

ORIGINALDecision No. 70451

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOHN BARMER and ROBERTA
M. BARMER,

Complainants,

vs.

PACIFIC TELEPHONE COMPANY,
a Corporation,

Defendant.

Case No. 8192

John Barmer and Roberta M. Barmer, in propria persona.
Lawler, Felix & Hall, by Robert C. Coppo and
Orville D. Orr, Jr., for defendant.
 Kenneth Williams, District Attorney, by
Donald H. Carroll, for the County of Orange,
 Santa Ana, intervener.

O P I N I O N

Complainants seek restoration of telephone service at 461 West South Gate Avenue, Fullerton, California. Interim restoration was ordered pending further order (Decision No. 69225, dated June 15, 1965).

Defendant's answer alleges that on or about May 21, 1965, it had reasonable cause to believe that service to John Barmer, under number 525-7914, 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 11, 1966.

By letter of June 17, 1965, the District Attorney of the County of Orange advised defendant that the telephone under number 525-7914 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, John Barmer, testified that he and his family will suffer great hardship if deprived of telephone service; that his wife is employed on 24-hour call as a registered nurse and must have telephone service. Complainant admitted that he was arrested for bookmaking and paid a \$1,000 fine and that he is on probation.

Complainant stated, however, that he did not engage in any bookmaking, that he has great need for telephone service, and he did not and will not use the telephone for any unlawful purpose.

An investigator for the District Attorney of Orange County testified that he was present at the arrest of the complainant John Barmer and observed recorded bets on the complainant's kitchen table, and that complainant, at that time, stated to him that he had been calling bets in, taken from a friend, but that he was not getting any commission. The investigator introduced into evidence a copy of the probation order suspending imposition of sentence, Case No. C-15673, against John Richard Barmer, the complainant herein, (Exhibit 2).

We find that defendant's action was based upon reasonable cause; we further find that the evidence discloses the telephone was used for bookmaking purposes contrary to law and should be disconnected.

ORDER

IT IS ORDERED that complainant's request for restoration of telephone service be denied and that the temporary interim relief granted by Decision No. 69225, dated June 15, 1965, is vacated and set aside.

IT IS FURTHER ORDERED that, upon the expiration of sixty days after the effective date hereof, complainant may file an application with the utility for telephone service and that, if such application is filed, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 461 West South Gate Avenue, Fullerton, 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 twenty days after the date hereof.

Dated at San Francisco, California, this 15th day of MARCH, 1966.

Frederick B. Holdhoff
 President

George T. Grover
 Registrar

William C. Bennett
 Commissioners