



APPEAL of CRAIG MOON: AR 137(a)

Appeal Committee: Mr John Stewart (Chairman), Mr Brett Dixon and Mr Charles Burkitt
Date of Hearing: 19 July 2011

REASONS FOR DECISION

Stewards charged Jockey Moon with reckless riding on “Dream Face” in Race 2 at Fannie Bay on 9 July 2011. Particulars of the charge were that near the 700 metres he permitted his mount to shift in when not sufficiently clear of “Explosive Kiss” and “Snoop” and, as a result, those horses had to be checked.

On hearing the appeal we viewed the video of the race which clearly confirmed that the incident was accurately described by the particulars. “Dream Face” came from a wider barrier than the other two horses at the 1000 metres start. “Explosive Kiss” and “Snoop” were more or less racing together, slightly ahead of the field. They had taken advantage of their favourable barrier positions. “Snoop” was on the rail and “Explosive Kiss” immediately outside it.

“Dream Face” passed them, and then abruptly shifted in towards the rail near the turn at the end of the back straight. At that point “Dream Face” was only a length or perhaps a little more ahead. The other horses were checked, became unbalanced and a chain reaction of interference was transmitted to several other runners.

Jockey Moon did not disagree with the particulars but didn’t believe the other horses were checked severely. He appealed against the Stewards’ classification of his conduct as reckless. He accepted that he had ridden carelessly but not recklessly.

Australian Rule of Racing 137(a) provides that any rider may be penalised if, in the opinion of the Stewards, the rider “is guilty of careless, reckless, improper, incompetent or foul riding.”

The following exchange from the transcript of the Stewards’ Inquiry reveals why the Stewards formed the opinion that the rider’s conduct merited a charge of reckless riding (as compared with the less serious charge of careless riding):

“MR LANE: Our view on Reckless Riding is that if a rider is aware of the possible consequences of their actions and elects to take that action anyway, then we deem it to be the higher charge of Reckless Riding.

MR MOON: Yes.

MR LANE: It’s not an accident; it’s an action which you take knowingly, and knowing the possible consequences. So hence, we’ve looked at the film and we believe only a small number

of strides prior to your shifting in, you looked to your inside. We believe at that stage you were possibly about a length clear, so you should have known that the riders were on..."

MR MOON: Yes I did.

MR LANE: Well, you would have known that the riders were on your inside and therefore you would have known the possible consequences of your shifting in."

Jockey Moon told the Stewards that he disagreed with their assessment:

"MR MOON: ...I do believe – like I stated in my evidence, when my horse did get that length clear it did have the inclination just to roll in a fraction on them and then, as I said, I was sort of going away then and the shift had already commenced."

(To be clear, we note that "Dream Face" was a length "clear" in the sense of being a length ahead.)

Jockey Moon could be seen looking to the inside as the field went down the back straight and before he crossed to the rail. He is a very experienced and generally competent rider. All jockeys are aware of the guideline Stewards apply to Rule 137(a), namely that a horse must be at least 2 lengths clear before changing course. Jockey Moon must have recognized that there was a risk in crossing to the rail when his mount was insufficiently clear of the other two horses.

Rule 137 respects the opinion of the Stewards who are very experienced observers of the behaviour of horses and jockeys when racing. We do not believe that the Stewards' assessment was unreasonable. To the contrary, there was sufficient evidence to justify the finding that Jockey Moon was guilty of reckless riding.

In the recent appeal of Jockey Arnott we described "reckless" as conduct showing such disregard for the safety of others as to be deserving of more severe punishment than if the conduct was careless. If the Stewards' decision in this case aroused sufficient doubt we would not uphold their finding. However, we are satisfied that Jockey Moon's riding can truly be described as reckless.

In our view there is a clear dividing line between the two forms of breach. But it is inappropriate to prescribe a formula for differentiating between them given the variety of circumstances that can occur in racing. Many cases of careless riding involve decisions made on the "spur-of-the-moment" or when the rider is to some extent a victim of circumstances. However, in contrast with cases of that kind, when an experienced rider such as Jockey Moon repeatedly looks to the inside with the apparent intention of shifting towards the rail and then does so when insufficiently clear, we conclude that the jockey has had sufficient time to gauge the risk entailed in that manoeuvre and has elected to take that risk.

