

ORIGINAL

Decision No. 60426

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROBERT W. CONNOLLY and ROBERT W. CONNOLLY doing business as STATE PAINT COMPANY,

Plaintiff,

vs.

GENERAL TELEPHONE COMPANY OF CALIFORNIA, a corporation,

Defendant.

Case No. 6456

Cornwall and Westwick, by John A. Westwick, for complainant.

Albert M. Hart, H. Ralph Snyder, Jr., and Donald J. Duckett, by Donald J. Duckett, for defendant.

O P I N I O N

By the complaint herein, filed on April 15, 1960, Robert W. Connolly requests the restoration of telephone service at his place of business, State Paint Company, 621 State Street, Santa Barbara, California.

On May 4, 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 March 15, 1960, had reasonable cause to believe that the telephone service furnished to complainant at 621 State Street, Santa Barbara, 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 Santa Barbara on June 17, 1960, before Examiner Kent C. Rogers.

The complainant testified that he has a paint store at 621 State Street, Santa Barbara; that the name of the store is the State Paint Company; that on or about March 9, 1960, he was arrested at his place of business on a charge of conducting bookmaking and that his telephone was removed; that on March 21, 1960, he pleaded guilty to said charge, paid a fine of \$500 and received a six month's suspended jail sentence; that the telephone is necessary in his business; and that he has been without a telephone since his arrest on March 9, 1960.

Notice of hearing was sent to the City Attorney of the City of Santa Barbara, but said City Attorney made no appearance at the hearing.

Exhibit A of the answer to the complaint is a copy of a letter dated March 15, 1960, from the Chief of Police of the City of Santa Barbara to the defendant, advising the defendant that the complainant's telephone under number WO 6-6077 was on March 7, 8 and 10, 1960, 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 telephones had been confiscated; and requesting that the defendant disconnect the service.

It was stipulated that this letter was received by the defendant and that pursuant thereto the defendant disconnected the complainant's telephone service.

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 A.

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, but that the telephone is necessary in the conduct of complainant's business and that he has paid the penalty prescribed by law. It will, therefore, be ordered that the telephone service be reinstalled.

O R D E R

The complaint of Robert W. Connolly against the General Telephone Company of California, 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 complainant's request for telephone service be granted, and that upon the filing by complainant of an application therefor the defendant shall furnish telephone

service to complainant's place of business at 621 State Street, Santa Barbara, 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 26<sup>th</sup> day of July, 1960.

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President

*W. C. ...*

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*W. C. ...*

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*W. C. ...*

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*Theodore ...*  
Commissioners

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