

ORIGINAL

Decision No. 59117

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CORTEZ V. BRANDON,

Complainant,

vs.

Case No. 6319

THE PACIFIC TELEPHONE AND TELEGRAPH
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 17, 1959, Cortez V. Brandon alleges that prior to May 16, 1959, he was a subscriber and user of telephone service furnished by defendant under number REpublic 3-2018, at 2251½ West 29th Street, Los Angeles, California; that on or about May 16, 1959, the telephone facilities of complainant were removed and disconnected by the defendant pursuant to instructions from the Bureau of Investigation, Los Angeles District Attorney's Office, which office caused Sarah Newman to be arrested on or about said date on a charge of conspiracy to commit a violation of Section 337a of the Penal Code; that complainant did not use and does not intend to use said telephone facilities as instrumentalities to violate or to aid or abet the violation of the law; and that complainant has made demand upon the defendant that it restore telephone service but defendant has refused and still refuses to do so.

On July 28, 1959, by Decision No. 58820, in Case No. 6319, 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 May 21, 1959, had reasonable cause to believe that telephone service furnished to complainant under number REpublic 3-2018, at 2251½ West 29th Street, 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 service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on September 1, 1959.

Complainant testified that he resides at 2251½ West 29th Street, Los Angeles; that he had a telephone at the address as stated; that he did not at any time permit any person to use the telephone for any illegal purposes; and that he did not give Sarah Newman authority to use the telephone for any purpose; that he needs the telephone and that if the telephone service remains in the premises, he will see that it is not used for illegal purposes.

A deputy city attorney was present at the hearing but presented no evidence.

Exhibit No. 1 is a copy of a letter from the Chief of the Bureau of Investigation of the Office of the District Attorney of

the County of Los Angeles to the defendant advising the defendant that the complainant's telephone services were, on May 16, 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 the defendant disconnect the services. It was stipulated that this letter was received by the defendant on May 21, 1959, and that the telephone was disconnected on May 26, 1959; that pursuant to Decision No. 58820, supra, it was reconnected on August 4, 1959; and that the telephone is now being used by the complainant. 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. The complainant is therefore entitled to telephone service.

O R D E R

The complaint of Cortez V. Brandon 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. 58820, 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.

(Signature) President

(Signature)

(Signature)

 Commissioners

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