

ORIGINAL

Decision No. 63594

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CHESTER NELSON,
 Complainant,
 vs.
 THE PACIFIC TELEPHONE
 AND TELEGRAPH COMPANY,
 a corporation,
 Defendant.

Case No. 7271

Joseph T. Forno, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
 for defendant.
Roger Arnebergh, City Attorney, for City of
 Los Angeles, intervener.

O P I N I O N

By the complaint herein, filed on January 23, 1962, Chester Nelson requests the restoration of telephone service at his home, 5421 South Normandie Ave., Los Angeles, California.

By Decision No. 63175, dated January 26, 1962, in Case No. 7271, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On February 7, 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 January 9, 1962, had reasonable cause to believe that the telephone service furnished to complainant under number Pleasant 9-9316, at 5421 South

Normandie 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 on the complaint in Los Angeles before Examiner Robert D. DeWolf on March 21, 1962, and the matter was submitted on the same date.

Exhibit No. 1 is a copy of a letter dated January 8, 1962, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that the telephone service under number PL 99316, at 5421 S. Normandie Ave., is being used for the purpose of disseminating horse racing information and 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.

Complainant, Chester Nelson, testified that he has need for telephone service at his home in connection with his employment, and that he does not use the phone for bookmaking or any unlawful purpose. He has allowed friends visiting at his residence to use the phone but not for any unlawful use.

A police officer testified that he entered the premises of complainant on January 5, 1962, about 3:00 P.M., and found the complainant and five others on the premises. On the table there

were scratch sheets and racing forms. A damp cloth, a pencil, and betting markers were on the sink next to the telephone. The officer testified that he and his partners were on the premises for about an hour, during which time the phone rang about ten times and the calling party hung up each time the phone was answered by the officer, except once when the calling party asked to make bets on horses running in the seventh and eighth races at Santa Anita on January 5, 1962.

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 Chester Nelson 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 on the evidence of record,

IT IS ORDERED that the complainant's request for telephone service is denied and that the temporary interim relief granted by Decision No. 63175 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 5421 South Normandie 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 24th day of APRIL, 1962.

John C. McKeago President
E. J. Fox
George J. Grover
Frederick B. Hallock Commissioners

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