

TRNT Appeals Committee

APPEAL of Jockey Aaron Sweeney

APPEAL COMMITTEE: Mr P McIntyre (Chair) and Mr S Stirling

DATE of HEARING: 12 July 2023

REASONS FOR DECISION

Appearances

1. At the Appeal:
 - a. Mr D Hensler represented the Stewards.
 - b. Mr K Ring represented The Appellant by video link from Tasmania.
 - c. Jockey A Sweeney (the Appellant) was present (in person) in Darwin.
 - d. Mr Greg Aldam was present as an observer.

Materials Relied Upon by the Parties

2. Prior to the hearing of this appeal the Appeals Committee had the benefit of considering:
 - a. The Notice of Appeal filed by the Appellant on 10 July 2023 (Notice of Appeal).
 - b. The transcript of the Stewards Inquiry conducted on 10 July 2023 at the Darwin Turf Club (Transcript) into an incident in Race Ten that day (Race Ten).
 - c. The TRNT Stewards Report dated 10 July 2023 (Stewards Report).
 - d. A table entitled 'NT Careless riding penalties from March 20014 (Penalties Table).
 - e. A Table entitled 'A Sweeney-Personnel Incidents' (Jockey's Record).
3. At the hearing of this appeal the Appeals Committee also had the benefit of considering video recordings of Race Ten (Video Footage) and both parties took the opportunity to direct the attention of the Appeals Committee to various aspects of the Video Footage.
4. The documents referred to at paragraphs 2 and 3 were accepted into evidence without objection.

Background

5. The Appellant appealed against the severity of the penalty imposed by the Stewards after his plea of guilty to a charge under AR 131(a) of engaging in careless riding.
6. The particulars of the breach to which the Appellant entered a plea of guilty were as follows:

‘In race ten when you rode FIERCE LEGEND that whilst riding your mount along leaving the two hundred meters you permitted the gelding to shift inwards when insufficiently clear resulting in GO FORMAL ridden by Apprentice Luximon being tightened for room and restrained.’¹
7. The penalty imposed upon the Appellant on 10 July 2023 was that his licence to ride in races was suspended for one NT meeting.
8. In his Notice of Appeal, the Appellant relied solely upon an assertion that the penalty was ‘very harsh’ in the context of his asserted ‘pretty good record’ (the Ground of Appeal).

Submissions of the Appellant

9. Mr K Ring made the following submissions on behalf of the Appellant.
 - a. The incident was caused by the inexperienced Apprentice Jockey I Luximon failing to call to alert the Appellant of the presence of his mount GO FORMAL.
 - b. That the Appellant was unaware of the presence of GO FORMAL which was (in the words of the Appellant) ‘in a blind spot’.
 - c. That the degree of interference assessed by the Stewards as ‘mid-range’ should (in the subjective opinion of Mr K Ring) have been assessed by the Stewards as ‘low to mid-range’.
 - d. That the penalty should (in the subjective opinion of Mr K Ring) have been a reprimand or a fine.
 - e. That the Jockey’s Record was ‘very good’ whereas the records of the jockeys disclosed in the Penalties Table were ‘poor’.

¹ See Transcript page 5 line 13-17.

Submissions of the Stewards

10. Mr D Hensler made the following submissions on behalf of the Stewards.
- a. The alleged failure of Apprentice Jockey I Luximon to ‘call’ is irrelevant to the matter as the Appellant pleaded guilty to the charge as particularised.
 - b. At the Inquiry the Appellant agreed that it was his responsibility to ensure he was clear before shifting ground.²
 - c. The jockeys referred to in the Penalties Table had a range of records from ‘poor’ to ‘fair’ to ‘very good’ to ‘excellent’.
 - d. The Penalties Record revealed that a suspension of licence to ride in races for at least one NT meeting is a consistent penalty for careless riding.
 - e. The Appeals Committee has affirmed in previous decisions that ‘the offence of careless riding generally merits a suspension of licence.’³

Submissions of the Appellant in Reply

11. Mr K Ring submitted in reply that whilst the Stewards took into account the Jockey’s Record that ‘they should have taken it into account more’.

Consideration of Submissions

12. The Appeals Committee agrees with the submission of Mr D Hensler referred to in paragraphs 10. a. and 10. b. above.
13. The Appeals Committee considers that the decision of the Appellant to shift ground into what he described as ‘a blind spot’ borders on reckless riding. During the course of the hearing of the appeal the Appellant at one point said: ‘I agree it is my responsibility to check I have clear ground, but Luximon should have called as he was in my blind spot.’
14. The submissions of Mr K Ring referred to at paragraphs 9. a. and 9. b. do not assist the Appellant and do not address the Ground of Appeal.

² See Transcript page 4 line 22.

³ See Appeal Committee Decision in the appeal of Jan Cameron 15 May 2014 and the Appeal Committee Decision in the appeal of B Davis 17 August 2017.

15. Neither do the submissions of Mr K Ring referred to at paragraphs 9.c. and 9.d. address the Ground of Appeal. We will return to this below at paragraphs 25-26.
16. There was no controversy during the hearing of the appeal about whether or not the Stewards took into account the Jockey's Record. That was unsurprising given the extended discussion concerning the Jockey's Record that is recorded at pages 5-6 of the Transcript. Mr Hensler is recorded as describing it as 'a very good record'.
17. An examination of the Penalties Table discloses that the submission of the Appellant referred to at paragraph 9. e. is wrong. The Appeals Committee accepts the submission of Mr Hensler to the contrary.⁴
18. The Appeals Committee interprets the Appellant's submission referred to at paragraph 11 above as a submission that the Stewards did not have sufficient regard to the Jockey's Record. This interpretation is consistent with the Ground of Appeal described in paragraph 8 above.
19. The difficulty for the Appellant in this appeal is that he has not identified any error on the part of the Stewards in their consideration or determination of the penalty.
20. Furthermore, the penalty imposed is consistent with the pattern of penalties disclosed in the Table of Penalties.
21. There would be no basis for the Appellant to have submitted that the penalty was so unreasonable that no reasonable person would have imposed it. Quite properly, the appellant did not attempt to raise that ground of appeal.
22. Unfortunately, what the Appellant and his advocate, have attempted to do in this appeal is to persuade the Appeals Committee to substitute the personal and subjective opinions of the Appellant and his advocate, for the reasoned decision of the Stewards without even attempting to identify an appellable error.

⁴ See paragraph 10. c. above.

23. That is an approach to appeals that has been repeatedly rejected as unmeritorious and indeed frivolous by the Appeals Committee.⁵

Determination of Appeal

24. On the 12 July 2023, the Appeals Committee dismissed the appeal against penalty for reasons to be published. These are those reasons.

The Submission of Mr K Ring referred to at paragraphs 9. c. and 9. d.

25. The submission of Mr K Ring referred to at paragraphs 9.c. and 9.d. are not available except in circumstances where an Appellant persuades the Appeals Committee that the Stewards ‘fell into error’.

26. Even then, such a submission would have no merit unless supported by some objective evidence.

27. The opinion of the Appellant or of his advocate, are submissions. They do not constitute evidence.

Dated the 13th day of September 2023



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P F McIntyre (Chair)



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Mr S Stirling

⁵ See for example, the Appeals Committee decision in the appeal of Raymond Vigar 10 June 2015.