

ORIGINAL

Decision No. 59116

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

R. H. WILLIAMS,

Complainant,

vs.

Case No. 6307

THE PACIFIC TELEPHONE AND TELE-
GRAPH COMPANY, a corporation,

Defendant.

Joseph T. Forno, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.

O P I N I O N

By the complaint herein, filed on July 10, 1959, R. H. Williams alleges that prior to February 3, 1959, he was the subscriber and user of telephone service furnished by defendant under number Plymouth 6-6592 at 1517 West El Segundo Boulevard, Gardena, California; that on or about February 3, 1959, the telephone facilities were removed and disconnected by the defendant pursuant to instructions by the Los Angeles County Sheriff's Office, which office caused complainant's wife, Mary Williams, to be arrested on said date on a charge of suspicion of violation of Section 337a of the Penal Code; that neither complainant nor his wife used the said telephone for any illegal purposes; and that complainant has made demand upon the defendant to have service restored, but that defendant has refused to do so.

On July 28, 1959, by Decision No. 58817 in Case No. 6307, the Commission ordered that the telephone service be restored to complainant pending a hearing on the complaint.

On August 6, 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 March 3, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number PLYmouth 6-6592, at 1517 West El Segundo Boulevard, Gardena, 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 on the complaint before Examiner Kent C. Rogers in Los Angeles on September 1, 1959.

The complainant testified that he owns and operates a grocery store at 1517 West El Segundo Boulevard; that in February 1959 deputies of the Sheriff's Office of Los Angeles County removed the telephone and arrested complainant's wife on suspicion of bookmaking; that neither complainant nor his wife ever used the telephone service for illegal purposes; and that complainant needs the telephone in the conduct of his business at the said address.

The County Counsel of Los Angeles County was notified of the hearing but made no appearance thereat.

Exhibit No. 1 is a copy of a letter from the Commander of the Vice Detail of the Los Angeles County Sheriff's Office to the

defendant, advising the defendant that complainant's telephone service was on February 27, 1959, being used for the purpose of disseminating horse racing information which was being used in connection with bookmaking in violation of Section 337a of the Penal Code; that the telephone was removed, and requesting that defendant disconnect the service. It was stipulated that this letter was received on March 3, 1959, that the service was disconnected on March 4, 1959, and that the service was reconnected pursuant to Decision No. 58817, supra, on July 31, 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.

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 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 R. H. Williams 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 and the findings herein,

IT IS ORDERED that the order of the Commission in Decision No. 58817, dated July 28, 1959, temporarily restoring telephone service to the complainant, be made permanent, such service 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 6th day of October, 1959.

Walter E. Hatchell President
E. J. Fox
Theodore J. Jenner
Commissioners

Everett C. McKeage
Commissioner ~~S. Matthew J. Dooley~~ being
necessarily absent, did not participate
in the disposition of this proceeding.