

ORIGINAL

Decision No. 61552

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ALEASE WASHINGTON,)
)
Complainant,)
)
vs.)
)
PACIFIC TELEPHONE & TELEGRAPH)
COMPANY, a California corpora-)
tion, DOES I, II, III and IV,)
)
Defendants.)

Case No. 6981

Albert Vieri, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Bernard
Patrusky, Deputy City Attorney, for Los
Angeles Police Department, Intervenor.

O P I N I O N

By the complaint herein, filed on September 23, 1960, Alease Washington requests an order of this Commission that the defendant, The Pacific Telephone and Telegraph Company, a corporation, be required to reinstall telephone service at her home at 3933 South Halldale Avenue, Los Angeles 62, California.

By Decision No. 60829, dated October 4, 1960, the Commission ordered that the defendant restore telephone service to the complainant pending hearing on the matter.

On October 17, 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 August 29, 1960, had reasonable cause to believe that the telephone service furnished to Alease Washington under number REpublic 3-4905 at 3933 South

Halldale Avenue, Los Angeles, 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.

A public hearing was held in Los Angeles on December 12, 1960, before Examiner Robert D. De Wolf.

Alease Washington testified that she is the subscriber to telephone service furnished by the defendant; that she has a laundry and janitor business and that a telephone is essential to her work. Mrs. Patricia Ann Houston testified that she lived with the complainant at times and used the telephone. Both of said witnesses testified that they, at no time, used said telephone for any illegal purpose and had no knowledge of the use of same by anyone else for bookmaking or other illegal purpose.

The Police Department of the City of Los Angeles appeared and intervened by Bernard Patrusky, Deputy City Attorney. Two police officers testified to an arrest for bookmaking at said address.

The record shows that the person arrested was a Theodore Nelson, who was there at the request of complainant to paint, paper and redecorate the premises. One of the officers stated that he placed bets by calling the telephone number in question. When the arresting officers entered the complainant's house, Nelson was using the telephone and one officer indicated that Nelson appeared to be making bets. There is no evidence that betting markers or similar writings were found nor that there were any incoming calls for bets. A copy of the Mirror News was found which had bets marked on it, but it did not include the bets which were said to have been placed by the police officer.

Exhibit No. 1 is a letter dated August 26, 1960, from the Commander of the Vice Division of the Police Department of Los Angeles to the defendant advising the defendant that the telephone furnished to Alease Washington under number REpublic 3-4905 was, on August 23, 1960, being used for the purpose of disseminating horse-racing information which was being used in connection with book-making in violation of Section 337a of the Penal Code, and requesting that the telephone company disconnect the service. An employee of the telephone company testified that this letter was received on August 26, 1960, and that pursuant thereto a central office disconnection was effected on September 8, 1960. The position of the telephone company was that it has acted with reasonable cause as that term is used in Decision No. 41415, 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 was based upon reasonable cause as that term is used in Decision No. 41415. While it is true that a police officer testified that he called the telephone number herein concerned and placed bets, there is countervailing evidence that the telephone was not unlawfully used. This latter evidence we find more convincing than the testimony of said police officer. We, therefore, find that said telephone was not unlawfully used, and that therefore the complainant is entitled to restoration of telephone service.

O R D E R

The complaint of Alease Washington 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 herein,

IT IS ORDERED that the order of the Commission in Decision No. 60829, dated October 4, 1960, in Case No. 6981, temporarily restoring telephone 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 21st day of February, 1961.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners