

ORIGINAL

Decision No. 68449

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

James Thomas,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Case No. 8008

James Thomas, 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 5514 South Hoover Street, Los Angeles 37, California. Interim restoration was ordered pending further order (Decision No. 67926, dated September 30, 1964).

Defendant's answer alleges that on or about June 1, 1964, it had reasonable cause to believe that service to James Thomas, under number 759-4044 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 May 29, 1964, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number PL 9-4044 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 he has great need for telephone service in getting work; that he suffers from a heart condition and needs telephone service to call a doctor when necessary. Complainant further testified that he has a roomer staying with him who pays part of the rent and has his own telephone; that at the time of the removal of complainant's telephone he was across the street at a store; and that his roomer was arrested with another person on the premises. Complainant testified that he cannot read or write; that his complaint was prepared for him and read to him; and that the statements therein are true.

Complainant further testified that no complaint was filed against him for bookmaking or unlawful activities; that there are no pending charges against him; that he has great need for telephone service; and that he did not and will not use the telephone for any unlawful purpose or permit its use by others for such purposes.

A deputy city attorney appeared and examined the complainant, and a police officer testified as to the removal of both telephones and the finding of horse-race betting equipment, racing forms and betting markers on the premises and that the telephones rang on the premises and the calling parties called for the roomer. The police officer testified that the equipment found indicates that the premises have been used for bookmaking operations for a considerable length of time.

We find that defendant's action was based upon reasonable cause, and the evidence fails to show that the telephone was used by complainant for any illegal purpose, but that the telephones were used by others on the premises as an instrumentality to violate the law in that they were used for bookmaking purposes in connection with horse racing.

Complainant is suffering from a heart condition and needs telephone service and did not engage in the bookmaking. The Commission concludes that complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 67926, 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 12th day of January, 1965.

Fredrick B. Hallock
President

John E. Ditchfield

George H. Trover

William B. Bennett
Commissioners