

RACING APPEALS TRIBUNAL

QUEENSLAND

APPEAL NO: RG006-06

DATE: 13 December 2006

APPELLANT: Mr Ronald Douglas Ball

RESPONDENT: Greyhound Racing Authority (Qld)

APPEAL FROM: The decision by the Stewards of the Greyhound Racing Authority (Qld) to impose a 12 months suspension on the Appellant for a breach of Rule 125(1)(f)(i) of the Rules of Greyhound Racing.

Appeal against penalty only.

APPEARANCES: Mr Michael Byrne QC with Mr G Forward of Counsel instructed by Kerwin Solicitors appeared on behalf of the Appellant.

Mr Danny Ryan, Chairman of Stewards, appeared on behalf of the Respondent.

REASONS FOR TRIBUNAL'S DECISION

Mr Brock Miller - Deputy Chairman

Mr Dennis Standfield - Member

Notwithstanding the Notice of Appeal Form referred to an appeal against the finding of the Stewards Mr Byrne has advised the Tribunal that this Appeal is on penalty only in relation to the 12 months suspension imposed by the Stewards after the Appellant pleaded guilty to a breach of Rule 125(1)(f)(i) of the Rules of Greyhound Racing.

Rule 125(1)(f)(i) provides:

“Any person (including an official) who:

.....

(f) engages in, publishes or causes to be published, broadcasts or causes to be broadcast the use of any contemptuous, unseemly, improper, insulting, or offensive language, conduct or behaviour in any manner or form towards, or in relation to:

(i) a Steward;

.....

..... shall be guilty of an offence and liable to a penalty pursuant to Rule 131.”

Rule 131 provides for the imposition of a fine not exceeding \$5,000 and/or suspension, disqualification, cancellation of registration or being warned off.

The Stewards Inquiry of this matter was held on 27 November 2006 and followed a complaint lodged by the Deputy Chairman of Stewards Mr Steve McGrath in relation to the incident which occurred on 16 November 2006 at Albion Park Raceway.

The particulars of the breach of the Rule provided by the Stewards to the Appellant at the Inquiry are stated at page 25 from line 27 of the Inquiry Transcript as follows:

“..... the Stewards are of the opinion that on 16 November at Albion Park prior to the running of Race 1 and following the closing of the kennels and the subsequent scratching of Majority Rules, that your actions towards the Stewards in the confines of the messroom and in the confines of following into the stewards room were not acceptable to the stewards and it falls within the category of this rule, that you engaged in conduct or behaviour that was offensive, that was contemptuous towards the stewards, it was improper and it was insulting.”

The “actions” of the Appellant referred to in the particulars concerned the Appellant swearing at Deputy Chairman of Stewards Mr McGrath after he approached him in the kitchen of the GRA Stewards Room at Albion Park and using words or statements similar to:

“..... have you scratched my fucken dog”

“..... been stuck in the fucken traffice since 5.05 pm ...”

“..... you are a fucken air head McGrath”

“..... you are a fucken idiot”

“..... you are a dead set arsehole”

“..... you are full of shit Steve, you’ve got no decency about you at all ...”

While these statements are totally unacceptable the Tribunal notes the Appellant stated at the Inquiry he did not intend to threaten anyone and the Stewards have accepted this by confining the misconduct charge to within the scope of Rule 125(1)(f).

While in no way condoning the Appellant’s behaviour Mr Byrne did in his submissions submit that it is important to understand the circumstances which led to the Appellant behaving the way he did.

Those circumstances concerned the Appellant being held up on his way to the race meeting because of a traffic accident in which he arrived on the course at 6.12 pm when his dog Majority Rules was scratched at 6.06 pm. Mr Byrne stated that Majority Rules was the favourite for the first leg of the treble and the Appellant believed he could win prize money of \$3,300.

