

**ORIGINAL**

Decision No. 60222

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

THURMON JOHNSON,

Complainant,

vs.

Case No. 6446

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 31, 1960, the complainant, Thurmon Johnson, requests an order that the defendant be required to install telephone service at his premises at 2638 South Orange Drive, Los Angeles, California. By Decision No. 59910, dated April 12, 1960, in Case No. 6446, the Commission ordered that the defendant restore telephone service to the complainant pending a hearing on the complaint.

On April 25, 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 March 15, 1960, had

reasonable cause to believe that the telephone service furnished to complainant under number WEBster 1-4685 at 2638 South Orange Drive, Los Angeles, was being or was to be used as an instrumentality directly or indirectly to violate 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 May 5, 1960, before Commissioner Theodore H. Jenner and Examiner Kent C. Rogers.

The complainant, Thurmon Johnson, testified that he resides with his wife at 2638 South Orange Drive, Los Angeles, California; that on or about March 10, 1960, the telephone was used by a woman named Pricilla Thompson who was arrested and the telephone removed; that he did not give Pricilla Thompson authority to use the telephone for any illegal purposes and will not permit the telephone to be used for illegal purposes; that he needs a telephone and desires that it be reinstalled.

It was stipulated that if a police officer were called he would testify that on March 10, 1960, he was advised that complainant's telephone was being used as a relay spot in bookmaking; that he thereupon called complainant's telephone number; that he gave his number to the party, not complainant, who answered and that subsequently he received a call back from a party with whom he placed a horse racing bet.

It was further stipulated that after the call back police entered complainant's residence and found Pricilla Thompson therein. That while the officers were on the premises the telephone rang on several occasions and that when the officers answered they either had no response or the caller would just leave a number.

It was stipulated by the parties that no bets were placed over the complainant's telephone and that no felony complaint was filed against Pricilla Thompson.

Exhibit No. 1 is a letter from the Commanding Officer of the Administrative Vice Division to the defendant, advising the defendant that on March 10, 1960, complainant's telephone under number WEbster 1-4685 at 2638 South Orange Drive, Los Angeles, was being used for the purpose of disseminating horse racing information which was used in connection with bookmaking in violation of Section 337a of the penal code; that the telephone was removed by the police officer and requesting that the defendant disconnect the service. It was stipulated that this letter, Exhibit No. 1, was received on March 16, 1960, and that a central office disconnection was effected pursuant thereto on March 22, 1960, and that pursuant to this Commission's Decision No. 59910, supra, service was reconnected on April 21, 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 complainant's telephone inasmuch as it had received a 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 aid and assist the violation of the law in that it was used as a relay spot in connection with bookmaking.

O R D E R

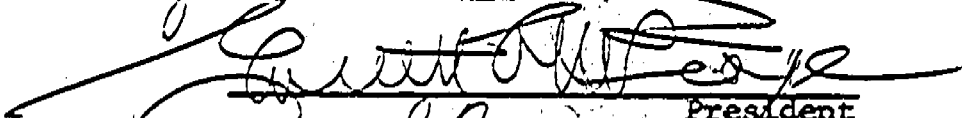
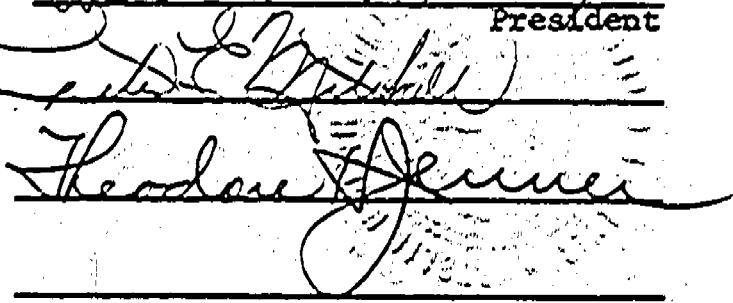
The complaint of Thurmon Johnson against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence of record,

IT IS ORDERED that complainant's request for telephone service is denied and the temporary interim relief granted by Decision No. 59910 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 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 2638 South Orange Drive, 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 1<sup>st</sup> day of June, 1960.

  
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President  
  
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Commissioners

Matthew J. Dooley

Commissioner C. Lynn Fox, being necessarily absent, did not participate in the disposition of this proceeding.