

ORIGINAL

Decision No. 66951

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RICHARD ALBERT SULLIVAN,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY,)
 a corporation,)
)
 Defendant.)

Case No. 7617

Dan O'Neill, for complainant.
Lawler, Felix & Hall, by John M. Maller,
 for defendant.
Roger Arnebergh, City Attorney, by Herbert
Blitz, for the Police Department of
 the City of Los Angeles, intervener.

O P I N I O N

Complainant seeks restoration of telephone service at 444-1/2 North Lake Street, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 65413, dated May 21, 1963).

Defendant's answer alleges that on or about January 3, 1963, it had reasonable cause to believe that service to Albert Sullivan under number DU 7-4742 was being or was to be used as an instrumentality directly or indirectly to violate or aid and abet violation of law, and therefore defendant was required to disconnect service pursuant to the decision in Re Telephone Disconnection, 47 Cal. P.U.C. 853.

The matter was heard and submitted before Examiner DeWolf at Los Angeles on January 24, 1964.

By letter of December 28, 1962, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number DU 74742 was being used to disseminate horse-racing information used in connection with bookmaking in violation of Penal Code Section 337a, and requested disconnection (Exhibit 1).

Complainant testified that his wife is under a doctor's care for gall bladder trouble and has been seriously ill for five years and often bedridden. Complainant further testified that he was arrested and his telephone removed in December of 1962 and was not restored until May of 1963, and that he paid a fine for violation of Section 337a of the Penal Code.

Complainant testified that he has great need for telephone service, and will not use the telephone for any unlawful purpose.

A deputy city attorney appeared and cross-examined the complainant.

We find that defendant's action was based upon reasonable cause, and that 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. We further find that complainant has paid a fine, that his phone was disconnected more than five months, and that it is necessary that complainant's wife residing on the premises have telephone service available because of the condition of her health.

The Commission concludes that complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 65413, temporarily restoring service to complainant, is made permanent, subject to defendant's tariff provisions and existing applicable law.

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

Dated at San Francisco, California, this 17th day of March, 1964.

Stallman W. Bennett
President

George H. Grover
Friedrich B. Halbwitz

Commissioners

Peter E. Mitchell

Commissioner _____
present but not voting.

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