

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

**APPELLANT :**                      **TREVOR WARWICK**

**APPLICATION NO. :**              **A30/08/242**

**PANEL :**                              **MR D MOSSENSON (CHAIRPERSON)**

**DATE OF HEARING :**              **6 FEBRUARY 1995**

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**IN THE MATTER OF an appeal by Mr T Warwick against the determination of the Western Australian Trotting Association Stewards on 27 January 1995 imposing a 14 day suspension under Rules of Trotting Rule 440(a).**

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Rule 440(a) states:

"Any driver who, in the opinion of the Stewards, caused or contributed to any crossing, jostling or interference by foul, careless or incompetent driving shall be deemed guilty of an offence against these Rules and may be dealt with accordingly."

At the Stewards inquiry, the appellant was charged as follows:

"... you have not allowed Mr. Hargadon drive SIR LEKTOR sufficient racing room shortly after the start or as you've approached the winning post and after the winning post on the first occasion and has resulted in Mr. Hargadon's drive crowding Mr. Brown's drive MIGHTY MICHAEL resulting in severe interference to Mr Chambers' drive HEY IM LUCKY. ..."

I have listened carefully to the submissions which have been made, have had the opportunity of viewing the film and also have had the benefit of the transcript of the Stewards' inquiry.

Clearly there is a conflict between Mr Warwick's version of what occurred in the race on the one hand, and what Mr Styles' has had to say about the incident and the conclusions which the Stewards had reached on the other. I am not obliged directly to resolve the conflict between the two versions. Rather the question for me to decide is, in the light of the wording of the relevant rule, whether the Stewards were entitled to come to the conclusion which they did of this incident. The rule specifies that any driver who, "... in the opinion of the Stewards ...", contributed to interference by careless driving shall be deemed guilty of an offence.

The test in the circumstances where the rule if so framed is whether any reasonable Stewards, armed with all the relevant facts and circumstances, could have come to the same conclusion which these Stewards did on this occasion.

I am satisfied from what I have been told and have seen that these Stewards were not in error in arriving at the conclusion which they did of this incident in this particular race. It is for that reason, I dismiss the appeal in regard to the question of the conviction.

I have given careful consideration to what each of you have told me in regard to the question of the penalty.

I am not persuaded that the Stewards were in error in imposing the 14 day suspension which they did in the circumstances of this matter.

I therefore confirm both the penalty as well as the conviction.

The fee that was paid on lodgement of the appeal is forfeited.



DAN MOSSENSON, CHAIRPERSON

2/13/1995

