

**DETERMINATION AND REASONS FOR DETERMINATION OF**  
**THE RACING PENALTIES APPEAL TRIBUNAL**

**APPLICANT :** DAMIAN RICHARD MILLER

**APPLICATION NO. :** A30/08/236

**PANEL :** MR D MOSSENSON (CHAIRPERSON)  
MR P HOGAN (MEMBER)  
MR F ROBINS (MEMBER)

**DATE OF HEARING :** 22 DECEMBER 1994

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**IN THE MATTER OF an appeal by Mr D R Miller against the determination of the WA Turf Club Stewards for imposing a suspension of 6 weeks under Australian Rule of Racing 135(b) and (c).**

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Australian Rule of Racing 135 states:

"...

- (b) The rider of every horse shall take all reasonable and permissible measures throughout the race to ensure that his horse is given full opportunity to win or to obtain the best possible place in the field.
- (c) Any person who in the opinion of the Stewards has breached, or was party to breaching, any portion of this Rule may be punished, and the horse concerned may be disqualified."

At a hearing before the Stewards the appellant was charged as follows:

"... that you failed to take all reasonable and permissible measures in your riding of PRAIRIE RATTLER in Race 3, the Australian UNI-Q Padded Helmets Handicap today at Ascot the 11th of December, 1994. The prime concern being of the Stewards is your lack of vigour and purpose in the manner in which you rode PRAIRIE RATTLER in the straight. ..."

The Tribunal is not persuaded that the Stewards have erred in coming to the conclusion which they did. The Stewards were entitled to form their opinion, not only based upon their observations of the race but also based upon evidence which Mr Mitchell gave at page 4 of the transcript. The appeal as to the conviction therefore fails.

This is a serious offence which normally does result in a relatively lengthy suspension. The Tribunal is influenced by the relatively tender age of the appellant and the fact that this is his first offence and he is still in the process of learning all of the techniques of riding.

The Tribunal is persuaded that the penalty is excessive in all of the circumstances and considers that a three week suspension is appropriate. The penalty is varied accordingly.

The fee paid on lodgement of the appeal is forfeited.

*Dan Mossenson*

DAN MOSSENSON, CHAIRPERSON

8/1/1995

