

ORIGINAL

Decision No. 60219

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ALFRED MORRIS,

Complainant,

vs.

Case No. 6438

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Joseph T. Forno for complainant.

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

Roger Arnebergh, City Attorney, by Arthur Karma, for
the Los Angeles Police Department, intervenor.

O P I N I O N

By the complaint herein, filed on March 22, 1960, the complainant, Alfred Morris, alleges that he resides at 1121 West 50th Street, Los Angeles, California, and that on or about February 16, 1960, the telephone facilities of the complainant were removed by the Los Angeles Police Department. He requests that the defendant be required to restore the telephone service.

By Decision No. 59875, dated April 5, 1960, in Case No. 6438, the Commission ordered that the defendant restore telephone service to the complainant pending hearing on the complaint.

On April 15, 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 February 19, 1960, had reasonable cause to believe that the telephone service furnished to Alfred Morris under number Pleasant 1-5921 at 1121 West 50th 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 on May 5, 1960, in Los Angeles, before Commissioner Theodore H. Jenner and Examiner Kent C. Rogers.

On behalf of the complainant it was stipulated that on February 16, 1960, police officers entered the complainant's premises at 1121 West 50th Street; that some person other than the complainant was seen leaving the premises; and that no arrest was made at the time. On behalf of the police department it was stipulated that if a certain police officer were called as a witness he would testify that on February 16, 1960, he called complainant's telephone number; that a male voice answered; that the police officer placed three horse race bets over complainant's telephone; that the said police officer and other officers immediately went to the complainant's premises and found the telephone torn out of the wall; and that no person other than the officers was present.

Exhibit No. 1 is a letter dated February 18, 1960, from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the defendant, advising the defendant that on February 16, 1960, complainant's telephone under number Pleasant 1-5921 and two extensions were 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 defendant disconnect the service. It was stipulated that this letter was received on February 19, 1960; that a central office disconnection was effected pursuant thereto on February 25, 1960, and that the service was reconnected pursuant to Decision No. 59875, supra, on April 11, 1960. The position of the telephone company was that it had acted with reasonable cause as that term is used in connection with 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 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 Alfred Morris 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. 59875 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 1121 West 50th 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 6th day of June, 1960.

[Signature]
President
[Signature]
Theodore James

Commissioners

Matthew J. Dooley
Commissioner S. C. Lyn Fox, being necessarily absent, did not participate in the disposition of this proceeding.