While the Appellant’s initial statements were to the effect that he thought he was being “singled out” and the Stewards were inconsistent with past behaviour involving scratching of dogs, there is no basis for that. The Stewards were well within their rights and the scratching of the dog for not being on the course by 6.05 pm was the correct procedure. Indeed if the Stewards had not taken that action they could have been subject to allegations of bias in favour of the Appellant from other trainers who have previously had their dogs scratched after 6.05 pm.

The transcript of the Inquiry reveals that the Stewards were aware of the traffic accident and must have felt some sympathy for the Appellant as they indicated that they would not be imposing any penalty for attending the meeting late.

Mr Byrne was at pains to advise the Inquiry that the conduct of the Appellant by abusing Deputy Steward Steve McGrath was an aberration and totally out of character. There were references produced to the Tribunal and it is clear that the Appellant is highly thought of by participants in the industry with the references also referring to the Appellant being embarrassed and remorseful because of his behaviour.

The Appellant has been described as an ambassador for the industry and has up to now had 46 blameless years as a Trainer with remarkable success through his training feats.

The Appellant has on four occasions trained the Queensland Greyhound of the year and from his time and involvement in the industry it is clear that training is a major part of his life.

Mr Byrne also advised the Tribunal of a personal matter involving the Appellant and the current financial difficulties being experienced by him. While these were no excuse for his actions they do go towards the understanding of how the Appellant's behaviour on that day was out of character. Indeed Steward Gail Thorsby stated at page 15 line 3 of the Inquiry Transcript that:

“I have never seen Mr Ball in that state before ...”.

In Mr Byrne's submissions he referred to decisions of the Tribunal in the appeals of Crouch (RT015-06) Brasier (RH013-06) Sharp (R007-05) and the recent decision of Goodman (RG005-06). The Tribunal considers that its decision in Goodman is most relevant and refers to its published reasons.

The tenor of Mr Byrne's submissions were that the penalty of 12 months suspension imposed was manifestly excessive in view of past decisions of the Tribunal and the Appellant's previous good character.

Mr Ryan submitted that when imposing the 12 months suspension the Stewards did consider the Appellant's previous good behaviour and that is why a suspension was imposed and not a period of disqualification. Mr Ryan submitted the integrity of the whole industry depends on the licensing of licensees and the ability for Stewards to control Licensees when they do not accept the authority of the Stewards.

It goes without saying that the Tribunal considers the actions of the Appellant by his abuse of Deputy Chief Steward Steve McGrath is totally unacceptable. The Appellant has had an exemplary career and indeed for the length of time he has been in the industry and his successes it is difficult to accept how the Appellant finds himself in this position.

Mr Byrne has submitted that the Appellant is genuinely remorseful and that there will never be any reoccurrence of such behaviour by the Appellant.

The Tribunal is of the opinion that the Appellant's previous unblemished conduct and the fact that what occurred was totally out of character should have been further considered by the Stewards. While deterrence is a necessary element when imposing a penalty there must also be consideration of the Licensee's past character and involvement in the industry. While the Inquiry Transcript reveals that the Appellant pleaded not guilty to the breach Mr Byrne submits it is clear that this was a "claytons" not guilty plea and the Appellant accepted his actions were a breach of Rule 125(f)(i). This is accepted by the Tribunal.

While the Appellant's initial statements were to the effect that he thought he was being "singled out" the Stewards were not inconsistent with past procedure involving scratching of dogs and it was clear there was no basis for that. The Stewards were well within their right and the scratching of the dog for not being on the course by 6.05 pm was the correct procedure.

The orders of the Tribunal are:

1. Appeal upheld.

2. The penalty imposed is the Appellant's Training Licence is suspended for three months with a \$500 fine which is to be paid within one month. The suspension period is wholly suspended for 12 months pending no further misconduct breaches by the Appellant.

3. Appeal deposit fee to be refunded to the Appellant.

Mr Brock Miller
Deputy Chairman

Mr Dennis Standfield
Member