

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

APPELLANT: GIUSEPPE PANETTA
APPLICATION NO: A30/08/422
PANEL: MR J PRIOR (PRESIDING MEMBER)
DATE OF HEARING: 2 JUNE 1998
DATE OF DETERMINATION: 2 JUNE 1998

IN THE MATTER OF an appeal by Mr G Panetta against the determination made by Western Australian Greyhound Racing Association Stewards on 14 May 1998 for imposing a one month disqualification of greyhound HORIZON for fighting under Rule 170 of the Rules Governing Greyhound Racing in Western Australia.

Mr G Panetta represented himself.

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

This is an appeal brought by Mr G Panetta against the conviction by the Stewards of the Western Australian Greyhound Racing Association after an inquiry which was held on the 14 May 1998 following the running of Race 8 at Cannington Raceway. The Stewards had received a report that Mr Panetta's greyhound HORIZON had fought during the running of the race. The greyhound was disqualified for one month under Rule 172 of the Rules Governing Greyhound racing in Western Australia.

Rule 170 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.”*

In Appeal No 303, *Thompson v WAGRA*, the following was said in the judgement of this Tribunal:

“It is clear from these particular provisions that the Stewards are empowered to form the opinion of the matter and have the discretion to determine precisely what does constitute the act of fighting. This Tribunal in an earlier decision in relation to the appeal of Gerard O’Keefe, (Appeal 205 heard on the 6 July 1994), concluded that there were two elements to the act of fighting namely turning of the head and making muzzle contact.

O'Keefe, (Appeal 205 heard on the 6 July 1994), concluded that there were two elements to the act of fighting namely turning of the head and making muzzle contact.

In order for this Tribunal to interfere with a determination made in respect of a Rule which specifies "in the opinion of the Stewards", we have to be satisfied that no reasonable Stewards, armed with all the relevant information, could reasonably have formed the opinion which these Stewards did in all of the circumstances. In order for us to be persuaded of that, there is a difficult onus of proof placed on the appellant."

In this matter the comments I have just referred to in *Thompson* which refers to the earlier decision of the matter of *O'Keefe* have some significance.

The Stewards in their inquiry into the report had the following evidence available:

1. the eyewitness accounts of the appellant and two stewards who were situated at differing locations around the track; and
2. the video of the incident in the race.

I agree that the video is of little assistance. It was a side on view which was not clear as to the specific incident and, in particular the head movements of the dogs. The Stewards presiding conceded it was of limited value and obviously therefore gave significant weight to the eyewitness evidence before the inquiry.

The two eye witness Stewards had a much better view of the incident than the appellant. They were in close proximity to the incident with a raised view over the track. Their evidence was not influenced by the video. They relied on their live eyewitness account. Each of the two Stewards corroborated the others evidence of specific acts carried out by the dog HORIZON which factually met the description of fighting.

In those circumstances I am not persuaded that it can be said that the video footage contradicts the eyewitness accounts so that it could be said that the opinion of the presiding Stewards was unreasonably formed.

In those circumstances, I am satisfied the appeal would fail. The fee paid on lodgement of the appeal is forfeited.

John Prior

JOHN PRIOR, PRESIDING MEMBER