We could not see any indication that "Dream Face" was "rolling in" as Jockey Moon suggested. It appeared to us that Jockey Moon rode too aggressively in crossing as the leaders were about to negotiate the bend. Several horses were inconvenienced as a result. There was a serious risk of injury which, fortunately, did not materialize. The Rule is designed to deter riders from exposing others to an unnecessary risk of that kind.

Saturday 9 July 2011 was a bad day for Jockey Moon. Stewards found him guilty of careless riding in Race 1 that day and suspended him from riding for one meeting. We understand that the standard period of suspension imposed by Stewards in the Northern Territory is 2 meetings for careless riding and 4 meetings for reckless riding. Of course, the standard will not restrict the

application of the Stewards' discretion in a given case where factors including the circumstances of the breach, the rider's record and the conduct of the inquiry will be taken into account.

Stewards gave Jockey Moon the benefit of a shorter period of suspension in determining the penalty for his conduct in Race 1. For his conduct in Race 2 (with which we are immediately concerned) Stewards also extended lenience in suspending Jockey Moon for 3 meetings and making the period of suspension concurrent with the period to be served as a result of the decision relating to Race 1. Although this goes to the effect of the order rather than the exercise of the discretion, it should be noted that Australian Rule of Racing 196(3) provides that, unless otherwise ordered, a penalty of suspension shall be served cumulatively to any other period of suspension.

The Stewards ordered that the period of suspension to be served by Jockey Moon will expire at midnight on 23 July 2011. The transcript contains this passage:

“MR LANE: We've also – just so you're aware – we considered whether the penalty should be cumulative with your first suspension for Careless Riding or concurrent. We've elected to go with concurrent.

MR MOON: Yes, sir.

MR LANE: And we've elected to make the penalty three meetings rather than four.

Mr MOON: All together?

MR LANE: Yes. And....

MR MOON: So what does that take me to? Metric Mile day, basically?

MR LANE: Yes, you'd be able to ride on Wednesday.....

MR MOON: Coleman's Cup, yes.”

In his grounds of appeal Jockey Moon suggests that the Alice Springs meeting on Sunday 17 July 2011 should have been counted in the suspension for 3 meetings. If that were so, the period of suspension would have expired at midnight on Sunday 17 July 2011 leaving Jockey Moon free to ride in the Metric Mile meeting on 23 July 2011.

We disagree. The Stewards made it plain that they were suspending Jockey Moon for 3 Darwin meetings inclusive of the Metric Mile meeting. All of those meetings are conducted in the course of the Darwin Cup Carnival. The penalty is appropriate where the breach has also occurred at a Darwin Cup Carnival meeting. In this case it is beside the point that the rider may have accepted mounts at the Alice Springs meeting on 17 July. If that meeting is to be counted then in our view an appropriate period of suspension would be 4 meetings to be served concurrently as the Stewards ordered. Either way the result is that the suspension will end at midnight on 23 July 2011.

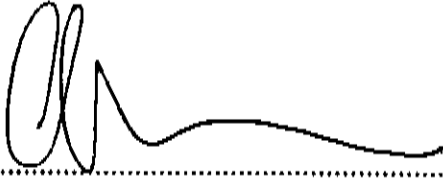
Having said that, in our view it would be helpful if Stewards could expressly mention at each inquiry the potential impact of a period of suspension on a rider's ability to ride at all Territory race meetings so that there can be no misunderstanding.

We were not informed of any challenge to the fine of \$500 in circumstances where “Dream Face” won the race. In fact Mr Moon's appeal was directed towards the classification of his

conduct rather than the suspension or fine. At any event, in our opinion the fine is appropriate in addition to the period of suspension.

The appeal is refused. The deposit will be retained.

Dated 20 July 2011

A handwritten signature in black ink, appearing to be 'John Stewart', written over a horizontal dotted line.

John Stewart
Chairman