

DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

<u>APPELLANT:</u>	ANTHONY JOHN CAMPBELL
<u>APPLICATION NO:</u>	A30/08/315
<u>DATE OF HEARING:</u>	14/08/96
<u>DATE OF DETERMINATION</u>	3/10/96

IN THE MATTER of an appeal by Anthony John Campbell against the determination of the Western Australian Greyhound Racing Association Stewards on the 18th and 25th day of July 1996 imposing a five year disqualification under Rule 245(1)(b).

Mr W Chestnut, instructed by DG Price & Co, represented the appellant.

Mr B Goetze represented the Western Australian Greyhound Racing Association Stewards.

At the time when the Tribunal published its reason for determination Counsel for the appellant submitted:

'... that the matter ought to be permanently stayed rather than referred back for a re-hearing. The basis of this submission is dependent upon the reliability or otherwise of the witness van Ness. Now, it is apparent Mr van Ness has been through his story a number of times. He went through it with Mrs Pritchard or a representative of the RSPCA. He apparently went through it with the Stewards on occasions... I move that the proper order should be that there be a permanent stay upon the Stewards proceeding with the enquiry.'

As is explained in the reasons delivered by the member, Mr Prior, the Tribunal upheld the appeal. The Tribunal found that Mr Campbell was denied natural justice.

Despite the submission of counsel for the appellant the Tribunal considers in all of the circumstances of this matter that the orders should not be any

different from those contemplated in Mr Prior's reasons. A permanent stay is inappropriate for various reasons including:

- The fact that the submission that the evidence of the witness van Ness has become unreliable ignores the other evidence available to the Stewards, in particular the admissions by Mr Campbell in his written statement and the evidence by Mr Reekie both in his statement and his evidence before the Stewards,
- The fact that the Tribunal does not accept that the witness van Ness' evidence becomes unreliable due to him having to go through it again or it being used again, and
- It is not accepted that the evidence of Mr van Ness has been a significant recant. The fact that there were two different written statements by Mr van Ness as well as the evidence which he gave to the Stewards at the hearing are merely questions of weight for the Stewards to consider when deciding what use they will make, if any, of his evidence at the rehearing.

The appeal is upheld and the conviction quashed. Pursuant to s17(9)(b) of the *Racing Penalties (Appeals) Act* the matter is referred back to the Stewards for rehearing after the expiration of 12 months from the date of the alleged breach of Rule 245(1)(e) or earlier in the event that Mr Campbell agrees that the matter be heard by the Stewards inside the 12 month limitation period pursuant to s51 of the *Justices Act*.

The lodgment fee is refunded.



MR D MOSSENSON, CHAIRPERSON



MR J PRIOR, MEMBER



MR TED MULLIGAN, MEMBER

6/2/1997

