

ORIGINAL

Decision No. 59968

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LEROY BOULWARE and  
RUTHIE BOULWARE,

Complainants,

vs.

Case No. 6410

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Ruthie Boulware, for complainants.  
Lawler, Felix & Hall by David A. Workman, for  
The Pacific Telephone and Telegraph  
Company, defendant.  
Roger Arnebergh, City Attorney, by Laurence R.  
Corcoran, Deputy City Attorney, for the  
Police Department of the City of Los  
Angeles, intervener.

O P I N I O N

By the complaint herein, filed on January 11, 1960,  
Leroy Boulware and Ruthie Boulware, husband and wife, request  
that the telephone service formerly furnished to them by the  
defendant, The Pacific Telephone and Telegraph Company, at 730 East  
102nd Street, Los Angeles, California, be ordered restored.

On January 26, 1960, by Decision No. 59558 in  
Case No. 6410, the Commission ordered that the telephone service  
be restored to the complainants pending a hearing on the matter.

On February 5, 1960, 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 18, 1959, had reasonable cause to believe that the telephone service furnished to Leroy Boulware under number Plymouth 4-0472 at 730 East 102nd Street, Los Angeles, California, was being used 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 on March 29, 1960, in Los Angeles before Examiner Kent C. Rogers.

Ruthie Boulware testified that she and Leroy Boulware are husband and wife; that Leroy Boulware on and prior to September 12, 1959, was the subscriber to telephone service furnished to complainants at their residence at 730 East 102nd Street, Los Angeles, California; that on or about September 12, 1959, she was in her house; that she received a phone call; that she said it was the wrong number; that the calling party called again; that she again hung up the telephone; and that soon thereafter the police came to the door and arrested her; that while the police were in the house there were several calls on the telephone; that the police took the telephone out; that she was released the same day; that she has not used the telephone for illegal purposes and desires and needs the telephone service.

On cross-examination by the Deputy City Attorney she testified that neither she nor her husband are bookmakers; that after the officers came in on the day of the arrest the telephone rang several times and that on that day the police found on the premises scratch sheets, racing forms and a book with the names of horses.

Exhibit No. 1 is a letter from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the defendant advising the defendant that on September 12, 1959, Leroy Boulware's telephone at 730 East 102nd Street, Los Angeles, California, was being used for the purposes of disseminating horse racing information which was used in connection with bookmaking in violation of Section 337a of the Penal Code; that the telephone had been removed by police officers; and requesting that the defendant disconnect the telephone service. This letter was received by the telephone company on September 18, 1959, a central office disconnection was effected pursuant thereto on September 22, 1959, and the service was restored on February 2, 1960, pursuant to this Commission's Decision No. 59558, 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 attached to the Newton Street Vice Division of the Los Angeles Police Department testified that

on September 12, 1959, acting on information that bookmaking was being performed at complainants' address, he and other officers went to the house; that he looked in the window and saw the complainant, Ruthie Boulware, at a formica top table on which were a telephone, a National Daily Scratch Sheet and a wet rag; that other officers knocked at the door and Ruthie Boulware wiped notations off of the table top; that he and other officers entered the premises and found therein bookmaking paraphernalia and records of bets, and a note book with wagers; that the formica table is frequently used in Los Angeles County for bookmaking purposes; that he was on the premises one hour during which time the telephone rang exactly 37 times; that he answered the telephone and that on all but one occasion the calling party hung up; that on one occasion a male voice said that the caller was not supposed to give an answer unless a woman answered the phone; and that in his opinion the premises were used for bookmaking purposes.

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 complainants' telephone was used as an instrumentality to violate the law or in aiding

and abetting the violation of the law in that it was used in connection with bookmaking.

O R D E R

The complaint of Leroy Boulware and Ruthie Boulware 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 complainants' request for restoration of telephone service be denied and that the temporary relief granted by Decision No. 59558, supra, be vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainants herein, or either of them, may file an application for telephone service and if such application is filed The Pacific Telephone and Telegraph Company shall install telephone service at the complainants' residence at 730 East 102nd 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 19th day of April, 1960.

Robert B. Page  
President  
W. E. Hatch  
W. E. Hatch  
E. Lynn Fox  
Theodore J. J. J.  
Commissioners