

DETERMINATION AND REASONS FOR DETERMINATION OF  
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: PETER WILLIAM GEERSEN  
APPLICATION NO: A30/08/311  
PANEL: MR D MOSSENSON (CHAIRPERSON)  
DATE OF HEARING: 16 JULY 1996

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

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Mr P W Geersen represented himself.

Mr M Skipper represented the WA Trotting Association Stewards.

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This is an appeal by Mr P W Geersen in relation to the penalty which was imposed upon him after he pleaded guilty to causing crossing by careless driving in Race 2 The West Australian Today Liftout Standing Start Transition at Gloucester Park on Friday, 5 July 1996.

At the Stewards' inquiry the appellant was charged with a breach of Rule 440(a) of the Rules of Trotting as follows:

*"...racing towards the front straight on the final occasion of Race 2 you've manoeuvred MON AMI KINLEY away from the rails to the one wide, Mr. Lewis has progressed to your inside, you then moved MON AMI KINLEY back down the track obliging Mr. Lewis to take hold of his horse ROYAL AMOR to avoid your downward movement and as a result ROYAL AMOR lost its racing position, as a result of being restrained back out of the position by Mr. Lewis to avoid your downward movement."*

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."*

Mr Geersen in pleading guilty invited the Stewards to take into consideration that there was no contact made. In dealing with the penalty the Chairman of the Stewards put to Mr Geersen his record, namely that he had been suspended on two prior occasions for an offence under the same Rule on 24 March 1995 and 19 April 1996.

The Stewards in determining the penalty stated to Mr Geersen:

*"After taking into account your driving record, the circumstances of the incident, in particular the fact that you pointed there was no contact, but that was more to do with Mr. Lewis taking evasive action than anything you did. The Stewards believe that the incident was completely avoidable had you demonstrated more care, or shown more care in, in the circumstances and to be changing positions in that manner at that stage of the race when runners behind are looking for a run is in our opinion a degree of dangerous, or it's a dangerous situation for a driver to be changing directions in that manner."*

I am conscious of the fact that in relatively recent times that the Stewards have been imposing more severe penalties for these types of offences which brings the Western Australian Stewards more in line with their counterparts in the Eastern States. The setting of a penalty in relation to this type of offence is not an exact one. The Rules do not prescribe the basis upon which the Stewards are to exercise their discretion in imposing the penalty. The Stewards therefore must exercise their own judgement based upon the surrounding facts and circumstances of each separate incident.

I have not been persuaded by anything which has been put to me or after having had the opportunity of viewing the video that the Stewards were in error in arriving at the 21 day suspension which they imposed for this particular incident.

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

*Dan Mossenson*

DAN MOSSENSON, CHAIRPERSON

13/8/96

