

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: JASON SPIRO VELLA
APPLICATION NO: A30/08/482
PANEL: MR S PYNT (PRESIDING MEMBER)
DATE OF HEARING 2 DECEMBER 1999
DATE OF DETERMINATION: 2 DECEMBER 1999

IN THE MATTER OF an appeal by Mr J S Vella against the determination made by the Western Australian Trotting Association Stewards on 27 November 1999 imposing a 21 day suspension for breach of Rule 163(1)(a) of the Rules of Harness Racing.

Mr G P Winston was granted leave to appear for the appellant.

Mr W J Delaney appeared for the Western Australian Trotting Association Stewards.

This is an appeal by Jason Spiro Vella in relation to an incident which occurred at the Wagin Trotting Club meeting on 27 November 1999. Following the incident the Stewards convened an inquiry at which Mr Vella, the reinsperson of AUTOGO NZ attended. Also in attendance were Mr C Billingham, the driver of DREAM SUPREME and Mr J Thornton, the driver of THE LINK.

The Chairman of Stewards, Mr Delaney who viewed the race from the stand opposite the winning post gave evidence to the inquiry at the outset stating:

“Just as I viewed the race from the stand opposite the winning post racing towards the front straight on the final occasion Mr Thornton had been easing from the one wide towards the three wide line, but just establishing himself in that position. Mr Vella racing on his back has eased wider in an effort to get a clear run and as a result of that outward movement DREAM SUPREME which was racing on the outside of AUTOGO has broken gait.”

After viewing the video of the race and hearing evidence from the three drivers and the other Steward, Mr Oliver, the Stewards adjourned to consider the matter. On reconvening they announced that they were issuing a charge against Mr Vella under the provisions of Rule 163(1)(a) of the Rules of Harness Racing which deals with careless driving.

The specifics of the charge were:

“ ... that racing towards the home straight on the final occasion as you’ve manoeuvred AUTOGO wider on the track you’ve caused interference to DREAM SUPREME racing to your outside, and as a result that horse has broken gait.”

Rule 163 states:

“(1) A driver shall not –

(a) cause or contribute to any crossing, jostling or interference

...

(4) A driver who, in the opinion of the stewards, fails to comply with any provision of this rule is guilty of an offence.”

Mr Vella pleaded not guilty. Mr R Smith, the course Catcher was called to the inquiry as Mr Vella’s witness. After hearing further evidence the Stewards adjourned to consider the evidence. On resuming the Stewards announced a finding of guilt in the following terms:

“Mr Vella after considering all the evidence, Stewards do find the charge sustained. That is we find you guilty. It’s our opinion that Mr Smith was not in a position to give an informed opinion as to what had occurred at the incident turning into the front straight on the final occasion.”

Mr Vella appeals against the conviction only. The grounds of appeal as stated in the Notice of Appeal lodged on 30 November 1999 are:

- “1. Not guilty of offence.*
- 2. Stewards finding inconsistent with the evidence presented.*
- 3. Video film proves no offence was committed if viewed carefully.*
- 4. Other driver’s evidence inconsistent and misleading.”*

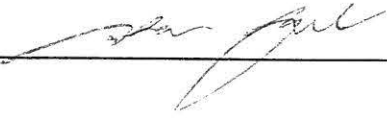
At the outside of the appeal hearing, Mr Winston on behalf of the appellant conceded that it was a difficult task to argue successfully against a Rule couched in the terms *“in the opinion of the stewards.”*

I have had the benefit of listening to the submissions made by Mr Winston, of examining the video of the incident, of studying the transcript of the Stewards’ inquiry and from hearing from Mr Delaney on behalf of the Stewards. The main argument presented on behalf of Mr Vella was that the evidence of Mr Billingham, the driver of DREAM SUPREME, was inconsistent and that the Stewards had put words in his mouth. For this reason, it was claimed that the evidence Mr Vella has of the incident should have been preferred by the Stewards.

I am not satisfied that there were any material inconsistencies in Mr Billingham’s evidence. Nor did the Stewards put words in his mouth, rather they were simply carrying out their job of ensuring that all relevant evidence was elicited from Mr Billingham in relation to the incident.

I have come to the conclusion that nothing has been presented on behalf of Mr Vella which demonstrates any error by the Stewards. In order for me to be persuaded that this appeal should be upheld, I have to be satisfied that no reasonable Stewards dealing with this matter could reasonably have come to the conclusion which these Stewards did on the evidence before them.

I am satisfied that the opinion these Stewards formed of the incident was open to them. For this reason, the appeal is dismissed.



STEVEN PYNT, PRESIDING MEMBER

