

Media Release

Racing Appeals & Disciplinary Board

Result of appeals held before the HRV Racing Appeals and Disciplinary Board on 16 January 2017.

Gary Donaldson

Against a \$400 fine imposed by the stewards under Rule 44(1) at Tabcorp Park Melton on 18 November 2016.

Appeal Dismissed. Penalty amended to \$400 fine, \$200 suspended for 12 months provided he does not reoffend under rule 44(1) during such period.

HRV RAD Board Panel: Tony Burns (Chairman), Rod Osborne

Appellant Representative: Self
HRV Representative: Nicholas Murray

Nathan Weightman

Against a 3 week suspension imposed by the stewards under Rule 163(1)(a)(iii) at Mildura on 13 December 2016.

Appeal Dismissed. Penalty varied to 10 days.

HRV RAD Board Panel: Tony Burns (Chairman), Rod Osborne

Appellant Representative: Mark Shelley
HRV Representative: Anthony Pearce

Nathan Weightman

Against a 3 week suspension imposed by the stewards under Rule 162(1)(r) (amended from original Rule 149(2)) at Bendigo on 30 December 2016.

Appeal Dismissed.

HRV RAD Board Panel: Tony Burns (Chairman), Rod Osborne

Appellant Representative: Mark Shelley

HRV Representative: Shane Larkins

TRANSCRIPT OF PROCEEDINGS

RACING AND DISCIPLINARY BOARD

MR ANTHONY BURNS, Chairman

MR ROD OSBORNE

EXTRACT OF PROCEEDINGS

GARY DONALDSON

DECISION

MONDAY 16 JANUARY 2017

Mr N MURRAY appeared on behalf of the HRV Stewards

MR GARY DONALDSON appeared on his own behalf

Mr Donaldson pleads not guilty to a breach of ARHR 44(1) that he failed to notify stewards of an intention to drive contrary to its most recent notification of change of tactics submitted two races earlier.

The policy surrounding this policing of Rule 44(1) was amended on 29 April 2016 and advertised via the HRV website and via social media. It was not however published in the Harness Racer until December 2016, after Mr Donaldson's alleged offence here. Further it was not the subject of a text message to trainers that gave notice of that change.

The proper implementation of and notification about any change in policy is important. The position of Mr Donaldson here is that he was unaware of the change to policy that following any change of tactics notification that where a horse is to revert to its most usual racing pattern that a further change of tactics is to be notified.

His lack of awareness regarding the change of policy here however seems of little importance as he asserts that the horse was driven in accordance with his most recently submitted change of tactics, that is that circumstances permitting he would hold the lead.

The Racing Appeals & Disciplinary Board (RADB) is established under section 50B of the Racing Act (1958). The RADB is an independent Board established to hear and determine appeals in relation to decisions made under the rules to impose penalties on persons and to hear and determine charges made against persons for serious offences.

Here the race vision from Race 1 at Melton on 18 November 2016 shows that the horse surrendered the lead without any urging to hold the position whatsoever. Whilst it may be a fine line and no one expects any driver to hold an untenable position too long, some application to the nominated tactic must be shown. Here no effort was made to hold the lead. In those circumstances the charge is made out.

Penalty – whilst we support the published guideline penalties there is always a discretion. It is exercised to some extent in Mr Donaldson's favour here because of some anomalies in the advertisement and notification of the change in policy. \$400 fine with \$200 of it suspended for 12 months such that that component of \$200 not be paid unless there is a further breach of this rule within that 12 months.

TRANSCRIPT OF PROCEEDINGS

RACING AND DISCIPLINARY BOARD

MR ANTHONY BURNS, Chairman

MR ROD OSBORNE

EXTRACT OF PROCEEDINGS

NATHAN WEIGHTMAN

DECISION

MONDAY 16 JANUARY 2017

Mr A PEARCE appeared on behalf of the HRV Stewards

MR MARK SHELLEY appeared for Mr N WEIGHTMAN

Mr Weightman pleads guilty to a breach of ARHR 163(1)(a)(iii) at Mildura on 13 December 2016. The vision shows relatively minor interference to one horse that doesn't change the ultimate race results. His change of plea to one of guilty is worthy of a discount and given our assessment of the severity of the interference, in all the circumstances we impose a suspension of 10 days.

TRANSCRIPT OF PROCEEDINGS

RACING AND DISCIPLINARY BOARD

MR ANTHONY BURNS, Chairman

MR ROD OSBORNE

EXTRACT OF PROCEEDINGS

NATHAN WEIGHTMAN

DECISION

MONDAY 16 JANUARY 2017

Mr S LARKINS appeared on behalf of the HRV Stewards

MR MARK SHELLEY appeared for Mr N WEIGHTMAN

Mr Weightman is charged with a breach of ARHR 149(2) in Race 7 at Bendigo on 30 December 2016. Whilst Mr Weightman pleaded guilty on the night of the race, he changes his plea here to that charge to one of not guilty. He does however assert that he is guilty of the specific Rule 162(1)(r) for failing to activate gear that required activation. It is this specific allegation that formed the particulars of the unacceptability of his drive in the opinion of the stewards under Rule 149(2). We don't say that those particulars could not amount to proof of a charge under Rule 149(2). Indeed, in the opinion of the stewards both charges are made out and either is worthy of the same penalty. In law generally the preference should always be to charge under specific legislation. Rule 149(2) being a generic and subjective rule is broad. Whilst it is not an inappropriate use of that rule we find the specific Rule of 162(1)(r) is more appropriate. We accordingly amend the charge to 162(1)(r) and note the plea of guilty.

That in itself does not assist Mr Weightman as he was given his penalty on 30 December 2016, in light of his plea of guilty to the charge of Rule 149(2).

The question for this Board is then what is the appropriate penalty for a breach of Rule 162(1)(r) in circumstances where equipment designed to restrict a horse stride is not activated as it should be.

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Whilst each stride was probably restricted we cannot say with any certainty that the horse's chances were affected or to what extent. The difficulty for the integrity of races is that it might have been disadvantaged. The betting public is entitled to expect that no such potential for disadvantage occurs.

In all the circumstances we find that a 3 week suspension is an appropriate penalty. Despite the substitution of the rule charged, we dismiss the appeal on penalty and impose a 3 week suspension.