

DATE: 13 March 2024

TRIBUNAL: Chairman: Teresa Hall  
Deputy Chairman: Alastair Shields  
Member: Allan McGill

APPELLANT: James Bell

IN THE MATTER of an Appeal by Mr James Bell against a decision of Thoroughbred Racing Northern Territory Stewards (Stewards).

BREACH OF RULE: Northern Territory Local Rule of Racing NT57

### DETERMINATION

This is an appeal by Mr James Bell against a decision of the Thoroughbred Racing Northern Territory Stewards (Stewards) made on 29 September 2023 to impose a period of disqualification upon Mr Bell. The period of the disqualification imposed was equivalent to the period of a suspended sentence imposed upon Mr Bell by the Northern Territory Supreme Court (Supreme Court), pursuant to Northern Territory Local Rule of Racing NT 57 (NT57). This period of disqualification is expressed to expire on 21 June 2024.

The particulars of the circumstances leading to the disqualification are that on 21 September 2023, Mr Bell pleaded guilty in the Supreme Court of one charge of attempting to pervert the course of justice, and one charge of writing a false statutory declaration. On 22 September 2023, he was convicted of those charges and sentenced to a total period of 9 months imprisonment, commencing on 22 September 2023, and expiring on 21 June 2024. The sentence was wholly suspended from 22 September 2022.

On 29 September 2023, the Stewards wrote to Mr Bell informing him that, by virtue of NT57 (2) and (3), he was disqualified for the same period of imprisonment imposed by the Supreme Court, and that he would be eligible to apply for a licence after 21 June 2024.

NT 57 provides as follows:

“(1) Subject to sub rule (2) the Principal Racing Authority may for such period and on such conditions as it thinks fit, disqualify a person who is convicted of a crime or an offence in any State or Territory of Australia or any other country.

(2) Any person who is convicted of a crime or offence in any State or Territory of Australia or in any other country and sentenced to a period of imprisonment shall be disqualified by the Stewards for the same period as the term of imprisonment.

(3) To remove any doubt, sub rule (2) shall apply where the term of imprisonment is suspended by a court.”

The Racing Appeals Tribunal (the Tribunal) was provided with the Stewards letter advising of the disqualification, the transcript of Mr Bell's sentencing before the Supreme Court, and a letter of support for Mr Bell dated 2 November 2023. The Stewards provided written submissions, and both parties appeared before the Tribunal at a hearing on 4 December 2023.

The essence of the Stewards' submissions is that sub paragraphs (2) and (3) of NT 57 are non-discretionary, unlike subparagraph (1), and that the Stewards therefore had no discretion to either impose a lesser period of disqualification or no disqualification at all.

Mr Bell's submissions were that the disqualification period imposed upon him by the Stewards was unreasonably harsh.

The Tribunal has carefully considered the submissions made, and the terms of NT57 itself, and finds that on a plain interpretation of the rule, there is no discretion on the Stewards in circumstances when a person to whom NT57 applies is convicted and sentenced to a term of imprisonment, whether the term of imprisonment is suspended or not. This effect of the rule is to require the Stewards to disqualify a person to whom the rule applies for the period of the imprisonment.

The Tribunal accepts the evidence from Mr Bell and from his support letter that Mr Bell is passionate about working with horses, and that the satisfaction that he gains from it has a positive impact on his mental health. However, given the non-discretionary nature of NT57 (2) and (3), neither the Stewards nor the Tribunal are able to adjust the period of his disqualification to take these factors into account.

After the conclusion of the hearing, the Tribunal identified a threshold issue, namely whether, at the time of Mr Bell's sentencing by the Supreme Court on 22 September 2023, he was 'a person' to whom NT57 applied, given that his trainer's licence had been cancelled due to a previous disqualification on 13 September 2021, and that he had not applied for a further licence when that period of disqualification (as extended by the operation of Australian Rule of Racing AR 263(4)) expired on 30 April 2023, some 5 months prior to his sentencing in the Supreme Court.

Given that this issue was not canvassed at the hearing, the Tribunal invited written submissions from the parties on the issue. On 29 January 2024, the Stewards provided a written submission signed by their solicitors, De Silva Hebron. Mr Bell did not provide a submission by the due date set by the Tribunal.

The Tribunal is aware that Mr Bell agreed to be subject to the Australian Rules of Racing and the Northern Territory Local Rules of Racing (together, the Rules of Racing) when he first applied to be licensed, and that by virtue of Australian Rule of Racing 278(2), he continued to be subject to the Rules of Racing during his period of disqualification from 13 September 2021 to 30 April 2023.

Given that Mr Bell has been subject to the Rules of Racing during the period he was both licensed and disqualified (noting that this period expired recently, on 30 April 2023), and noting that Mr Bell initiated this appeal and his stated intentions to participate in and seek employment in the industry, the Tribunal is satisfied that he has agreed to be bound by the rules of racing, and that he is therefore a person to whom the Rules of Racing applied, at the date that he was disqualified by the stewards.

The appeal is therefore dismissed.



TERESA HALL  
CHAIRMAN