

Decision No. 59404

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARGARET MOORE and ROBERT MOORE,)
)
 Complainants,)
)
 vs.)
)
 PACIFIC TELEPHONE AND TELEGRAPH)
 COMPANY, a Corporation,)
)
 Defendant.)

Case No. 6369

Phillips and Powers, by William C. Powers,
 for the complainant.
 Lawler, Felix & Hall, by A. J. Krappman, Jr.,
 for the defendant.
 Roger Arnebergh, City Attorney, by Laurence
Corcoran, Deputy City Attorney, for the Los
 Angeles Police Department, intervener.

O P I N I O N

The complaint of Robert Moore alleges that he resides at 8830 Kittyhawk Avenue, Los Angeles, California; that on or about February 12, 1959, the Los Angeles Police Department charged Margaret Moore, the wife of the complainant, with violation of Section 337a of the Penal Code, bookmaking; that as a direct result, complainant's telephone was removed from his residence; that on May 22, 1959, Margaret Moore appeared in court in the Inglewood Superior Court and was fined \$50; that neither the complainant nor Margaret Moore, his wife, has ever actively engaged in bookmaking; that neither of them intends to engage in

said business in the future; and that complainant has requested of the defendant that it reinstall the telephone service, and defendant has refused to do so.

The original complaint was a joint complaint by Margaret Moore and Robert Moore. At the hearing it was developed that the subscriber was Robert Moore and at the request of the complainant, the complaint was amended to delete Margaret Moore as a complainant.

On October 29, 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 February 17, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number ORchard 2-4363 at 8830 Kittyhawk Avenue, 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 in Los Angeles on November 17, 1959, before Examiner Kent C. Rogers.

Margaret Moore, the wife of the complainant, testified that on or about February 12, 1959, she was home and her husband was at work; that on that day she was arrested by the Los Angeles Police for bookmaking; that subsequently on May 22, 1959, she paid

a \$50 fine for a misdemeanor; that she needs the telephone and that she will not permit it to be used for illegal purposes in the future. She further testified that she was accepting bets for her friends, but was getting no compensation therefor.

A police officer connected with the Los Angeles Police Department testified that on February 12, 1959, he and other officers went to the vicinity of the complainant's home; that he called the complainant's telephone number and that a woman answered the phone; that she accepted a horse race bet over the telephone; and that he and the other officers went to the premises and arrested the complainant's wife. He further testified that the voice he heard over the telephone was the voice of complainant's wife and that when he talked to her she denied having accepted the bet. This officer further testified that the complainant's wife told him that she received 15 or 20 bets a day over the telephone for her friends, but that she never received any money.

Exhibit No. 1 is a letter dated February 13, 1959, from the Commander of the Los Angeles Police Department Administrative Vice Detail, to defendant, advising defendant that on February 12, 1959, complainant's telephone ORchard 2-4363 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 defendant disconnect the service. This letter was received by defendant on February 17, 1959, and a central office disconnection was effected pursuant

thereto on February 24, 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 the 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 record shows that the telephone in question was used for bookmaking purposes, but that inasmuch as the telephone has been disconnected since February 12, 1959, and the user has paid the penalty prescribed by law, the telephone service will be reinstated.

O R D E R

The complaint of Robert Moore against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been hold thereon, the Commission being fully advised on the premises, and basing its decision on the evidence of record,

IT IS ORDERED that complainant's request for telephone service be granted and that upon the filing by complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's residence at 8830 Kittyhawk 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.

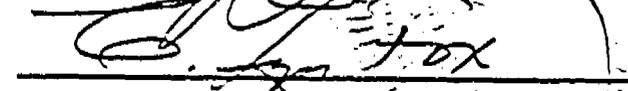
The effective date of the order shall be five days after the date hereof.

Dated at San Francisco, California, this 15th day of December, 1959.



President





Commissioners