

DETERMINATION AND REASONS FOR DETERMINATION OF

THE RACING PENALTIES APPEAL TRIBUNAL

APPLICANT: MAXWELL JOHN JULIEN

APPLICATION NO: A30/08/644

PANEL: MR D MOSSENSON (CHAIRPERSON)

DATE OF HEARING: 12 DECEMBER 2005

DATE OF DETERMINATION: 12 DECEMBER 2005

IN THE MATTER OF an application for leave to appeal by Maxwell John Julien against the determination made by the Racing and Wagering Western Australian Stewards of Greyhound Racing on 14 October 2005 directing that BARNEY'S AGENT complete a satisfactory solo trial pursuant to Local Rule 101 with a condition that the greyhound goes past the return gate.

The applicant represented himself.

Mr M Kemp appeared for the Racing and Wagering Stewards of Greyhound Racing.

This matter comes before me as an application for leave to appeal against the determination made by the Racing and Wagering Western Australian Stewards of Greyhound Racing on 14 October 2005 directing that BARNEY'S AGENT complete a satisfactory solo trial pursuant to Local Rule 101 with a condition that the greyhound goes past the return gate. That local rule states:

'The Stewards at any meeting may direct that any greyhound run a satisfactory trial in the presence of the Stewards before it is again nominated, and an owner or trainer to whom a direction is so given shall not nominate that greyhound or permit it to be nominated thereafter for any event until the completion of the satisfactory trial or until the stewards otherwise direct.'

This determination does not amount to the *'imposition of a suspension or disqualification, whether of a person or of a runner'* and clearly is not a fine nor a warning off which are the three circumstances which give rise to an appeal as of right (s13 *Racing Penalties (Appeals) Act 1990*). Consequently Mr Julien may only appeal against the order to have his greyhound complete a satisfactory trial with leave of the Tribunal.

The application for leave was first entertained on 21 November 2005 when I drew Mr Julien's attention to the fact that I had been provided with a comprehensive written submission from the Stewards with some supporting material attached to the copy of the transcript given to me. As Mr Julien had not seen this documentation he was offered and accepted the opportunity of an adjournment to consider it.

It emerged during the continuation hearing I have been more than liberal with Mr Julien in allowing him considerable latitude in presenting his argument. In fact Mr Julien has been allowed to proceed without any restriction or fetter. Rather than this matter being dealt with simply as an application for leave, in substance Mr Julien has been allowed to present a full argument on the merits of the appeal. In the course of so doing Mr Julian has taken me to videos of race incidents. One normally would not resort to such an approach whilst dealing with the threshold question of whether an application for leave should be granted.

Having had the benefit of hearing the full submission from the applicant and of considering its substance in light of the grounds for application for leave, which in effect are simply repeated in the grounds for appeal, I have formed the conclusion that there is no merit in any of those grounds. The Stewards were perfectly entitled to exercise the powers vested in them pursuant to Local Rule 101 and make the direction which they did. Quite properly the Stewards for safety reasons do need to be satisfied that BARNEY'S AGENT can run a trial and will not stop dead at the finish line at risk to itself and other competitors but will continue to the relative safety beyond the return gate.

There clearly is no justification for extending leave to appeal in circumstances where the appeal itself completely lacks substance. For these reasons the leave application to appeal is refused.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

