1959, his wife returned from Washington, D. C., and that she was sleeping in one room at 3 Berkeley Square and he was sleeping in another room; that he rented some of the premises to two or three other people who also had their telephones on the premises; that on June 22, 1959, he was awakened by police officers and his wife was arrested, and that in his wife's room were found paraphernalia used in connection with the so-called numbers game; that his wife was arrested and the telephones were removed; that he was charged with aiding and abetting his wife; and that he needs the telephone in his business, and will not use, and does not knowingly permit the use of, the telephone for illegal purposes.

The police officer connected with the Vice Detail of the City of Los Angeles Police Department testified that prior to June 12, 1959, he and other officers had been investigating activities at 3 Berkeley Square, Los Angeles, relative to the use of the premises for the numbers racket; that on June 12, 1959, the officers went to that address and entered the room where complainant's wife was sleeping; that in the room was one wall telephone and a couple of others, one of which was padlocked; that in the room were policy number betting paraphernalia, receipt books, and a list of bets; that while he was in the room the telephone rang on several occasions; that the witness answered the telephone and the callers asked for

"Sarah"; that some of the callers stated they would like to get a policy number but that they would call back later.

Exhibit No. 1 is a letter dated June 12, 1959, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that on June 12, 1959, complainant's telephone under number REpublic 4-5003 and two outside connections were being used for the purpose of violation of Sections 4411 and 4412, Title 26, U. S. Internal Revenue (Federal Wagering Stamp Tax Law); that the telephone extensions at 3 Berkeley Square had been removed; and requesting that the defendant disconnect the service. This letter was received on June 15, 1959, and the service was disconnected pursuant thereto on June 18, 1959, and was thereafter reconnected pursuant to this Commission's Decision No. 58822, on August 3, 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 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 the telephone was used as an instrumentality to violate or to aid and abet the violation of the law. The complainant is, therefore, entitled to telephone service.

O R D E R

The complaint of Allen J. Dirrett against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully

