

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

APPELLANT: LINDSAY JOHN ARCHER
APPLICATION NO: A30/08/419
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING: 11 MAY 1998
DATE OF DETERMINATION: 11 MAY 1998

IN THE MATTER OF an appeal by Mr L J Archer against the determination made by the Western Australian Greyhound Racing Association Stewards on 18 April 1998 imposing a one month disqualification on SPANISH BOW at Cannington for a breach of Rule 170 of the Rules Governing Greyhound Racing in Western Australia.

Mr Archer represented himself.

Mr C Martins appeared for the Western Australian Greyhound Racing Association Stewards.

Mr Archer appeals against the determination of the Western Australian Greyhound Racing Association Stewards, who, on 18 April 1998, disqualified the greyhound SPANISH BOW. The Stewards after conducting an inquiry into Race 1 at Cannington Greyhounds concluded that SPANISH BOW had fought during the race in breach of Rule 170 of the Rules Governing Greyhound Racing in Western Australia.

The principle witness who gave evidence on behalf of the Stewards, Mr Borovica, on two occasions during the course of the inquiry gave clear and unequivocal evidence of his observations of the race from his vantage point. The Stewards' findings were ultimately justified on the basis of that evidence. Further evidence was given by Mr Robartson, the handler of the greyhound. As is revealed on page three of the transcript, Mr Robartson, in describing the incident from his own observation, does not state that the greyhound did not make muzzle contact. Mr Martins relies on that evidence, firstly as being consistent with the evidence of Mr Borovica and, secondly because it is compatible with the ultimate determination arrived at by the Stewards.

The Stewards had the benefit of looking at the video of the race, just as I have had the benefit of the video.

Mr Archer has indicated that in all his years of racing he has not previously felt motivated to appeal. However, based upon his own opinion of the incident, he feels that the incident did not constitute an act of fighting.

The Rule in question makes it entirely clear that the relevant opinion is that of the Stewards. Rule 170 of the Rules Governing Greyhound Racing in Western Australia states:

- (1) *Where in the opinion of the Stewards a greyhound fights during a race the Stewards shall submit a report of their findings to the Board and shall disqualify the greyhound in accordance with this Part of these Rules.*
- (2) *Any question as to what constitutes the act of fighting shall be determined by the Stewards."*

As has been pointed out by Mr Martins this Tribunal has previously examined this particular rule and has applied that rule on a number of occasions. It is clear that there are two elements to the offence, that is, the turning of the head by the greyhound and making muzzle contact by the offending animal with another animal in the race.

According to Mr Archer's opinion no muzzle contact occurred. Having seen the video I can only say that it is not entirely clear due to the poor quality of the picture that I viewed whether or not such contact did occur. Be that as it may, the rule itself is clear and that is that it is the opinion of the Stewards which counts.

On this occasion the evidence before the Stewards who made the determination is not very controversial at all compared to some of the other cases I have had to decide in this area.

It is not appropriate, as the authorities reveal including the Appeal of J M Thompson - 303 determined 23 May 1996, that the Tribunal should substitute its own opinion for that of the Stewards. The usual basis upon which the Tribunal should interfere is in the event that no reasonable Stewards could, once armed with all of the relevant facts and circumstances, reasonably have concluded that in their opinion the greyhound did fight. I am not persuaded by anything that has been placed before me including anything that I have seen from the video that the Stewards have erred in making their determination in regard to this incident. In my opinion the decision which they reached was entirely open to them on the evidence before them. Certainly that evidence has not been contradicted by Mr Robartson, the handler of the greyhound.

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

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

