

ORIGINAL

Decision No. 59348

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SAM CHERNOCK,

Petitioner,

vs.

Case No. 6348

PACIFIC TELEPHONE AND TELEGRAPH COMPANY,
a corporation,

Respondent.

Sam Chernock, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for respondent.
Roger Arnebergh, City Attorney, by William E. Doran,
for the Police Department of the City of Los
Angeles, intervener.

O P I N I O N

The complaint of Sam Chernock, filed on September 2, 1959, alleges that he resides at 7465 Hawthorn Avenue, Los Angeles, California; that he is a subscriber and user of telephone service furnished by respondent at said address; that on or about August 11, 1959, petitioner was advised by respondent that the respondent had received information that the telephone facilities furnished by respondent at petitioner's residence were used as an instrumentality to violate the law and that the respondent was disconnecting said facilities, and immediately thereafter the said facilities were disconnected by respondent; that the petitioner will suffer irreparable injury to his reputation and great hardship as a result of the

action of the respondent; that petitioner has no knowledge of the circumstances or facts upon which the respondent purports to have based its action in disconnecting said telephone facilities; and that said facilities were not used as an instrumentality to violate or to aid and abet the violation of the law.

On September 22, 1959, by Decision No. 59015 in Case No. 6348, the Commission ordered that the respondent temporarily restore telephone service to the petitioner pending a hearing on the petition.

On October 2, 1959, the respondent 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 August 17, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number Hollywood 9-1659, at 7465 Hawthorn Avenue, Los Angeles, California, was being or was to be used as an instrumentality to violate or to aid and abet the violation of the law, and that having such reasonable cause the respondent 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 November 3, 1959.

The petitioner testified that his home is on the premises at 7465 Hawthorn Avenue, Los Angeles; that on or about August 11, 1959, he received a call from a man who stated he was "Hal" and who attempted to give him a bet on a horse race; that at the time the conversation was going on the police entered the premises and

took his telephone; that he was arrested and the trial is now pending. He denied that his telephone was used for any illegal purposes, including bookmaking, and stated that on or about September 25, 1959, his telephone was reinstalled.

Exhibit No. 1 is a letter dated August 13, 1959, from the Commander of the Administrative Vice Division of the Police Department of the City of Los Angeles, advising the respondent that on August 11, 1959, petitioner's telephone under number HO 9-1659, at 7465 Hawthorne Avenue, was 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 had been confiscated, and requesting that the respondent disconnect the service. This letter was received by the respondent on August 17, 1959, and a central office disconnection was effected pursuant thereto on August 18, 1959, and thereafter service was reconnected pursuant to Decision No. 59015, supra. 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 Administrative Vice Detail of the City of Los Angeles testified that he and other officers went to the vicinity of petitioner's home on August 11, 1959; that an officer called the petitioner's home and gave a horse race bet which was accepted; that the witness and other

officers entered the petitioner's home; that at the time the petitioner was seated at a table writing on a pad and listening over the telephone; that on the pad was the recordation of the said horse race bet; that the witness picked up the telephone and the other officer identified himself and stated that he was making the call to the petitioner; and that the petitioner was arrested and the telephone was removed.

After full consideration of this record we now find that the action of the telephone company was based upon reasonable cause, as that term is used in Decision No. 41415, supra. We further find that the petitioner's telephone was used as an instrumentality to violate the law or in aiding or abetting the violation of the law in that it was used in connection with book-making.

O R D E R

The complaint of Sam Chernock 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 petitioner's request for restoration of telephone service is denied and that the temporary interim relief granted by Decision No. 59015, supra, is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the petitioner 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 petitioner's residence at 7465 Hawthorn Avenue, 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, this 8th day of December, 1959.

Charles D. Pease
 President

Walter H. ...

William ...

E. ...

Theodore ...
 Commissioners