

ORIGINAL

Decision No. 60394

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HOMER D. BRUNER,

Complainant,

vs.

Case No. 6467

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Homer D. Bruner, in propria persona.
Lawler, Felix & Hall, by David A. Workman, for
the defendant.
Roger Arnebergh, City Attorney, by Arthur Karma,
Deputy City Attorney, for the Los Angeles
Police Department, intervenor.

O P I N I O N

By the complaint herein, filed on April 28, 1960, Homer D. Bruner requests the restoration of telephone service at his place of business at 417 East Sixth Street, Los Angeles, California.

By Decision No. 60056, dated May 9, 1960, in Case No. 6467, the Commission ordered that the defendant restore service to the complainant pending a hearing on the complaint herein.

On May 19, 1960, The Pacific Telephone and Telegraph Company, a corporation, 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 April 11, 1960, had reasonable cause to believe that the telephone service furnished to complainant under number MADison 9-9463 at 417 East Sixth 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 in Los Angeles on June 16, 1960, before Examiner Kent C. Rogers.

The complainant testified that he has a restaurant at 417 East Sixth Street, Los Angeles, California; that on or about April 11, 1960, he was in the premises with his cook; that the police entered and arrested him and his cook and removed the telephone; that at the time of the arrest he had a National Daily Reporter in his pocket and a pad of paper; that subsequent to his arrest the charges against him were dismissed; and that he does not use the telephone for illegal purposes.

Exhibit No. 1 is a letter dated April 7, 1960, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that complainant's telephone under number MADison 9-9463 at 417 East Sixth Street, Los Angeles, was on April 7, 1960, being used for the purposes of forwarding and receiving bets; requesting that the defendant disconnect the facilities; and advising that the telephone had been removed. The evidence shows that this letter was received on April 11, 1960; that a central office disconnection was effected pursuant thereto on April 26, 1960; and that pursuant to Decision No. 60056, supra, the telephone service was reconnected on May 17, 1960. It was the position of the telephone company 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 April 5, 1960, he went to complainant's restaurant on information that bookmaking was being practiced thereat; that the complainant had a conversation over the telephone and took out a scratch sheet and pad and made notations thereon and talked over the telephone at the same time; that he hung up and went to the table where a customer was seated and had conversations with this other person; that another person entered and talked to the complainant and the first party at a table in the restaurant; that this other party placed a horse racing bet with the man seated at the table and paid this man some money; that the witness thereafter arrested the complainant and took the pad from the complainant; that this pad contained notations of bets on horse races and was a nonprofessional-type betting marker; and that subsequently the complainant was acquitted of the charge.

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 being 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 Homer D. Brumer against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully informed in the premises and basing its decision upon the evidence of record and the findings herein,

IT IS ORDERED that complainant's request for restoration of telephone service be denied and that the temporary interim relief granted by Decision No. 60056 is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of fifteen days after the effective date hereof complainant may file an application for telephone service and that, if such application is filed, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's place of business at 417 East Sixth Street, Los Angeles, California, such restoration 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 12th day of July, 1960.

[Signature]
President

[Signature]
[Signature]

[Signature]

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.