

The charge was laid in the following terms:

'any rider may be penalised if in the opinion of the Stewards he is guilty of careless, reckless, improper, incompetent or foul riding. And the Stewards allege careless riding today Mr Parnham, the particulars being that near the 250m you allowed your mount TRIPLE KEN to shift inwards when insufficiently clear of SUNDANCEBOY ridden by Peter Hall which contributed to that gelding being tightened and restrained which in the opinion of the Stewards was the major cause for the interference received by SUNDANCEBOY.'

The Chairman of the Stewards' inquiry went on to explain '*... we are saying that your shift in was the major reason*'.

Mr Parnham was convicted and suspended from riding for 18 days. He then appealed on the grounds that:

'The Stewards have fallen into error in their decision to find me guilty of Rule ARR 137(a) in particular for being 'the major contributing factor to the interference sustained by SUNDANCEBOY'. The evidence of the race patrol film is completely inconsistent [sic] to their conclusion. The basis of their decision is clearly unreasonable'.

The appeal was part heard on 3 June 2011 and continued on 1 July 2011. At the end of the hearing I dismissed the appeal. I now publish my reasons for having done so.

APPELLANT'S ARGUMENT

The spokesperson for the appellant presented an argument which in part involved an evaluation of the quality of the rides of the various horses which were involved in the incident. In that respect the appeal was no different from so many riding appeals which have come before the Tribunal over the years. The Tribunal has regularly been invited by appellants to evaluate rides and been asked to make rulings based on arguments which call for a reassessment of the calibre of the riding. The Rules of Racing are, however, so worded as to avoid such an approach from succeeding, save in an exceptional case. The Rule in question makes it clear that it is the opinion of the Stewards which is material in determining the quality of a ride.

Consequently, as the Tribunal has stated and restated on so many occasions, to succeed in a riding appeal, an appellant must establish that the decision of the Stewards is so unreasonable that no reasonable Stewards could have arrived at it. Only in such a rather extreme situation may the Tribunal conclude the Stewards were in error and consequently arrive at its own independent conclusion as to whether the ride was not satisfactory or not. Unless and until a decision of the Stewards can be shown to be so inadequate as to be categorised as unreasonable the Tribunal should not be persuaded to interfere with the Stewards' assessment by substituting its own opinion. Clearly the Stewards not only have the knowledge and experience but are also strategically placed at vantage points around a track to be the best judges of riding incidents. In addition, the Stewards are the experts who are eminently qualified when it comes to evaluating the films of a race. Viewing the race films is inevitably an integral part of the process of determining riding incidents.

Had the argument on behalf of the appellant as to the quality of the ride been the only issue involved in the appeal, this matter would have ended quickly. I was not persuaded the Stewards had so inappropriately evaluated the quality of the rides of the various jockeys involved that it could be said the Stewards had so badly misjudged the standard of the appellant's ride, that I should interfere and quash the conviction. However, there was an additional and most novel twist to the appellant's argument. For the first time in my experience in the Tribunal, this appellant produced a video of the race on which there were two parallel lines superimposed. I was told these introduced lines followed the path taken by Mr Parnham's horse as it came around the track and reached the point of the incident. This innovative presentation was somewhat appealing when first explained and then illustrated. The argument appeared credible as I was shown and re-shown the video with these lines superimposed. The appellant's video with the lines clearly gave the impression that at the relevant stages of the race Mr Parnham's horse had indeed remained in the same relative position, namely, equidistant to the running rail. The proposition advanced by Mr Williamson was that, in view of the fact that TRIPLE KEN continued to remain the same distance from the rail, Mr Parnham's horse had not in fact moved inwards. If this proposition were accepted then Mr Parnham should not have been found guilty of the charge.

THE STEWARDS' ARGUMENT

In response Mr Lewis argued that the technology in question could not be relied on as the two parallel superimposed lines in fact moved and in so doing in some way distorted the unfolding race image. I could not adjudicate on these conflicting arguments without hearing evidence in relation to the matter. I had no alternative but to adjourn the proceedings to a date to be fixed to enable the technician who had introduced the tracking on the race film to be called to give evidence and be cross examined. In those circumstances I was asked and did order the suspension of the operation of the penalty imposed on Mr Parnham.

THE RESUMED HEARING

On the resumption of the hearing on the 1 July 2011 Mr Benny Ku was called on behalf of the appellant. Mr Ku, who holds a bachelor of science degree in multimedia technology, explained he had added the visual on the film by editing the software with alignment markers to show the position of the horse within those markers in relation to the running rail. Mr Ku's evidence was that he had introduced the parallel lines to follow the running line in a true position, and he stated the lines remained the same distance from the rail at all times. The slight movement of those lines, which was just visible, was said to have been as a consequence of camera movement.

The Stewards called Mr Guy Cox from Perth Racing Vision Department to respond to this evidence. Mr Cox explained that the technology which had been employed was not useful to ascertain lateral movement as there was a distortion caused by the angle as the horses came around the track. This witness described that there was some form of optical illusion or compression occurring as the animals approached the camera. This distortion continued as the animals came closer to the camera. I was told Mr Ku's type of technology is not used anywhere in horse racing as it cannot be relied on at any point immediately after the initial frame because of the effect of the zoom. As the incident itself took place some 120 frames subsequent to the initial frame, the image conveyed by the alignment markers leading up to the point of the tightening and restraining was unreliable. The witness asserted it was far more dependable to rely on the human eye of an experienced Steward who was watching the race live rather than the technology which had been applied to the race film. Mr Cox stated live viewing from

vantage points by experienced people gave a more accurate assessment and evaluation of the movement of horses. The live evidence of a Steward who watched the race from a vantage point had greater probative value compared to the film with the line markers. The vision of the naked eye should be preferred to that of the DVD according to the witness. Mr Cox explained the zooming effect as the horses moved closer. The parallel lines were not in fact the same distance the whole way from the commencement as the race unfolded despite the appearance to the contrary in the video. For these reasons Mr Ku's evaluation was expressly rejected by Mr Cox.

In conclusion Mr Lewis argued that Mr Criddle was a Steward who possessed vast knowledge of racing and was very experienced at witnessing races. This meant that Mr Criddle's version of the race, which had unfolded live before him, should be accepted. Mr Criddle's evidence clearly proved to be the basis upon which the Stewards had reached their conclusion and arrived at the opinion that Mr Parnham's horse had moved in.

CONCLUSION

I was persuaded by Mr Cox's evidence which I preferred to that of Mr Ku. I accepted Mr Lewis' argument and was persuaded the alignment markers which had been added to the film were unreliable. I concluded Mr Criddle's evidence should be accepted.

Consequently, at the conclusion of the resumed hearing, I decided to dismiss the appeal and ordered the suspension of penalty to cease immediately.



DAN MOSSENSON, CHAIRPERSON

