

**ORIGINAL**

Decision No. 63368

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GEORGE KENNETH LUCKEY,  
 Complainant,  
 vs.  
 GENERAL TELEPHONE COMPANY, Santa  
 Monica, California  
 Defendant.

Case No. 7253

Sull Lawrence and David C. Korman, by David C. Korman, for complainant.  
Donald J. Duckett, for defendant.  
 Eugene L. Mueller, Chief of Police, by Sgt. Norman K. Traub, Culver City Police Department, intervener.

O P I N I O N

By the complaint herein, filed on December 13, 1961, George Kenneth Luckey requests an order of this Commission that the defendant, General Telephone Company of California, a corporation, be required to reinstall telephone service at 12406 Washington Boulevard, Culver City, California.

By Decision No. 62945, dated December 19, 1961, the Commission ordered that the defendant restore telephone service to the complainant pending further order.

On January 8, 1962, 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 17, 1961, had reasonable cause to believe that the telephone service furnished to George Kenneth Luckey under number EX 7-3588 at 12406 Washington Blvd., 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 February 7, 1962, before Examiner Robert D. DeWolf, and the matter was submitted on the same date.

Complainant testified that he is in great need of a telephone on account of his physical condition and submitted a report from his doctor, Exhibit No. 1 in evidence, showing that he is under medical care for diabetes, mellitus, bilateral amputate, and peptic ulcer with a history of perforation. Complainant testified that he has not used the telephone for any unlawful purposes and that he has never been arrested for gambling. Complainant walks with the aid of two artificial limbs.

Defendant offered in evidence a letter dated August 17, 1961, a copy thereof attached to the answer was substituted therefor and marked Exhibit No. 2, from the Chief of Police of Culver City to the defendant advising the defendant that the telephone furnished to George Kenneth Luckey at 12406 Washington Blvd., under number EX 7-3588 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. 2.

A sergeant of police appeared and intervened on behalf of the Police Department of Culver City and testified that he is in charge of the record bureau of said Police Department and requested permission to testify from the arrest record, which request was denied. The sergeant then testified that he was present at the time of the arrest of this complainant and found betting markers on the premises but that he did not see or hear the telephone used in any violation of law.

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; that the evidence fails to show that the complainant's telephone was used for any illegal purpose; and that the complainant is entitled to restoration of telephone service.

O R D E R

The complaint of George Kenneth Luckey against General Telephone 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. 62945, dated December 19, 1961, in Case No. 7253, 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 10th day of MARCH, 1962.

*C. W. Rogers*  
 President

*[Signature]*

*[Signature]*

*George H. Traver*

*Fredrick B. Hallock*  
 Commissioners