

**DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL**

APPELLANT: PETER LESLIE ANDERSON

APPLICATION NO: A30/08/275

PANEL: MR D MOSSENSON (CHAIRPERSON)
MR J SYME (MEMBER)
MR L ROBBINS (MEMBER)

DATE OF HEARING: 12 DECEMBER 1995

IN THE MATTER OF an appeal by Mr P L Anderson against the determination made by Western Australian Trotting Association Stewards on 9 October 1995 imposing a life disqualification under Rule 55A.

Mr T F Percy assisted by Mr A Jenshel, instructed by Kavenagh & Co represented the appellant.

Mr R J Davies QC represented the WA Trotting Association Stewards.

Rule 55A of the Rules of Trotting states:

“A person who is convicted of an offence under Part 42 of these Rules, or under Part XXXII of the Rules of Trotting repealed by these Rules, is liable to a penalty which is not less than -

- (a) in the case of a first such offence, a period of 12 months disqualification;*
- (b) in the case of a second such offence, a period of 2 years disqualification;*
- (c) in the case of a third such offence, a period of 5 years disqualification; and*
- (d) in the case of a fourth or subsequent such offence, disqualification for life,*

unless having regard to the extenuating circumstances under which the offence was committed the Controlling Body or the Stewards decide otherwise.”

At the Stewards' inquiry the appellant was charged as follows:

“...as the trainer of the pacer PERFECT LASS NZ you presented the horse to race in Race 9, at the Gloucester Park meeting on Friday, the 22nd of September 1995, where the pre-race blood sample taken from the pacer was found upon analysis to contain a total carbon dioxide level of 37.1 millimoles per litre of plasma, which is above the allowed level, under Rule 498(b) of 35.0. It is therefore deemed that a drug capable of producing carbon dioxide has been administered. ...”

The appellant was charged under Rule 497(1) and pursuant to Rule 55A the Stewards imposed a penalty of life disqualification.

The Tribunal has considered the submissions put both orally and in writing on behalf of the appellant going to the question of the interpretation and application of Rule 55A of the Rules of Trotting.

The Tribunal is not persuaded that there is any ambiguity in that Rule as contended for. The Tribunal has had the benefit of being provided with the resolutions of the Committee of the Trotting Association which led to the introduction of this Rule effective from the 21 October 1994. That material assists us in reaching the conclusion that the Stewards correctly took in account prior offences committed by the appellant under Part XXXII of the repealed Rules.

Near the top of page 39 of the transcript the Chairman of the Stewards invited the appellant to alert the Stewards to any extenuating circumstances that might relate to the charge that was before them. Mr Anderson then responded to that invitation. It is clear that the Stewards have properly had regard to what was put before them but considered the circumstances as explained were not such as to justify any reduction to the statutory penalty.

The Tribunal is satisfied that there was not error on the part of the Stewards in the exercise of their discretion. The appeal is therefore dismissed and the penalty confirmed. The fee paid on lodgement of the appeal is forfeited.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

19/12/95

