

ORIGINAL

Decision No. 63332

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

NORMAN L. CARO,

Complainant,

vs.

Case No. 7226

THE PACIFIC TELEPHONE  
AND TELEGRAPH COMPANY,  
a corporation,

Defendant.

Joseph T. Forno, for complainant.  
Lawler, Felix & Hall, by A. J. Krappman, Jr.,  
for defendant.  
Roger Arnebergh, by Charles W. Sullivan, for  
the Police Department of the City of Los  
Angeles, intervener.

O P I N I O N

By the complaint herein, filed on November 8, 1961,  
Norman L. Caro requests an order of this Commission that the defend-  
ant, The Pacific Telephone and Telegraph Company, a corporation, be  
required to reinstall telephone service at his home at 5028 Maplewood  
Avenue, Los Angeles, California.

By Decision No. 62822, dated November 21, 1961, the Com-  
mission ordered that the defendant restore telephone service to the  
complainant pending hearing on the matter,

On November 30, 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 November 8, 1961, had reasonable cause to believe that the telephone service furnished to Norman L. Caro under number HOLLYWOOD 4-4840 at 5028 Maplewood 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 January 31, 1962, before Examiner Robert D. DeWolf, and the matter was submitted on the same date.

The complainant testified that his telephone is located at his desk in the front room of his residence; that he uses the phone in conducting his investments and in collecting rents from his rental properties; and that he has three extensions at other places in the house for convenience in answering the telephone. His wife has another telephone with two extensions in the house for her convenience. He testified that he was not engaged in bookmaking but goes to the race track at times, and that there were no horses running locally at the time. He testified that he has a hobby of studying football ratings and handicapping football games. He further testified that the officers approached him in his front yard on November 3, 1961, with a search warrant, and that he took them to the front door and rang the doorbell and asked his wife to admit them. As a result he was charged with bookmaking and found not guilty, and later all items of property which were seized by the police were returned to him with the exception of three very old lottery tickets.

Exhibit No. 1 is a letter dated November 6, 1961, from the Police Department of the City of Los Angeles to the defendant, advising that the telephone furnished to Norman L. Caro under number HOLLYWOOD 4-4840 and three extensions at 5028 Maplewood Avenue, were being used for the purpose of disseminating horse racing information in violation of Section 337a of the Penal Code, and requesting that the telephone company disconnect the service. Pursuant thereto a central office disconnection was effected.

Plaintiff and defendant stipulated that testimony of a police officer in Case No. 7227 be admitted in evidence in this case. Said police officer testified that he and other officers conducted a search of the premises at 5028 Maplewood Avenue, Los Angeles, California, with a search warrant, and arrested complainant. After entry of the premises, the telephone rang nine times in an hour and fifteen minutes. Another officer first answered the phone at the front room desk and wrote on a slip of paper "two across on Wondersong in the fifth". The officer also testified that he answered the same telephone two times, and that immediately after he said "hello" the calling party hung up and there was no conversation. The officer testified that he searched the premises and found racing sections of Los Angeles papers in the front room. An extension phone was in the garage and two racks, commonly used for sorting race track bets and markers, were in the garage but were empty. None of the nine phones had a phone number on the dial.

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. 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 Norman L. Caro 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,

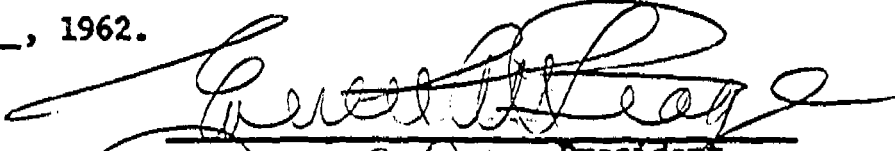
IT IS ORDERED that the complainant's request for telephone service is denied, and that the temporary interim relief granted by Decision No. 62822, dated November 21, 1961, is vacated and set aside.

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 for telephone service, and if such application is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's address at 5028 Maplewood Avenue, Los Angeles, California, such installation

being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

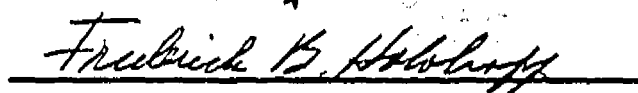
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 26th day of FEBRUARY, 1962.

  
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President

  
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Commissioner

  
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Commissioner George G. Grover - being necessarily absent, did not participate in the disposition of this proceeding.