

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT : WAYNE M FOX
APPLICATION NO. : A30/08/258
PANEL : MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING : 5 JULY 1995

IN THE MATTER OF an application for leave to appeal by Mr W M Fox under section 13(3) of the Racing Penalties (Appeals) Act against the decision of the Western Australian Turf Club Stewards on 3 August 1991 imposing a 10 year disqualification under Australian Rule of Racing 175(hh).

Rule 175(hh) states that the Stewards may punish.

"(hh) Any person who uses, or has in his possession any electric or electronic apparatus, or any improper contrivance capable of affecting the performance of a horse in a race or training gallop.

Mr Fox, is a jockey, who pleaded guilty to a charge under this rule. He was disqualified for a period of ten years.

At the conclusion of the proceedings before the Stewards Mr Fox was informed of his opportunity to appeal. The appeal procedure available to him at the time was to lodge a Notice of Appeal with the Racing Penalties Appeals Tribunal within 14 days of the date of his disqualification. Mr Fox did not take any steps in that regard.

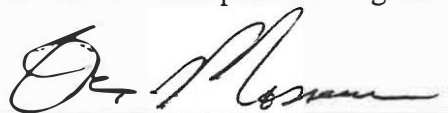
He tells me that sometime later he did write a letter to the Turf Club Committee in regard to the severity of his sentence but he drew a blank there and the matter was not proceeded with further by him until he applied to the Tribunal on the 27th June 1995 seeking leave to appeal.

In order to be granted leave to appeal it must be demonstrated why in the public interest this matter should be dealt with by the Tribunal. I am not persuaded by any of the arguments that have been put forward, by Mr Fox, that there is a public interest question involved in the circumstances of this particular offence. Rather, it seems to be a classic case which should be dealt in accordance with the Rules of Racing by the Turf Club Committee.

The opportunity is available to Mr Fox to communicate to the Committee in the appropriate way and have the Committee exercise its discretion as contemplated by Rule 7(h), on the subject of the severity of the penalty.

I have done my best to look at the provisions of the Racing Penalties (Appeals) Act with a view to finding some other possible avenue available to this Tribunal by Mr Fox. There does not appear to be anything else contemplated in the legislation which affords him any assistance. In those circumstances I must decline the application for leave to appeal and I order accordingly.

The fee that was paid on lodgement of the application is forfeited.



DAN MOSSENSON, CHAIRPERSON

8/9/1995

