

ORIGINAL

Decision No. 62483

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CHIYOMITSU MARUYAMA,
Complainant,

vs.

Case No. 7094

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

Joseph T. Forno, by Arthur Lewis, for complainant.
Lawler, Felix & Hall, by Charles L. Rogers,
for defendant.
Roger Arnebergh, City Attorney, by Bernard
Patrusky, for the Police Department of the
City of Los Angeles, intervener.

O P I N I O N

By the complaint herein, filed April 11, 1961, Chiyomitsu Maruyama requests an order of this Commission that the defendant, The Pacific Telephone and Telegraph Company, a corporation, be required to reinstall telephone service at his place of business at 814 W. Temple St., Los Angeles, California. The Commission, by Decision No. 61880 in this proceeding, dated April 25, 1961, ordered defendant to restore telephone service to the complainant pending a hearing on the matter.

On May 3, 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, on or about

March 27, 1961, had reasonable cause to believe that the telephone service furnished to Chiyomitsu Maruyama under number MADison 5-0184 at 814 W. Temple Street, 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 July 14, 1961, before Examiner Robert D. DeWolf.

Chiyomitsu Maruyama testified that he is the subscriber and user of telephone service furnished by defendant under number MADison 5-0184 at said address; that complainant did not use and does not now intend to use said telephone facility as an instrumentality to violate the law nor in aiding or abetting such violation; that the telephone is necessary in the operation of his cleaning and pressing business; that he is the owner of the business and rents the premises, and that his wife works in the business with him.

The Police Department of the City of Los Angeles appeared and intervened by Bernard Patrusky, deputy city attorney.

Exhibit No. 1 is a letter dated March 23, 1961, 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 Chiyomitsu Maruyama under number MADison 5-0184, 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.

An officer from the Los Angeles Police Department testified that he had observed the premises of complainant 52 times, and on March 11, 1961, entered the premises, arrested the complainant and took a betting marker from his possession which he had torn in two pieces. The phone rang several times while he was on the premises and complainant answered on the extension phone, stating "no do business today." Another officer was qualified as a translator of Japanese and testified that certain writings on slips of paper found on the premises were bets on horse races.

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 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 Chiyomitsu Maruyama 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 complainant's request for telephone service is denied and that the temporary interim relief granted by Decision No. 61880 is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of sixty days after the effective date of this order the complainant herein may file an application with the utility for telephone service, and, if such application is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's address at 814 W. Temple Street, Los Angeles, 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 29th day of AUGUST, 1961.

Charles H. Rapp
 President

John J. [unclear]

E. J. Fox

George J. Crover

Fredrick B. Holbert
 Commissioners