

DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: PETER DARREN KNUCKEY
APPLICATION NO: A30/08/586
PANEL: MR J PRIOR (PRESIDING MEMBER)
DATE OF HEARING: 27 DECEMBER 2002
DATE OF DETERMINATION: 27 DECEMBER 2002

IN THE MATTER OF an appeal by Peter Darren Knuckey against the determination made by the Stewards of the Western Australian Turf Club on 21 December 2002 imposing 13 days suspension for breach of Rule 137(a) of the Australian Rules of Racing.

The Appellant represented himself.

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

This is an appeal against both conviction and penalty.

Following the running of Race 6, The Starstruck Classic over 1500 metres at Ascot on 21 December 2002 the Stewards opened an inquiry into the reason for MISS TORPAGO checking near the 1350 metre mark.

Called to the inquiry were:

P Knuckey	Rider of TWILIGHT SPY
J Miller	Rider of DEDICATED MISS
A Sansom	Rider of MISS TORPAGO

After hearing evidence from the riders and viewing the patrol films, the Chairman of the inquiry announced a charge against the Appellant in these terms:

"Mr Knuckey in relation to this matter in Race 6, the Stewards at this stage of the Inquiry have decided to charge you under Australian Rule of Racing 137(a), and I'll read that rule to you.

Any rider may be punished if in the opinion of the Stewards

a) he is guilty of careless, improper, incompetent or foul riding.

Now you are charged under that rule with careless riding. The careless riding being that in the opinion of the Stewards near the 1350m you allowed your mount TWILIGHT SPY to shift inwards crowding DEDICATED MISS onto MISS TORPAGO which checked and then bumped with HIDE THE HALO on the inside."

Mr Knuckey pleaded not guilty.

The films were again viewed and Miss Sansom was recalled at the request of the Appellant. After deliberations, the Chairman in announcing a guilty finding stated:

"Mr Knuckey we've considered the charge and we've considered all that you've placed before us and considered the evidence of Miss Sansom. The salient points, as the Stewards see it, is firstly, we don't believe there is any shift from Mr Noske on HIDE THE HALO to cause the interference to MISS TORPAGO. Whilst MISS TORPAGO may have been racing keenly, and we acknowledge that, we do believe that the horse was entitled to its legitimate racing room and was entitled to be where it was. We believe that you have allowed your mount to shift in crowding DEDICATED MISS which has then caused MISS TORPAGO to check, and accordingly we find you guilty as charged."

The Chairman announced the penalty in these terms:

"We've considered all that you've placed before us in relation to penalty and taking into account your record which shows that you have, you were last suspended on the sixteenth of the fourth month 01 for twelve days and prior to that was twenty ninth of the third 01 for sixteen days so that's some eighteen months, twenty months, so taking into account that you are a prominent rider, that's a good record. We've taken into account the degree of carelessness and in saying that and in the manner that you've come over, we do find that it's on the half way on the scale, if you like. DEDICATED MISS had no option but to shift in and crowd MISS TORPAGO. Two horses were interfered with and we believe that MISS TORPAGO was interfered with significantly. We've also taken into account the fact that you would be more than likely riding in the Perth Cup and to miss the Perth Cup is a significant penalty in itself. In normal circumstances we believe a suspension of seventeen days would be appropriate, however we do believe on this occasion that you should be suspended for a period of thirteen days commencing midnight twenty second of December, 2002 to run to midnight the fourth of January, 2003. That encompasses two Saturday meetings, the Perth Cup and three provincials, so we believe that is appropriate."

Mr Knuckey lodged his Notice of Appeal on 24 December 2002 and was granted a stay of proceedings until midnight on Friday, 27 December 2002 or as otherwise ordered.

The Appellant essentially makes the following submissions in respect to the appeal against conviction:

- (i) The evidence of Jockey Sansom, in particular the way her horse MISS TORPAGO was racing, was significant against a conviction;
- (ii) The race head on film shows the horse ridden by Jockey Noske contributed to the interference;
- (iii) The camera angle for the head on film exaggerates the level of interference; and
- (iv) He was denied the opportunity to question Jockey Noske or the Steward positioned in the closest tower to the incident.

As to the last submission the Stewards' hearing took place in two parts on the race day and the Appellant was given the opportunity to call further witnesses if he wished. I note also that the Appellant actively participated in the hearings and questioned those witnesses who were present.

As to the first three submissions these are largely matters of the Appellant's opinion of the evidence given by the jockeys and the race films versus the Stewards' opinion of such evidence. Permeating this is the concession by the Appellant that he did come across and contributed to the interference, although he submits there were other contributing factors.

Looking at the totality of the evidence which was before the Stewards, I have not been persuaded their opinion of such evidence was unreasonable. The onus is on the Appellant. The evidence of both Jockey Sansom and Jockey Miller at the relevant part of the race was the Appellant's riding was by far the most significant factor.

As to penalty I am again mindful that the onus is on the Appellant. Recent tariffs for such offences presented by the Stewards are suspensions of between seven days and two months.

I am not persuaded that 13 days suspension is manifestly excessive in the factual circumstances of this case or this Appellant's background. The penalty imposed on Jockey McGruddy on the same day is distinguishable from this case. No error in the imposition of penalty by the Stewards has been demonstrated by the Appellant.

For these reasons the appeal against conviction and penalty is dismissed.

The suspension of operation of the penalty automatically ceases.

John Prior

JOHN PRIOR, PRESIDING MEMBER

