

ORIGINAL

Decision No. 60486

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GORDON L. HERMAN,

Complainant,

vs.

Case No. 6473

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Gordon L. Herman, in propria persona.
Lawler, Felix & Hall, by David A. Workman, for
the defendant.
Roger Arnebergh, City Attorney, by Samuel C.
Palmer III, Deputy City Attorney, for the
Los Angeles City Police Department, intervener.

O P I N I O N

By the complaint herein, filed on May 3, 1960, Gordon L. Herman requests the restoration of telephone service at his home, 1016 Avalon Boulevard, Wilmington, California.

By Decision No. 60111, dated May 17, 1960, in Case No. 6473, the Commission ordered that the defendant restore telephone service to the complainant pending a hearing on the matter.

On May 31, 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 April 18, 1960, had reasonable cause to believe that the telephone service furnished

to complainant under number TErMinal 4-0727 at 1016 Avalon Boulevard, Wilmington, 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 is the subscriber to the telephone service; that on and prior to April 14, 1960, the telephone service was furnished by the defendant at his home address; that on April 14, 1960, he was arrested for bookmaking and the telephone was removed; that at the time of his arrest he was using the telephone for bookmaking purposes; that he needs the service and will not permit it to be so used in the future.

Exhibit No. 1 is a copy of a letter dated April 15, 1960, from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the defendant advising the defendant that complainant's telephone under number TErMinal 4-0727 at 1016 Avalon Boulevard, Wilmington, California, was on April 14, 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 telephone had been confiscated; and requesting that the defendant disconnect the service. It was stipulated that this letter was received by the defendant on April 18, 1960; that a central office disconnection was effected pursuant thereto on April 21, 1960; and that pursuant to Decision No. 60111, supra, service was reconnected on May 23, 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.

After full consideration of this record we find that the telephone company's action is 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 Gordon L. Herman 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 be denied and that the temporary interim relief granted by Decision No. 60111, dated May 17, 1960, be vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of ten 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 1016 Avalon Boulevard, Wilmington, 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 2nd day of August, 1960.

Ernest A. Bore
President
John P. Marshall
William H. Fisher
E. J. Fox
Theodore Janner
Commissioners