

REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: NOEL LINDSAY RUDLAND
APPLICATION NO: A30/08/580
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING: 29 AUGUST 2002
DATE OF DETERMINATION: 29 AUGUST 2002

IN THE MATTER OF an appeal by Mr N L Rudland against the determination made by the Stewards of the Western Australian Turf Club on 14 August 2002 imposing 23 days suspension for breach of Rule 137(a) of the Australian Rules of Racing.

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

Mr J A Zucal appeared for the Stewards of the Western Australian Turf Club.

Following the running of Race 7 over 1200 metres at Belmont Park on 14 August 2002 the Stewards opened an inquiry into an incident at about the 800 metres. Called to the inquiry were:

Jockey T Turner	Rider of TRUE BLOOM
Jockey J Whiting	Rider of CARRY KALI
Apprentice S Parnham	Ride of ACADEMY STYLE
Jockey N Rudland	Rider of MERCURIAL SMILE.

After all riders gave evidence and the patrol films had been viewed the Chairman of the inquiry announced a charge in these terms:

'Mr Rudland, after considering what was said and looking at the film and acting on making our own observations Stewards believe you should be charged with careless riding under Australian Rule of Racing 137(a) which reads any rider may be punished if in the opinion of the Stewards he is guilty of careless, improper, incompetent or foul riding now as I said the charge is one of careless riding. The careless riding being that near the 800m you allowed your mount MERCURIAL SMILE to shift inwards crowding ACADEMY STYLE ridden by Steven Parnham onto CARRY KALI ridden by Jason Whiting which was tightened and steadied inwards causing TRUE BLOOM ridden by Troy Turner to be severely checked. You understand what you've been charged with Mr Rudland?'

The appellant acknowledged that he understood the charge and pleaded not guilty to it. After hearing further evidence the Stewards adjourned to consider the charge. A guilty finding was subsequently pronounced as follows:

'Mr Rudland we've considered what was said and we've reviewed the inquiry in total and we believe that the running rail did not contribute in any way to the actual interference and it was evident from the film and the statements taken from all riders that CARRY KALI was receiving some interference prior to being crossed by ACADEMY STYLE which we believe was tightened by your mount. We also believe that TRUE BLOOM ridden by Mr Turner was racing truly prior to the incident and did not contribute to the actual interference suffered. Now for those reasons we find you guilty of the charge Mr Rudland.'

Mr Rudland lodged a Notice of Appeal on 16 August 2002 and sought a suspension of operation of the penalty. He was granted a stay of proceedings until midnight on Thursday, 29 August 2002 or as otherwise ordered. After hearing argument I dismissed the appeal on 29 August 2002. Although the only ground of appeal had been *'I was not responsible for the interference'* Mr Ryan then raised the issue of penalty. Whilst this issue clearly had not been included in the appeal notice, Mr Zucal generously indicated he did not oppose it being raised at that late stage. The brief submissions which were made by Mr Ryan did not persuade me to interfere with the penalty.

I now publish my reasons.

Mr Ryan argues the decision was totally against *'all the evidence'*, the evidence did not *'add up to the charge'*, all riders had blamed the fence and the large number of riders in the field rather than Mr Rudland's riding.

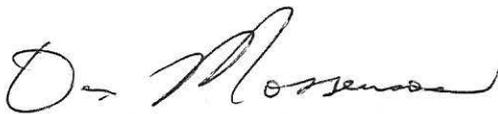
After hearing Mr Zucal and having studied the film and contents of the transcript I was not convinced by Mr Ryan's arguments. In the circumstances of this case the Stewards were justified in reaching the conclusion which they did of the incident. I am satisfied the Stewards properly concluded Mr Rudland allowed his mount to shift in and to crowd the adjoining horse with an adverse repercussion effect on others. This conclusion as to the incident was not an unreasonable one. The decision to convict was open to the Stewards and correctly made by them.

As to the penalty the Stewards made the following statement through the Chairman:

'...the Stewards looked at the degree of carelessness now we see that to be in the mid to upper range. There was a lack of awareness on your behalf at that

stage of the race. We also looked at the result of the interference which we believed was considerable. There were three horses to your inside which received direct interference and one of those was obviously substantial interference and then there were three other horses back in the field that received indirect interference. We had a look at your record and it shows that you were suspended on two occasions in the one race on the 8th of June and the penalties there were 18 days and 14 days and they were served concurrently so a total period of 18 days you were suspended for there and then we go back to October 2001 and you were given a 10 day suspension so that record is starting to concern the Stewards Mr Rudland and didn't go in your favour when we looked at a penalty. Now after taking all those factors into account we believe a period of suspension of 23 days to be the appropriate figure...'

Nothing was put forward on Mr Rudland's behalf to justify interfering with the penalty. In fact the only proposition of substance advanced related to the appellant's alleged good record. That on its own in the circumstances of this case and with the other offences did not justify upholding the appeal as to the sentence.



DAN MOSSENSON, CHAIRPERSON

