

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

**APPELLANT:** CHAD DAVIES

**APPLICATION NO:** A30/08/341

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

**DATE OF HEARING:** 4 MARCH 1997

**DATE OF DETERMINATION:** 4 MARCH 1997

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**IN THE MATTER OF** an appeal by Mr C Davies against the determination made by Western Australian Turf Club Stewards on 23 December 1996 imposing a nine month suspension of his jockey's licence under Rule 81A(ii) of the Australian Rules of Racing.

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Mr R Lashansky, instructed by Halperin Fleming Meertens, represented the appellant.

Mr R J Davies QC represented the Western Australian Turf Club Stewards.

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Following an inquiry conducted by the Stewards, initially on the 19 December 1996 and continued on the 23 December 1996, Mr Davies was charged with a breach of Rule 81A(ii) of the Rules of Racing. That rule reads:

*"Any Jockey, Apprentice or Rider who:*

- (ii) *has delivered a sample of his urine or otherwise taken as directed by the Stewards prior to, during, or after fulfilling his riding engagements in any race or trial or at riding trackwork which upon analysis has detected in it alcohol, or any drug or its metabolites or artifacts may be punished."*

The particulars of the charge were:

*"... that the sample which you supplied to the Stewards on Sunday, 8th December 1996 at Ascot Racecourse when, on a day on which had four rides, has had detected in it the metabolite of cannabis."*

The appellant was asked if he understood the nature of the charge. The transcript reveals that clarification was given to the appellant as to the nature of the charge. The Stewards then put to the

appellant "*So obviously you understand the nature of the charge?*" to which the appellant replied "*Yes, sir.*"

The appellant was then asked again "*... how do you wish to plead in answer to the charge?*" and Mr Davies replied "*Well.....guilty.*"

The Tribunal is satisfied that this interchange demonstrates that the appellant made a clear and unambiguous plea of guilty to the charge and admitted all of the facts essential to the offence (see Di Camillo v Wilcox (1964) WAR 44 and Slater v Marshall (1965) WAR 222).

The amended grounds of appeal in summary are firstly as to the conviction, lack of moral blame worthiness and failure to prove a threat of safety to others by the appellant, and secondly as to penalty that it was excessive.

As to the appeal against conviction, the rule in question is drafted in strict terms and makes no reference to the effect the drug had on the person or its potential threat to safety. We are satisfied that there is no merit in either ground as to the conviction.

As to the penalty, the Chairman of Stewards in announcing the outcome stated to Mr Davies that:

*"... The Stewards have taken into consideration everything that is placed before us and indeed, your plea of guilty to the charge and the submission by trainer Mr Graham Jordon on your behalf particularly in light of the fact that he suggested you are trying, your attendance at track work typifies this and that you have an organiser for your financial affairs. ..."*

The Chairman of Stewards also made some reference to penalties which have been imposed for second offenders who breach this rule with the same substance. The penalty which was imposed on Mr Davies is consistent with that imposed on Jockey T Gosling and less than that imposed on Jockey J Berry.

It has not been demonstrated that there was any error on the part of the Stewards in exercising their discretion as to penalty, or that the penalty which was imposed was manifestly excessive in all of the circumstances.

For these reasons the appeal fails as to penalty as well.

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

*Dan Mossenson*

DAN MOSSENSON, CHAIRPERSON

