

DETERMINATION OF  
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: DOMINIC TOURNEUR  
APPLICATION NO: A30/08/550  
PANEL: MR D MOSSENSON (CHAIRPERSON)  
DATE OF HEARING: 11 DECEMBER 2001  
DATE OF DETERMINATION: 11 DECEMBER 2001

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**IN THE MATTER OF an appeal by Dominic Tourneur against the determination made by the Stewards of the Western Australian Turf Club on 24 November 2000 imposing 13 days suspension for breach of Rule 137(a) of the Australian Rules of Racing.**

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Mr B A Ryan was granted leave to represent the appellant.

Mr R J Mance appeared for the Stewards of the Western Australian Turf Club.

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This is an appeal against both the conviction and the penalty imposed by the Stewards in relation to an incident near the 50 metre mark in Race 7 at Geraldton Turf Club on 24 November 2001. An inquiry took place after the race.

Mr Tourneur was charged with a breach of Rule 137(a) of the Australian Rules of Racing the particulars of which were that he allowed his mount SENSSAY to shift inwards, when still riding that horse out with the whip, near the 50m and when not sufficiently clear of KINGFIGHTER which caused this gelding to be tightened and had to be restrained.

Mr Tourneur pleaded not guilty. The Stewards convicted him of the charge and then went on to impose a penalty of 13 days suspension.

I have had the benefit of listening to the submissions which have been made by Mr Ryan as well as his interpretation of the incident whilst viewing the film. I have read the transcript and I've taken into account the passages pointed out to me by Mr Ryan. I have also had the benefit of hearing Mr Mance and examining those parts of the transcript Mr Mance considered to be relevant.

I am not persuaded by anything which has been presented by Mr Ryan that the Stewards were in error in convicting Mr Tourneur of this offence. I am satisfied from the material that is before me that the Stewards were entitled to reach the opinion which they did of the incident based as it was

on Mr Mance's observation of the race, the evidence of the other Apprentice Jockey and having had the benefit of the film which was shown in the inquiry.

As to the penalty, on the basis of what has been put to me, I am satisfied that it is an appropriate penalty in all of the circumstances.

For these reasons the appeal is dismissed both as to the conviction and the penalty. The suspension of operation of the penalty now automatically ceases to operate.



DAN MOSSENSON, CHAIRPERSON

