

ORIGINAL

Decision No. 68383

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOHNNIE GILMORE,
Complainant,

Case No. 8007

vs

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,
Defendant.

Mrs. Johnnie Gilmore, in propria persona.
Lawler, Felix & Hall, by Robert C. Coppo,
for defendant.

Roger Arnebergh, City Attorney, by James
Henry Kline, 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 2128 W. 81st Street, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 67925, dated September 30, 1964).

Defendant's answer alleges that on or about August 11, 1964, it had reasonable cause to believe that service to Johnnie Gilmore, under number 758-1031 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 October 29, 1964.

By letter of August 10, 1964, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number PL 8-1031 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).

Mrs. Myrtis Gilmore testified that she is the wife of the complainant and has read the complaint; that all of the allegations in said complaint are true and that she desires to join in said complaint for restoration of telephone service. Mrs. Gilmore testified that her husband was at work and did not want to lose a day's wages in order to attend the hearing. Mrs. Gilmore testified that she rented a room to a tenant who had a telephone installed and that officers broke in and took out all the telephones, but that their telephone was not used for bookmaking and no evidence thereof was found on her premises.

Mrs. Gilmore testified that her husband lost work and income when the telephone was disconnected and that telephone service is needed to keep in touch with his employer.

Mrs. Gilmore further testified that she did not know of any unlawful use of the telephone by her tenants; that she has great need for telephone service, and she did not and will not use the telephone for any unlawful purpose.

A deputy city attorney appeared and cross-examined the complainant, but no testimony was offered on behalf of any law enforcement agency.

We find that defendant's action was based upon reasonable cause, and that the evidence fails to show the telephone was used for any illegal purpose. Complainant is entitled to restoration of service. Mrs. Myrtis Gilmore is joined as a party complainant.

O R D E R

IT IS ORDERED that Decision No. 67925, dated September 30, 1964, 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 22nd day of DECEMBER, 1964.

Frederick B. Halshoff
President

[Signature]

[Signature]

George H. Brown

William M. Bennett
Commissioners