

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: CRAIG R GOLDFINCH
APPLICATION NO: A30/08/310
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING: 16 JULY 1996

IN THE MATTER OF an appeal by Mr C R Goldfinch against the determination made by Western Australian Trotting Association Stewards on 5 July 1996 imposing a 21 day suspension under Rule 440(a) the Rules of Trotting.

Mr G Lilleyman was granted leave to represent the appellant.

Mr M Skipper represented the WA Trotting Association Stewards.

This is an appeal made by Mr Craig Goldfinch arising out of an incident that occurred in relation to Race 5, The West Australian You Fashion Stakes, at Gloucester Park on Friday, 5 July 1996. After the Stewards had dismissed a protest in relation to the running of the race they conducted an inquiry into an incident that occurred whilst racing towards the front straight on the final occasion of the race. The Stewards issued a charge against Mr Goldfinch under the provision of Rule 440(a) of causing crossing by careless driving. Rule 440(a) states:

“Any driver who, in the opinion of the Stewards, caused or contributed to any crossing, jostling or interference by foul, careless or incompetent driving shall be deemed guilty of an offence against these Rules and may be dealt with accordingly.”

The specifics of the charge were that:

“...racing towards the front straight on the final occasion of Race 5 you’ve manoeuvred HOSTILE AGENT wider on the track away from the rails and obliged Mr. Scott to check his horse and also obliged Mr. Harper to check his horse to try and allow sufficient room for LITTLE TOWN BLUES.”

Mr Goldfinch pleaded guilty to the charge. After making some short statements in relation to the penalty, the Stewards announced the fact that they had lately been under a great deal of pressure regarding penalties in order to control the degree of interference in races. They mentioned that starting from the preceding week they had been issuing penalties which reflected their intentions regarding this matter.

It is clear from what was stated by the Chairman of the Stewards that Mr Goldfinch's good driving record was taken into account. The Stewards concluded that the incident was completely avoidable had Mr Goldfinch shown more care. After explaining how the incident occurred the Chairman of the Stewards announced that Mr Goldfinch was suspended for 21 days. An explanation was then offered as to the suspension of other drivers recently with records as good as Mr Goldfinch's for 28 days in circumstances where their incidents were slightly more serious.

I have been told of Mr Goldfinch's good record. Indeed a fairly glowing reference has been provided by Mr Olivieri which is supported by Mr Skipper. I have also been told that the new attitude adopted by the Stewards in this state is in line with the penalties being imposed in other jurisdictions. In other words, the 21 day penalty that was imposed on this occasion is commensurate with offences of this type in other states.

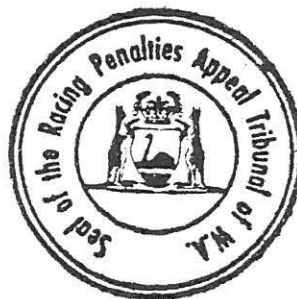
The setting of penalties for these types of offences is not an exact science. The Rules do not prescribe with any certainty the basis upon which the Stewards should arrive at the penalty for breach of Rule 440(a). Unlike those Rules that specify minimum penalties or situations where maximum penalties may be imposed, these Rules are silent in relation to the particular penalties. The Stewards have a discretion pursuant to Rule 447 to impose such penalty as they think fit.

I have not been persuaded that the penalty which was imposed is inappropriate and beyond the range of penalties that may be said to be appropriate for this type of offence. I am satisfied from all of the material that has been placed before me including the opportunity of viewing the video that the Stewards were not in error in imposing the 21 day suspension.

In those circumstances the appeal is dismissed. The fee paid on lodgement of the appeal is forfeited.



DAN MOSSENSON, CHAIRPERSON



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