

Decision No. 60220

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JAMES R. BROWNLOW,

Complainant,

vs.

Case No. 6439

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Milton L. Most, for complainant.

Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for The Pacific Telephone and Telegraph
Company, defendant.

Roger Arnebergh, City Attorney, by Samual C.
Palmer, III, for the Los Angeles Police
Department, intervenor.

O P I N I O N

By the complaint herein filed with the Commission on March 23, 1960, James R. Brownlow requests an order that The Pacific Telephone and Telegraph Company be ordered to restore telephone service to his place of business at 166 North Main Street, Los Angeles, California.

By Decision No. 59874, dated April 5, 1960, in Case No. 6439, this Commission ordered that the defendant install temporary service to the complainant at said address pending a hearing on the complaint.

On April 7, 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 18, 1960, had reasonable cause to believe that the telephone service furnished to James R. Brownlow at 166 North Main Street, Los Angeles, California, under number MADison 8-7014, 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 on the complaint was held in Los Angeles on May 6, 1960, before Examiner Kent C. Rogers.

The complainant testified that he has a gift shop at 166 North Main Street, Los Angeles, California; that he has been in business at that location for two years; that he has had no prior arrest; that on February 11, 1960, at about 1:30 p.m., he and his sister, Ethel Jensen, were in the shop; that the telephone rang and she answered the telephone; that he had no knowledge of what the conversation was; that there has been no bookmaking on the premises or illegal use of the telephone; that he receives orders from his customers over the telephone; that on February 11, 1960, the police came in and arrested his sister.

Exhibit No. 1 is a letter dated February 17, 1960, from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the defendant advising the defendant that on February 11, 1960, complainant's telephone under number MADison 8-7014, at the Civic Center Gift Shop, 166 North Main Street, Los Angeles, California, was being used for the purposes 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, Exhibit No. 1, was received by the telephone company on February 18, 1960; that a central office disconnection was effected pursuant thereto on February 25, 1960; and that the service was reconnected pursuant to Decision No. 59874, supra, on April 7, 1960. 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 Central Vice Detail of the Los Angeles Police Department testified that on February 11, 1960, he saw a male, who was reading the racing section of the daily paper, write the names of horses and wagers on paper and telephone complainant's telephone number MADison 8-7014; that the police officer took the paper with the wagers from the male, and determined that the telephone number called was the number of the complainant's gift shop; that the witness then called the complainant's telephone number and placed horse race bets over the telephone with a female who answered the telephone; that the officers then entered the complainant's place of business and found the complainant's sister by the telephone; that she threw a piece of paper on the floor which showed the record of the bet called in by the witness over the telephone; that on the premises were racing forms, the National Daily Reporter scratch sheet and a non-professional type of betting marker; that the officers asked the sister how long she had been

taking bets and the sister said she did not take action for anyone but for her friends and that she did this when she was going to the horse race track. The officer further testified that while he and the other officer were in the premises the telephone rang on two occasions.

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 evidence shows that the complainant's telephone was used for illegal purposes, to-wit, the receiving of horse race bets, and that therefore the telephone service should be disconnected.

O R D E R

The complaint of James R. Brownlow 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,

IT IS ORDERED that the complaint for restoration of telephone service be denied and that the temporary interim relief granted by Decision No. 59874, dated April 5, 1960, in Case No. 6439, be and the same hereby is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of fifteen days after the effective date of this order the complainant herein may apply to the defendant for telephone service and, if such

application is filed, defendant shall restore telephone service to the complainant at his place of business at 166 North Main 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 five days after the date hereof.

Dated at San Francisco, California,
this 10th day of June, 1960.

[Signature]
President
[Signature]
[Signature]

Commissioners

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