

10 July 2020

DECISION

HARNESS RACING VICTORIA

and

MR DAMIEN WILSON

Date of hearing:	8 July 2020
Panel:	Judge John Bowman (Chairperson) and Magistrate John Doherty.
Appearances:	Mr Brett Day appeared on behalf of the Stewards. Mr Lance Justice appeared on behalf of Mr Wilson.
Charge:	Australian Harness Racing Rule (AHRR) 168(1)(e) states a person shall not before, during or after a race drive in a manner which is in the opinion of the Stewards; improper
Particulars of charge:	The particulars in that after being checked by Electric Eye (Ryan Sanderson) at the 400m you intentionally directed The Kew Legend out approaching the 100m as Electric Eye improved to his outside causing that runner to be checked and shift wider and, from this point until the completion of the race, you continually allowed The Kew Legend to shift out forcing Electric Eye wider. In assessing penalty Stewards took into account the relevant considerations as outlined within the Harness Racing Victoria Stewards Minimum Penalty Guidelines placing particular weight on Mr Wilson's not guilty plea, the circumstances of the incident, general and specific deterrence, notably that the penalty must demonstrate that this type of conduct will not be tolerated. Stewards further were mindful of Mr Wilson's prior clear record over an extended period, that there was no contact between the two runners and the personal subjective factors in favour of Mr Wilson. Stewards accordingly imposed a suspension of Mr Wilson's licence to drive in races for a period of 8 weeks and a fine of \$2000.
Plea:	Guilty

DECISION

Mr Damien Wilson, in this appeal you are pleading 'guilty' to a breach of Rule 168(1)(e). The matter involves your drive of The Kew Legend in Race 2 at Shepparton on 26 April 2020. It is alleged that you drove in an improper manner in that in the home straight on the last occasion you turned your horse outward and forced Electric Eye, driven by Ryan Sanderson, wider and wider as the horses approached the winning post.

We should point out that there had been some interference caused to your horse by Electric Eye approaching and on the turn out of the back straight, when that horse broke for several strides. At that time Electric Eye was second last and you were last, but the horses were at the back of the field. Further, it appeared that you were about to commence a run.

In any event, the outcome was that both horses effectively became almost tailed off, with your horse being second last and Electric Eye being last. In the straight, Electric Eye moved to your outside. You clearly turned your horse's head and, although no contact was made, forced Mr Sanderson's horse almost to the outside rail.

When interviewed by Stewards after the race, you pleaded 'not guilty' and you were not particularly co-operative. We would also point out that you are a very experienced and successful driver, having been driving for some 27 years. You have had almost 8,500 drives, with many successes. Mr Sanderson is only 17 years of age and has had only a little over 50 drives.

The Stewards imposed a penalty of 8 weeks suspension and a \$2,000 fine, also conscious of the fact that you were at that stage pleading 'not guilty'. In the light of your changing your plea to 'guilty', the penalty suggested by Mr Day on behalf of the Stewards is a period of suspension of 6 weeks and \$1,000 of the fine being suspended for a period of 12 months.

We have viewed the video, which depicts what has been described. We have also taken into account the matters raised by Mr Lance Justice on your behalf. We accept that you are a very successful driver with a very good record. Your behaviour on this occasion was out of character.

Mr Justice has informed us that, at the time, your son had been involved in an accident in which he sustained very severe burns. He was hospitalised in Melbourne in intensive care and you were driving back and forth daily to be with him. You were not sleeping. We accept that what you did was completely out of character.

You would appreciate that it is not a good look, to put it mildly, for a driver of your talent and experience to be behaving in this way to a very young driver who is just commencing his

career. General deterrence is an important factor. Drivers, and particularly experienced drivers, must not behave in this fashion.

However, we do accept that there were circumstances that helped explain, but not excuse, your behaviour. Bearing in mind all of the above, we uphold the appeal, which is now confined to penalty. In our opinion, a suspension of your driver's licence must be imposed. We fix the suspension period at 4 weeks. In the circumstances which we have described, we are of the opinion that the fine of \$2,000 should be wholly suspended for a period of 12 months.

Mark Howard
Registrar, Victorian Racing Tribunal