

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF
MR D MOSSENSON (CHAIRPERSON)

APPELLANT: PETER BENJAMIN FARRELL

APPLICATION NO: A30/08/499

DATE OF HEARING
AND DETERMINATION: 15 MAY 2000

IN THE MATTER of an appeal by Mr PB Farrell against the determination made by the Western Australian Turf Club Stewards on 13 April 2000 imposing a 6 weeks suspension for breach of Rule 135(b) of the Australian Rules of Racing.

Mr AR Taylor was granted leave to represent for the appellant.

Mr SJ Carvosso appeared for the Western Australian Turf Club Stewards.

After hearing this appeal I announced that I was persuaded the appeal should succeed. I quashed the conviction and penalty and stated I would publish my reasons in due course, which I now do.

Rule 135(b) of the Australian Rules of Racing deals with 'running' and states:

'The rider of every horse shall take all reasonable and permissible measures throughout the race to ensure that his horse is given full opportunity to win or to obtain the best possible place in the field.'

Mr Farrell was convicted by the Stewards of a breach of this rule and was suspended from riding for 6 weeks as a consequence. The Stewards particularised the charge which they laid against him in these terms:

'...in the opinion of the Stewards, you failed or you have failed over the final 150m to ride BOAB BEAUTY with sufficient vigour and purpose as to allow this gelding the opportunity to obtain the best possible place in the field.'

Mr Farrell pleaded not guilty. The Stewards concluded on the evidence:

'... that there is enough for you to ride your mount forward and do not believe that this could have caused you any impediment. We believe that your riding over the final 150m, lacked endeavour and in fact, that you stopped riding BOAB BEAUTY over the final 100m. We take note that you are not an overly vigorous whip rider, however all riders have an obligation to demonstrate that their mounts are fully tested. In consideration of that Mr. Farrell, the Stewards believe that you are, find you guilty of the charge.'

In arriving at the penalty the Stewards repeated that:

'...all riders do have an obligation to demonstrate that their mounts are tested and in charging you with this rule, we believe that you have failed to, to do that...'

At the outset of the appeal hearing the grounds of appeal were amended as follows:

1. *Not guilty of the charge.*
2. *There was not enough evidence to be convicted.*
3. *Appealing against the severity of the sentence.'*

In his argument in support of the appeal Mr Taylor raised a whole range of issues including:

1. That this was BOAB BEAUTY'S first start for 15 months.
2. That the horse had a history of soreness.
3. That the horse had run from a wide barrier.
4. That the horse was raced close to the rails to save it for a run.

5. That in the straight Mr Farrell did everything possible but after the horse tired he took the initiative to ride hand and heels.
6. That, as was revealed by the film, the horse was hit 4 or 5 times over the last 150 metres.
7. The Stewards have reprimanded jockeys for taking runs with tired horses.
8. That BOAB BEAUTY pulled up sore and has not raced since and, as verified by a vet, was lame in the off forelimb requiring appropriate management and treatment.
9. That the horse ran into a wall of horses, could have created a dangerous situation right on the line and at best may have caught up 1 place.
10. That the Stewards failed to take into account Mr Farrell's good record.

Leave was sought to call fresh evidence from Bernard Alan Ryan as spokesperson on behalf of the Jockeys' Association. As the Stewards had no objection to this course Mr Ryan was allowed to give evidence. Mr Ryan is both President of the Jockeys' Association and a very experienced and successful jockey.

Mr Ryan proved to be a most impressive witness who spoke with considerable conviction as to the inappropriateness of Mr Farrell's conviction. Mr Ryan described his observations of what occurred during the race. He stated that Mr Farrell stopped riding over the last 20 metres after having whipped the horse 5 times prior to that. According to Mr Ryan, Mr Farrell gave the horse every possible chance. With 50 metres to go he was still whipping the horse but by that stage he was *'flogging a dead horse'* and potentially there were *'RSPCA implications'*. Mr Ryan asserted that the Stewards' opinion was wrong in this case and he claimed that he personally would not have hit the horse in the straight. This was not the case of an error of judgment, according to the witness. Hitting a horse when it is tired does not help the horse. BOAB BEAUTY was wavering when it was being whipped. The horse was being ridden hard at the top of the straight. Mr Ryan explained the Jockeys' Association resolved to participate to support the appeal because of the serious nature of the charge.

The reply from the Stewards did nothing to persuade me that Mr Ryan's evidence should not be accepted. In essence all that the Stewards' did in response to the case put on behalf of Mr Farrell was to repeat their own assertions and to endorse their own approach at the inquiry. Although their approach had been strongly challenged by the fresh evidence prescribed in the appeal they did not reply to that challenge directly. On the other hand Mr Ryan's evidence fully supported the propositions which had been put by Mr Taylor. Mr Ryan credibly attacked the logic and basis for the conclusions originally arrived at by the Stewards.

I am satisfied in the absence of anything material from the Stewards which addressed Mr Ryan's evidence that I should overturn the Stewards' decision. Accordingly the appeal was allowed.



DAN MOSSENSON, CHAIRPERSON

