

ORIGINAL

Decision No. 71391

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORVILLE KILBURN,

Complainant,

vs.

Case No. 8428

PACIFIC TELEPHONE,
a corporation,

Defendant.

Max Solomon, for complainant.
Lawler, Felix & Hall, by Richard L. Fruin, Jr., for defendant.
Harold W. Kennedy, County Counsel, by
Timothy L. Strader, for Los Angeles
County Sheriff's Department, intervener.

O P I N I O N

Complainant seeks restoration of telephone service at 10537 Long Beach Boulevard, Lynwood, California. Interim restoration was ordered pending further order (Decision No. 70777, dated June 1, 1966).

Defendant's answer alleges that on or about May 20, 1966, it had reasonable cause to believe that service to Orville Kilburn, under number 567-3661, 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 August 25, 1966.

By letter of May 17, 1966, the Sheriff of the County of Los Angeles advised defendant that the telephone under number LO 7-3661 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 the owner and operator of a one-man barber shop; that he has been a barber for 16 years, five years of which he has been licensed in the Lynwood area; that 75 percent to 80 percent of his appointments for customers are made by use of the telephone; that telephone service is essential to the operation of his business; that he has never previously been arrested and is not a bookmaker.

Complainant further testified that he was arrested on suspicion of bookmaking, pleaded guilty and paid a fine for a misdemeanor; that he is not on probation; and he did not and will not use the telephone for any unlawful purpose.

A deputy county counsel 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 any illegal purpose by complainant or his customers.

Complainant is entitled to restoration of service.

ORDER

IT IS ORDERED that Decision No. 70777, dated June 1, 1966, 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 OCTOBER, 1966.

[Signature]
President

George S. Tower

Fredrick B. Holsted

[Signature]

Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.