

ORIGINAL

Decision No. 59350

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOHN BALFOUR,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 6353

John Balfour in propria persona.

Lawler, Felix & Hall, by A. J. Krappman, Jr., for
defendant.

Roger Arnebergh, City Attorney, by William E. Doran,
Deputy City Attorney, for the Los Angeles Police
Department, intervenor.

O P I N I O N

By the complaint herein, filed on September 22, 1959, complainant John Balfour of 2011 West 96th Street, Los Angeles, California, alleges that prior to September 3, 1959, he was a subscriber and user of telephone service furnished by defendant under number Pleasant (sic) 5-2540 at 2011 West 96th Street, Los Angeles, California; that on or about September 3, 1959, the telephone facilities of complainant were disconnected by defendant; that on or about September 3, 1959, police officers attached to the Vice Squad of the Los Angeles Police Department entered the premises where said telephone was located and accused Martha H. Balfour and Inez E. Van Fliet of engaging in bookmaking activities, which accusation

was denied by both parties; that no charges were ever filed against either party; that neither of said parties ever engaged in any illegal activity to complainant's knowledge; that neither complainant nor said parties ever used said telephone for any illegal purpose; that the complainant has suffered and will suffer irreparable injury and great hardship as a result of being deprived of said telephone facilities; that he did not and does not now intend to use said facilities to violate the law nor in aiding or abetting such violation.

On September 29, 1959, by Decision No. 59055, in Case No. 6353, the Commission ordered that the telephone service be restored to complainant pending a hearing on the complaint.

On October 8, 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 September 8, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number PLYmouth (sic) 5-2540 at 2011 West 96th 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 the 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 November 3, 1959.

The complainant stated that he had no knowledge of what transpired at the time the telephone was disconnected but that he

needs the telephone. His wife, Mrs. Martha H. Balfour, testified that on September 3, 1959, she and Inez Van Fliet were in the premises; that the telephone rang and shortly thereafter three police officers entered and arrested her and Inez Van Fliet on suspicion of bookmaking; that they removed the telephone; that the telephone has been reinstalled; and that if there was any illegal use of the premises it was without the witness's knowledge and consent.

Exhibit No. 1 is a letter dated September 4, 1959, from the commanding officer of the Administrative Vice Division of the Los Angeles Police Department to the defendant advising the defendant that on September 3, 1959, complainant's telephone under number PL 5-2540 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 was removed; and requesting that the defendant disconnect the service. This letter was received on September 8, 1959 and a central office disconnection was effected pursuant thereto on September 11, 1959, and service was reconnected pursuant to this Commission's Decision No. 59055, supra, on October 5, 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.

A police officer connected with the Vice Detail of the Los Angeles Police Department testified that on September 3, 1959, acting on information that the telephone in complainant's premises

was being used for illegal purposes, he and other officers went to complainant's premises and there arrested Martha Balfour and Inez Van Fliet; that there was bookmaking paraphernalia by the telephone on the premises; that the officers were on the premises approximately thirty minutes; and that the telephone rang thirteen times while they were there and on two occasions bets were received over the telephone, and on the other occasions the calling parties hung up.

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 complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horse racing.

O R D E R

The complaint of John Balfour 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 on the evidence of record,

IT IS ORDERED that the complainant's request for telephone service is denied and the temporary interim relief granted by Decision No. 59055 is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainant herein may file an application for telephone service and that if such

application is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 2011 West 96th Street, 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, California, this 8th day of December, 1959.

Ernest R. Page
President
W. H. (Bob) ...
William H. ...
E. J. Fox
Theodore J. ...
Commissioners