

11 March 2020

DECISION

HARNESS RACING VICTORIA

and

MR JAYDEN BARKER

Date of hearing:	3 March 2020
Panel:	Judge John Bowman (Chairperson), Magistrate John Doherty (Deputy Chairperson) and Mr Robert Abrahams.
Appearances:	Mr Nathan Moy appeared on behalf of the Stewards. Mr David Miles appeared on behalf of Mr Barker.
Charge:	Australian Harness Racing Rule 149 (2) states "A person shall not drive in a manner which in the opinion of the stewards is unacceptable".
Particulars of charge:	The particulars of the charge being that Jayden Barker, driver of Twoforsixty, pleaded guilty to a charge under Rule 149(2). The particulars of the charge being that racing towards the winning post and the 1000m after working three wide Mr Barker persisted in a challenge in a fast tempo until racing into the back straight and until such time Twoforsixty was able to obtain the lead. In the Stewards opinion the tactics adopted by Mr Barker were unacceptable and the main contributing factor for Twoforsixty being beaten 18 metres into 6th position. In assessing penalty the panel was mindful of the following factors Mr Barker's guilty plea, the culpability of Mr Barker's drive and also this was Mr Barker's second suspension under this rule within a six month period. The licence of Mr Barker to drive in races was suspended for a period of 5 weeks with the commencement date to be advised.
Plea:	Not Guilty

DECISION

Mr Jayden Barker, you have pleaded 'not guilty' to a breach of AHRR 149(2). The charge arose out of your driving of Twoforsixty in Race 7 at Melton on 9 January 2020. The race was over 1720 metres. It is alleged by a Steward that you did not drive the horse in a manner which was acceptable. After working three wide from barrier 5 in a fast tempo, you continued to persist working three wide and at a fast tempo until you were able to obtain the lead in the back straight. The horse, which was a short priced favourite, was noticeably under pressure by the home turn and ultimately tired to finish 6th, beaten 18 metres.

We have viewed the video several times. Mr David Miles, an experienced driver, appeared for you. The basic submission made by him was that you drove according to instructions early in the race but then were kept three wide by the leader and the horse in the death seat. Your instructions were, if you were caught three wide, to press on because your horse was the best in the race and the other drivers should hand up. Of course, this did not happen. The two experienced drivers of the leaders kept you three wide. You persisted driving your horse vigorously until you ultimately got to the lead in the back straight, but by then the damage had been done.

We are of the view that the charge has been made out. You did not give the horse any respite. You seemed to have no plan "B" when caught three wide outside two drivers who were not going to hand up to you. You continued to drive vigorously, particularly after passing the winning post and around the turn out of the straight.

For a lengthy part of the race you were three wide, with no cover and driving vigorously. This was not driving in an acceptable manner.

We appreciate that you may have had considerably less experience than the other drivers involved. The fact remains you are now the holder of an "A" grade licence, even if it is only recently that you drove your first metropolitan winner. You are expected to drive in a manner which is acceptable and which gives your horse every possible chance to finish in the best possible position. Unfortunately, that did not happen on this occasion. In summary, we find the charge proven.

PENALTY

Our decision is to leave the penalty where it stands at 5 weeks. The Stewards did not press for a greater penalty, although the fact that the plea effectively reduced the penalty from 6 weeks to five weeks. We are not going to put it up again, we will leave it at 5 weeks. We would like to pass a message on to the industry that if drivers get a benefit for a reduction in penalty for their guilty plea and then come to the Tribunal, using that tactically, and then pleading 'not guilty' at the hearing, industry participants should be aware that the Tribunal has the power to increase penalties and will not always be tolerant in certain cases.

The penalty shall start at midnight on Friday 6 March 2020.

Mark Howard
Registrar, Victorian Racing Tribunal