

ORIGINAL

Decision No. 642SS

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Charlie A. Maio,
Complainant,
vs.
Pacific Telephone Company,
Defendant.

Case No. 7371

Charlie A. Maio, in propria persona.
Gray, Cary, Ames & Frye, by Rudi M. Brewster, for defendant.

O P I N I O N

By the complaint herein, filed on June 1, 1962, Charlie A. Maio requests an order of this Commission that the defendant, Pacific Telephone Company, be required to reinstall telephone service at his home at 2141 Logan Avenue, San Diego 12, California.

On June 20, 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, 1960, had reasonable cause to believe that the telephone service furnished to Charlie A. Maio under number BELmont 9-6326, at 2141 Logan Avenue, San Diego, 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 San Diego on August 14, 1962, before Examiner Robert D. DeWolf, and the matter was submitted on the same date.

Complainant testified that he has great need of telephone service in his business as a shoe service and repair shop; that he has been without service for two years; and that he does not intend to use the telephone for any unlawful purpose. Complainant admitted that he was arrested in August, 1960, for bookmaking and that he is on probation which is almost completed. Complainant testified that he has not since engaged in any form of bookmaking or other violation of the law.

There was no appearance or testimony offered on behalf of any law enforcement agency.

Exhibit No. 1 is a letter dated August 10, 1960, from the Police Department of the City of San Diego to the defendant, advising that the telephone furnished to Charles Maio under number Belmont 9-6326 at 2141 Logan Avenue, San Diego, California, was 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.

After full consideration of this record the Commission finds and concludes 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 discloses the complainant's telephone was used for bookmaking purposes; that the complainant has been without the use of a telephone for two years; and that he ✓

is completing his probation. Telephone service should be restored to complainant. ✓

ORDER

The complaint of Charlie A. Maio 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 complainant's request for telephone service is granted, and that, upon the filing by the complainant of an application with the utility for telephone service, The Pacific Telephone and Telegraph Company shall reinstall telephone service at the complainant's home at 2141 Logan Avenue, San Diego, 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 five days after the date hereof.

Dated at San Francisco, California, this 25th day of September, 1962.

George H. Grover
President
[Signature]
[Signature]
[Signature]
Frederic B. Halaloff
Commissioners