

DETERMINATION AND REASONS FOR DETERMINATION OF  
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: TROY KENNETH JACKMAN  
APPLICATION NO: A30/08/335  
PANEL: MR J PRIOR (PRESIDING MEMBER)  
DATE OF HEARING: 28 NOVEMBER 1996

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IN THE MATTER OF an appeal by Mr T K Jackman against the determination made by Western Australian Turf Club Stewards on 25 November 1996 imposing 25 days suspension under Rule 137(a) of the Australian Rules of Racing.

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Mr A Taylor was granted leave to represent the appellant.

Mr L Wagener represented the Western Australian Turf Club Stewards.

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The appellant in this matter was charged pursuant to Rule 137(a) of the Australian Rules of Racing. That rule states as follows:

*“Any rider may be punished if, in the opinion of the Stewards:*

*(a) He is guilty of careless, improper, incompetent or foul riding*

*...”*

At the hearing held on 20 November 1996 the appellant was charged as follows:

*“... That as you (sic) the rider of CURLEW POINT a runner in Race 6 the Johnson Meats Handicap run over 1200 metres on the Pinjarra Race Club’s meeting on Wednesday, 20th November 1996, had near the 1100m mark, you have shifted inwards and crowded runners on your inside which in turn caused BOLSHOI PRINCE (P. King) which was racing inside these horses, to check severely and lose ground. ...”*

At the reconvened hearing on 25 November 1996, the appellant was found guilty as charged. The appellant appealed against this conviction.

In essence, the appellant, in his submissions, has suggested that it was the riding by Jockey Barnett on LEGEND IMAGE which was the cause of BOLSHOI PRINCE being ridden by Jockey King to check severely and lose ground and not the appellant and therefore the Stewards have erred in convicting the appellant.

As has been previously stated in a number of appeals against conviction for a breach of this Rule, the Rule is couched in language which specifies that an offence is committed if, in the opinion of the Stewards, a particular thing occurs. It is not a case therefore of substituting one's own opinion for that of the Stewards or other persons opinions. Nevertheless, the Stewards must come to an opinion which is reasonable and is also in accordance with the evidence. If not, they will have erred in convicting an appellant.

Having seen the race footage on a number of occasions and having read the transcripts of the two hearings, I am not persuaded that the opinion of the Stewards was unreasonable or not in accordance with the evidence. I am therefore unable to find that the Stewards erred in convicting this particular appellant.

For those reasons the appeal fails. The fee paid on lodgement of the appeal is forfeited.

*John Prior*

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**JOHN PRIOR, PRESIDING MEMBER**

16 /12/96

