

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: WAYNE ROBERT REID
APPLICATION NO: A30/08/432
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING 15 SEPTEMBER 1998
DATE OF DETERMINATION: 15 SEPTEMBER 1998

IN THE MATTER OF an appeal by Mr W R Reid against the determination made by the Western Australian Trotting Association Stewards on 4 September 1998 imposing 21 days suspension for breach of Rule 440(a) of the Rules of Trotting.

Mr W Duffy was granted leave to appear for the appellant.

Mr M Skipper appeared for the Western Australian Trotting Association Stewards.

This is an appeal by Wayne Robert Reid in relation to an incident which occurred in Race 8 at the Gloucester Park Club meeting on 4 September 1998. Following the running of the race the driver of the second placed horse GREAT HOPE (Justin Warwick) lodged a protest against the first placed GOLDEN GEARS which was driven by the appellant.

At the conclusion of the protest hearing the Chairman of Stewards in announcing that the protest was dismissed advised both drivers that the inquiry into the incident would be continued later in the evening. At the commencement of the resumed inquiry the Stewards advised Mr Reid that they believed that the provisions of Rule 441(2) came into effect in relation to the incident and charged him under the provisions of Rule 440(a) as follows:

"That when you've manoeuvred GOLDEN GEARS from the one wide to the three wide position you've obliged Mr Warwick with GREAT HOPE to restrain that horse wider on the track to avoid your outward movement and at the time we believe that he had commenced a forward move in the three wide line."

Mr Reid pleaded not guilty to the charge and presented some further evidence. The Stewards eventually came to the conclusion that the charge was sustained.

Before dealing with penalty they invited Mr Reid to indicate whether he wished to say anything further on the matter. Mr Reid stated:

"I haven't been suspended for a long time and I thought if it was misjudgment more than carelessness then I'd like you to take that into account please."

The Stewards in determining that a suspension was appropriate stated:

“The incident in Race 8 where you’ve obliged Mr Warwick wider did have serious ramifications in relation to the outcome of the race and it was a decision that the Stewards reluctantly made to dismiss Mr Warwick’s protest, but the circumstances of the incident should be reflected in the penalty and we believe an appropriate penalty is a 21 day suspension ...”

The grounds of appeal are:

1. *I believe I had taken up my position in the three wide line before the horse behind me had got outside my wheel.*
2. *I believe in no circumstances did I force him 4 wide.*
3. *I believe that the penalty was excessive.”*

I have had the benefit of listening to submissions made by Mr Duffy on behalf of the appellant, of studying the transcript of the Stewards’ inquiry, of examining the video of the racing incident and of hearing from Mr Skipper on behalf of the Stewards.

Rule 441(2) of the Rules of Trotting specifies:

“Where, prior to entering the front straight to receive the bell, any runner making a forward move is obliged to race wider or to be checked or restrained by its driver as a result of the driver of another horse changing the position of his horse, then the driver of the other horse is taken to have committed an offence under rule 440(a).”

Rule 440(a) of the Rules of Trotting specifies that:

“Any driver who, in the opinion of the Stewards, caused or contributed to any crossing, jostling or interference by foul, careless or incompetent driving shall be deemed guilty of an offence against these Rules and may be dealt with accordingly.”

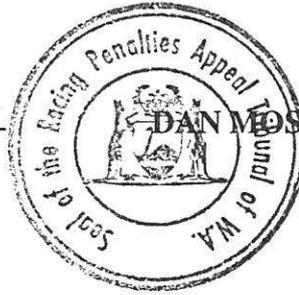
After giving this matter some consideration I have come to the conclusion that nothing that has been presented on behalf of Mr Reid demonstrates an error by the Stewards. In order for me to be persuaded that the appeal should be upheld on the question of conviction I have to be satisfied that no reasonable Stewards dealing with this matter could reasonably have come to the conclusion which these Stewards did once armed with all of the relevant material and information.

I am satisfied that it was open to these Stewards to form the opinion which they did of the incident. For this reason the appeal as to conviction is dismissed.

As to the question of the penalty I am satisfied that the Stewards have for some considerable period of time now been imposing penalties of 21 days suspension for drivers convicted of a breach of the relevant provision. When drivers have what is described as a good driving record, and sometimes an excellent record, drivers have received shorter periods of suspension than that which Mr Reid received in relation to this matter.

I am not persuaded on all of the material before me that there was any error in imposing a 21 day suspension in this particular matter. Accordingly, the appeal as to the penalty is also dismissed.

Dan Mossenson



DAN MOSSENSON, CHAIRPERSON