

Decision No. 61654

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HENRY MOORE,

Complainant,

vs.

Case No. 7008

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Joseph Forno and Arthur Lewis, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.

Roger Arnebergh, by Bernard Patrusky, for the
Los Angeles Police Department, intervenor.

O P I N I O N

By the complaint herein, filed on November 3, 1960,
Henry Moore requests the restoration of telephone service at his
residence, 4521 South Vermont Avenue, Los Angeles, California.

By Decision No. 61084, dated November 22, 1960, in
Case No. 7008, the Commission ordered that the defendant
The Pacific Telephone and Telegraph Company, a corporation, restore
telephone service to the complainant pending a hearing on the
complaint herein.

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. 853), on or about November 8, 1960, had reasonable cause to believe that the telephone service furnished to the complainant under number ADams 4-6461 at 4521 South Vermont, Los Angeles, 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 noticed for December 21, 1960, in Los Angeles, and on said date the matter was continued to January 27, 1961, before Examiner Kent C. Rogers in the Los Angeles office of this Commission, at which time and place the matter was heard.

The complainant testified that on and prior to November 2, 1960, he was the subscriber to the telephone service in the rear room of the said address; that this rear room was his residence; that he had never used the telephone therein for bookmaking purposes and was never connected with bookmaking; and that he needs the telephone. The witness further testified that he is employed as a truck driver during the day and that after five o'clock at night he comes home to the premises and works as an apprentice barber for Emma Lee Samuels in her barbershop in the front of the premises.

Exhibit No. 1 is a letter, dated November 7, 1960, from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the defendant advising the defendant that the telephone of complainant under number

AD 4-6461 at 4521 South Vermont, Los Angeles, California, was, on November 2, 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 telephone company on November 8, 1960, that a central office disconnection was effected on November 11, 1960, and that pursuant to Decision No. 61084, supra, 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. 1.

A police officer connected with the vice detail of the Los Angeles Police Department testified that, between May 1, 1960, and October 30, 1960, in the back room of the barbershop at 4521 South Vermont Avenue, which room was allegedly occupied by the complainant, there were only two stacked couches, both broken, several broken chairs and a table in addition to the telephone; that the only clothes in the closet in the back room were barber smocks and sport coats; that on the occasions of his frequent visits to the barbershop as a police officer he saw a man named Frank Singleton on numerous occasions; that on November 2, 1960, he entered the barbershop and observed Frank Singleton by Emma Lee Samuels' telephone; that Emma Lee Samuels' telephone rang and Frank Singleton picked up the telephone; that the witness

listened on one of the extensions and the calling voice placed a horse race bet over the telephone; that in the barbershop premises there was a National Daily Reporter for that date; and that he arrested Frank Singleton and Emma Lee Samuels in the barbershop but no complaint was filed.

There is no evidence to show that there was any illegal use made of the complainant's telephone.

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, supra. We further find that the evidence fails to show that the complainant's telephone was used for any illegal purposes and for that reason the telephone service will be continued.

O R D E R

The complaint of Henry Moore 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. 61084, dated November 22, 1960, in Case No. 7008, 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 14th day of March, 1961.

John R. ...
 President

E. ... Fox

George F. ...

Frederick B. Holoboff
 Commissioners

Everett C. McKeage
Commissioner....., being necessarily absent, did not participate in the disposition of this proceeding.