

ORIGINAL

Decision No. 61917

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ASA E. REED and DORA REED,
Complainants,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,
Defendant.

Case No. 7040

Rose Hemperley, for complainants.
Lawler, Felix & Hall, by A. J. Krappman, Jr., for
defendant.
Harold W. Kennedy and Gordon W. Treharne, for the Los
Angeles County Sheriff's Department, intervener.

O P I N I O N

By the complaint herein, filed on December 21, 1960, Asa E. Reed and Dora Reed request an order of this Commission that the defendant, The Pacific Telephone and Telegraph Company, a corporation, be required to reinstall telephone service at 1280 No. Rowan Avenue, Los Angeles, California, in the name of Asa E. Reed.

By Decision No. 61329, dated January 10, 1961, the Commission ordered that the defendant restore telephone service to the complainant pending hearing on the matter.

On January 18, 1961, 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 October 18, 1960, had reasonable cause to believe that the telephone service furnished to

Asa E. Reed under number ANgeles 1-8478 at 1280 No. Rowan 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 March 10, 1961, before Examiner Robert D. DeWolf.

Exhibit No. 1 is a letter dated October 14, 1960, from William R. Hayes, Captain, Vice Detail, Office of the Sheriff of Los Angeles County, to the defendant advising the defendant that the telephone furnished to Asa E. Reed under number ANgeles 1-8478 was 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, and requesting that the telephone company disconnect the service. The position of the telephone company was that it had 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.

Mr. Reed testified that he and his wife were arrested on October 14, 1960, and accused of taking bets on football games and that the telephone was removed from the premises; that they were both taken to jail and posted bond, and that at their trial they were both acquitted of the charge.

Mrs. Reed testified that shortly before the arrest the phone rang and she answered it. The calling party asked for George and said he wanted to get the odds on the Southern California football game. She said that she would give George the message and the

phone number when she saw him. She testified that George was a nephew who had been living with them while recovering from hospitalization, that he had moved two weeks previously, and that they saw him frequently. They had also had painters working on the premises for several days.

A deputy sheriff testified that he had phoned the Reed number prior to the arrest to contact George and place bets on a football game, but could not identify the voices on the line and did not place any bets. The officer testified that his partners entered before he arrived and made the arrest. The officer testified that he found no betting markers or racing forms on the premises; that near the phone was a sports section of the newspaper, some pencils, and a list of phone numbers, and none of these were connected with betting on horse races or football games. The officer did not identify the Reeds as being engaged in any of the betting on football games or horse racing, and no other evidence of such activity was offered.

The parties stipulated that Dora Reed is not a proper party to this proceeding for the reason that she is not a subscriber to the telephone, and as to her the complaint should be dismissed.

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, and we further find that the evidence fails to show that the complainant's telephone was used for any illegal purpose, and that therefore the complainant is entitled to restoration of telephone service.

O R D E R

The complaint of Asa E. Reed 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. 61329, dated January 10, 1961, in Case No. 7040, 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 1st day of May, 1961

[Signature]
President

[Signature]

George G. Grover

Fredrick B. Holloff
Commissioners