

ORIGINAL

Decision No. 59367

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOHN E. JOHNSON,
)
)
) Petitioner,
)
)
) vs.
)
) PACIFIC TELEPHONE AND TELEGRAPH
) COMPANY, a corporation,
)
) Respondent.
)

Case No. 6351

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

O P I N I O N

By the complaint herein, filed on September 15, 1959,
 petitioner alleges that his residence is 11835 Lemay Street,
 North Hollywood, California; that he is a subscriber and user of
 telephone service furnished by respondent at that address under
 number POplar 5-3470; that on or about June 20, 1959, the peti-
 tioner was advised by the respondent that the respondent had in-
 formation that the communication facility above described was
 being used as an instrumentality to violate the law and that the
 respondent was disconnecting the telephone; that thereafter said
 telephone was disconnected by the respondent; and that the pe-
 titioner needs the telephone and has suffered great hardship and

injury to his reputation as a result of the telephone being disconnected.

On September 29, 1959, by Decision No. 59079, in Case No. 6351, the Commission ordered that the telephone service be restored to the petitioner pending a hearing on the petition.

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 June 23, 1959, had reasonable cause to believe that telephone service furnished to petitioner under number POplar 5-3470 at 11835 Lemay Street, North Hollywood, 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 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 on November 9, 1959, in Los Angeles.

The petitioner testified that he resides with his wife and three children at 11835 Lemay Street, North Hollywood, California; that he is under a doctor's care and needs a telephone; and that there is no other telephone service available in the premises.

On cross-examination by the deputy city attorney, the petitioner stated that he was not taking bets at the time the telephone was removed but that he was acting as a relay spot and

forwarding bets for his friends only, and that this was usually over a pay phone rather than his private phone.

Exhibit No. 1 is a letter dated June 22, 1959, from the commanding officer of the Administrative Vice Division of the Los Angeles Police Department to the respondent advising the respondent that on June 20, 1959, petitioner's telephone under number PO 5-3470 at 11835 Lemay Street, North Hollywood, 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 removed; and requesting that the respondent disconnect the service. This letter was received by the respondent on June 23, 1959, and a central office disconnection was effected pursuant thereto on June 25, 1959, and service was reconnected pursuant to this Commission's Decision No. 59079, supra, on October 2, 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.

Two police officers, connected with the Vice Detail of the Los Angeles Police Department, testified that on June 20, 1959, they arrested the petitioner at his premises and removed the telephone; that prior to the arrest, and acting on information, they had called the petitioner and that after the arrest while they were on the petitioner's premises, the telephone rang on numerous occasions and the calling party would ordinarily hang up but that

on one occasion the calling party placed a horse race bet over the telephone.

In rebuttal the petitioner stated that his friends asked him to place horse race bets and that this is the only illegal use he makes of the telephone service.

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 petitioner'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 E. Johnson 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 petitioner's request for telephone service is denied and the temporary interim relief granted by Decision No. 59079 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 that if such application is made, The Pacific Telephone and Telegraph Company shall install telephone service at petitioner's residence at 11835

Lemay Street, North Hollywood, 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

Walter J. ...

Walter J. ...

E. J. ...

Theodore J. Jenner
 Commissioners