

ORIGINAL

Decision No. 61044

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MIRL D. PARKER,

Complainant,

vs.

Case No. 6979

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Joseph T. Forno, for the complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.
Harold W. Kennedy, County Counsel, by Peter R.
Kritchman, Deputy County Counsel, for the
Sheriff's Department of Los Angeles County,
intervenor.

O P I N I O N

By the complaint herein filed on September 16, 1960,
Mirl D. Parker requests the restoration of telephone service at
his residence, 417 West Emerson Avenue, Monterey Park, California.

By Decision No. 60792, dated September 27, 1960, in Case
No. 6979, the Commission ordered that the defendant restore tele-
phone service to the complainant pending a hearing on the matter.

On October 5, 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 July 27, 1960, had reason-
able cause to believe that the telephone service furnished to

complainant under number ATLantic 9-1408 at 417 West Emerson Avenue, Monterey Park, 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 on the complaint in Los Angeles, California, before Examiner Kent C. Rogers on October 21, 1960.

At the hearing the complainant failed to appear. It was stipulated that if the complainant were called as a witness he would testify exactly as set out in the complaint. In the complaint, in addition to complainant's name, address, and telephone number, it is alleged that prior to July 20, 1960, he was the subscriber and user of telephone service furnished by defendant under number ATLantic 9-1408 at 417 West Emerson Avenue, Monterey Park; that on or about July 20, 1960, his telephone was removed and disconnected by the defendant pursuant to instructions from the office of the Sheriff of Los Angeles County, which office caused complainant's wife, May Parker, to be arrested for violation of Section 337a of the Penal Code, bookmaking; that neither complainant nor his wife used or intend to use the telephone to violate the law; that complainant has demanded that the telephone be restored; and that the defendant refuses to do so.

Exhibit No. 1 is a letter dated July 20, 1960, from the Sheriff's Department of Los Angeles County to the defendant advising the defendant that the telephone under number ATLantic 9-1408 at 417 West Emerson Avenue, Monterey Park, California, was on July 20, 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 July 27, 1960; that pursuant thereto a central office disconnection was effected on August 5, 1960; and that pursuant to Decision No. 60792, supra, the service was reconnected on September 29, 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 July 20, 1960, he and other officers from the department went to complainant's home at 417 West Emerson Avenue, Monterey Park; that they advised the occupants they were police officers, and were admitted; that they arrested therein May Parker, defendant's wife; that in the home by the telephone they found a National Daily Report scratch sheet for the day of the arrest and betting markers; that while the officers were there the telephone rang on numerous occasions; that the officers answered the telephone and received horse race bets over the telephone; that in the premises the officers found a box of old betting markers and that the complainant stated they were in his handwriting; and that Mrs. Parker was arrested and the telephone was removed.

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 violate the law in that it was used for bookmaking purposes in connection with horse racing.

ORDER

The complaint of Mirl D. Parker 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 on the evidence of record,

IT IS ORDERED that the complainant's request for telephone service is denied and the temporary interim relief granted by Decision No. 60792 is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainant herein may file an application for telephone service and if such application is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 417 West Emerson Avenue, Monterey Park, 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 twenty days after the date hereof.

Dated at San Francisco, California, this 15th day of November, 1960.

Garrett A. DeLoach
 President

Walter D. Dill
Walter D. Dill
John F. ...
Theodore J. ...
 Commissioners