

**ORIGINAL**

Decision No. 69699

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

KIRK CONSTANTINE,  
Complainant,

Case No. 8155

vs

PACIFIC TELEPHONE COMPANY OF  
CALIFORNIA, a corporation,  
Defendant.

Kirk Constantine, in propria persona.  
Lawler, Felix & Hall, by Robert C. Coppo,  
for defendant.

Roger Arnebergh, City Attorney, by  
Michael T. Sauer, 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 7079½ Hollywood Boulevard, Hollywood, California. Interim restoration was ordered pending further order (Decision No. 68859, dated April 13, 1965).

Defendant's answer alleges that on or about February 4, 1965, it had reasonable cause to believe that service to Kirk Constantine, under number 462-5714, 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 July 22, 1965.

By letter of February 2, 1965, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number HO 2-5714 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 is a restaurant worker and studio prop man, is on call day and night, receives his calls for work over the telephone and telephone service is essential to his livelihood. Complainant further testified that he did not use the telephone in any violation of law; that he was arrested and pleaded guilty to bookmaking and paid a fine of \$150; and that this was his first offense.

Complainant further testified that he was greatly inconvenienced by disconnection of his telephone, he has great need for telephone service, and he 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 the evidence fails to show that the telephone was used for bookmaking.

Complainant is entitled to restoration of service.

269699

ORDER

IT IS ORDERED that Decision No. 68859, dated April 13, 1965, 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 21st day of SEPTEMBER, 1965.

Frederick B. Hallock  
President

George T. Grover

Augustin

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Commissioners

I dissent for the reasons set forth by me in the dissent case.

William L. Bernard

I dissent

Edw. E. Mitchell