

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: MARK JOHN SIMPSON

APPLICATION NO: A30/08/345

PANEL: MR D MOSSENSON (CHAIRPERSON)
MS P HOGAN (MEMBER)
MR P HOGAN (MEMBER)

DATE OF HEARING: 27 FEBRUARY 1997

DATE OF DETERMINATION: 27 FEBRUARY 1997

IN THE MATTER OF an appeal by Mr M J Simpson against the determination made by Western Australian Greyhound Racing Association Stewards on 29 January 1997 imposing a 12 month disqualification under Rule 234(7) of the Rules Governing Greyhound Racing in Western Australia.

Mr M J Simpson represented himself.

Mr C Martins represented the Western Australian Greyhound Racing Association Stewards.

This is a unanimous decision by the Tribunal.

Mr Simpson appeals against the severity of the sentence which was handed down against him on the basis that it is too harsh. He was convicted, after pleading guilty, as the trainer having control of the greyhound *ASHLEE ADAMS* when it was brought to compete in race 8 at Mandurah Greyhounds on the 20 December 1996, which was found by the Stewards upon analysis to contain the drug Methylprednisolone administered to it for an improper purpose.

In imposing the penalty the Chairman of the Stewards stated:

"... we have taken into account the following factors in determining an appropriate penalty:

- 1. Your plea of guilty and your co-operation throughout this Inquiry;*
- 2. Your unblemished record whilst involved in the greyhound industry; and*
- 3. The impact of a period of disqualification upon your personal financial circumstances and the extent of your involvement in greyhound racing.*

However, the Stewards take a very serious view of the presence of Methylprednisolone in a competing greyhound. Furthermore, the Stewards have an obligation to protect the welfare

of a greyhound and the presence of Methylprednisolone is detrimental to the welfare of a greyhound. This offence is not only serious but one which is contrary to the spirit of even competition and brings the greyhound industry into disrepute. We are of the view that the appropriate penalty is a disqualification of twelve (12) months."

From the information provided to the Tribunal it appears that the maximum penalty handed down to date for this type of offence is a twelve month disqualification. In view of that fact, we consider that the Stewards have not properly taken into account the mitigating factors and in particular, the plea of guilty and the severe financial impact on Mr Simpson.

So far as the assertion by the Stewards that the presence of the drug is detrimental to the welfare of a greyhound is concerned, the Tribunal is of the opinion that the Stewards have over stated the evidence on this matter given by Dr Thomas. At page 22 of the transcript, Mr Martins asked Dr Thomas:

"When you're looking at the welfare ... welfare of the animal in the long term, is that likely to have any adverse effect on the animal's welfare in the long term ... if a greyhound is competing in a race with Methylprednisolone in its system?"

Dr Thomas' evidence was no stronger than:

"... well it can do sort of ..."

Taking into account these factors, the Tribunal is satisfied that an appropriate penalty in the special circumstances of Mr Simpson's case is a period of seven months disqualification.

Accordingly, the appeal is upheld. We substitute the period of seven months disqualification for that for which was imposed by the Stewards.

The fee paid on lodgement of the appeal will be refunded.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

