

ORIGINAL

Decision No. 61410

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ALFRED J. SGAMBELLONE,

Complainant,

vs.

Case No. 7011

PACIFIC TELEPHONE and TELEGRAPH
COMPANY, a corporation,

Defendants.

Labowe & Ventress, by Edwin K. Niles
for applicant.

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

Roger Arnebergh, City Attorney, by Bernard
Patrusky, Deputy City Attorney, for the
Los Angeles Police Department, intervener.

O P I N I O N

By the complaint herein, filed on November 9, 1960,
Alfred J. Sganbellone requests the restoration of telephone service
at his place of business, 13541 Ventura Boulevard, Sherman Oaks,
California.

By Decision No. 61114, dated November 22, 1960, in Case
No. 7011, the Commission ordered that the defendant restore tele-
phone service to the complainant pending a hearing on the matter.

On December 6, 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. 353), on or about October 21, 1960, had

reasonable cause to believe that the telephone service furnished to complainant under number State 4-9019 at 13541 Ventura Boulevard, Sherman Oaks, 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 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 before Examiner Kent C. Rogers on December 22, 1960.

The complainant testified that he is the proprietor of a barber shop at 13541 Ventura Boulevard, Sherman Oaks, California; that therein he has five chairs (Exhibit No. 1) with four other barbers, a porter, a manicurist, and a beautician; that the four barbers, the manicurist and the porter are his employees, but the beautician is an independent contractor; that he furnishes all facilities for all employees and the beautician, including the telephones; that the telephone service furnished by the defendant consisted of a semi-public pay telephone on the wall and an extension by each of the five barber chairs, plus an extension for the beautician; that on October 31, 1960, the telephone service was disconnected by the telephone company; that he uses the telephone service in his business; and that the manicurist needs the telephone for her appointments.

Exhibit No. 2 is a copy of a letter dated October 19, 1960, from the Acting Chief of Police of the City of Los Angeles to the defendant advising the defendant that the telephone service under number State 4-9019 and five extensions at complainant's place of business at 13541 Ventura Boulevard, Sherman Oaks,

California, are being used for receiving and forwarding bets in violation of the law. It was stipulated that this letter was received by the defendant on October 21, 1960; that pursuant thereto a central office disconnection was effected on October 31, 1960, and that pursuant to Decision No. 61114, supra, the service was reconnected on November 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. 2.

A police officer connected with the Administrative Vice Division of the Los Angeles Police Department testified that he resides in Sherman Oaks within one block of complainant's place of business; that on May 26, 1960, he went to complainant's establishment for a haircut; that during the course of having his hair cut by complainant he heard the radio broadcasting sporting events; that he mentioned that his wife attends horse races and the complainant advised him that if he was interested in horse race bets to see him; that the following day he returned to the barber shop and asked the complainant if the offer was still good; that the complainant said it was; that he then placed a horse race wager with the complainant; that the complainant thereupon went to the wall phone, placed a coin in the phone, called a number and said "Al for 19" and hung up; and that 15 minutes later the phone rang and the complainant placed with the calling party the horse race bet that the witness had given the complainant. The witness further testified that on July 23, 1960, he talked to the complainant and complainant told the witness that the porter would take

care of him; that he placed a bet with the porter who talked over the phone; that on August 9, 1960, he inquired concerning the prior bets and was told by the complainant that one had won and one had been scratched and paid him the money for the winning bet; that at his request the complainant kept the money, called a telephone number and placed a horse race bet for him over the telephone; that on September 27, 1960, the porter called a horse race bet for the witness using complainant's telephone; that subsequently the complainant inquired of the witness whether the bet had been placed for him and that on September 22, 1960, the porter placed a horse race bet from complainant's telephone for the witness; and that on October 11, 1960, he arrested the complainant for violation of Section 337a of the Penal Code, bookmaking.

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.

O R D E R

The complaint of Alfred J. Sgambellone 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 that the temporary interim relief


granted by Decision No. 61114 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 address at 13541 Ventura Boulevard, Sherman Oaks, 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 24th day of JANUARY, 1961.



President


Secretary

Commissioners