

**ORIGINAL**

Decision No. 60909

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LAVERN MCKENZIE,

Complainant,

vs.

Case No. 6584

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY, a corporation,

Defendant.

Joseph T. Forno and Arthur Lewis,  
for complainant.

Lawler, Felix & Hall, by A. J. Krappman, Jr.,  
for defendant.

Harold W. Kennedy, County Counsel, by Thomas A. Porter and Robert C. Lynch, for the Los Angeles County Sheriff's Department, intervenor.

O P I N I O N

By the complaint herein, filed on June 30, 1960, Lavern McKenzie requests the restoration of telephone service at her residence at 3127 Kansas Avenue, South Gate, California.

By Decision No. 60412, dated July 12, 1960, in Case No. 6584, the Commission ordered that the defendant restore service to the complainant pending a hearing on the complaint herein.

On July 21, 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 May 24, 1960, had reasonable cause to believe that the telephone service furnished to

complainant under number LOrain 7-7184 at 3127 Kansas Avenue, South Gate, 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, California, on August 10, 1960. The complainant failed to appear and, at the request of complainant's lawyer, the matter was continued for hearing to September 21, 1960. At said time a public hearing was held before Examiner Kent C. Rogers in Los Angeles.

The complainant testified that she has a room at 3127 Kansas Avenue, South Gate; that she is the subscriber to the telephone at said address furnished by the defendant; that on or about May 21, 1960, she was present when Dorothy Watkins, the owner of the premises, was arrested and the telephone was removed; that complainant has no knowledge of any illegal use of the telephone; and that she needs the telephone inasmuch as she is in poor health and must be in contact with her doctor.

Exhibit No. 1 is a letter dated May 22, 1960, from the Commander of the Vice Detail of the Los Angeles County Sheriff's Department to the defendant advising the defendant that the telephone under number LOrain 7-7184 at 3127 Kansas Avenue, South Gate, California, was on May 21, 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 May 24, 1960; that pursuant thereto a central office disconnection was effected on May 26, 1960; and that pursuant to Decision No. 60412, supra, the service was reconnected on July 13, 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 Deputy Sheriff connected with the Vice Detail of the Los Angeles County Sheriff's Department testified that on May 21, 1960, he and his partner, acting on information that a Dorothy Payne was conducting bookmaking operations at 3127 Kansas Avenue, South Gate, California, went to said premises, were admitted by a Portia McKenzie; that in the premises they found betting markers; that Dorothy Payne was in the premises and was accused of bookmaking, but she remained silent; that the officers were on the premises approximately 1½ hours and that the telephone rang between 30 and 40 times, but that the caller would hang up when the officers answered; that the complainant, Lavern McKenzie, was on the premises at the time; that she was not seen to make any writing on any paper; and that the charges against Dorothy Payne were dismissed at the preliminary hearing.

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 fails to show that the complainant's telephone was used for any illegal purpose. The complainant is, therefore, entitled to restoration of her telephone service.

O R D E R

The complaint of Lavern McKenzie 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 order of the Commission in Decision No. 60412, dated July 12, 1960, in Case No. 6584, temporarily restoring service to the complainant, be made permanent, 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 18<sup>th</sup> day of OCTOBER, 1960.

*Charles H. Boyer*  
 President

*Walter J. ...*

*...*

*Theodore James*  
 Commissioners