

DETERMINATION AND REASONS FOR DETERMINATION OF  
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: RYAN WARWICK

APPLICATION NO: A30/08/281

PANEL: MR J PRIOR (PRESIDING MEMBER)  
MR F ROBINS (MEMBER)  
MR L ROBBINS (MEMBER)

DATE OF HEARING: 28 NOVEMBER 1995

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**IN THE MATTER OF an appeal by Mr R Warwick against the determination made by Western Australian Trotting Association Stewards on 7 November 1995 imposing six weeks suspension under Rule 450(a).**

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Mr C Warwick was granted leave to represent the appellant.

Mr R J Denney represented the WA Trotting Association Stewards.

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Rule 450(a) states:

*“The driver of each horse shall take all reasonable and permissible measures throughout a race to ensure that the horse driven by him is given the best opportunity to win or obtain the best possible place in the field. A driver who does not take such measures may be fined, suspended or disqualified.”*

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

*“...your failure to move wider on the track prior to being covered by MY DELINQUENT in the back straight on the final occasion resulted in your inability to obtain a clear run until the concluding stages when it was too late for you to play any significant part in the finish. By failing to make this move you have not ensured that your drive NEROLOGY was given the best opportunity to win or obtain the best possible place in the field. ...”*

This was an appeal against the severity of a six week suspension for a breach of Rule 450(a). There was no finding of malpractice by the Stewards. It was conceded by Mr Warwick Senior who appeared for the appellant that a suspension was the appropriate penalty.

The issue before the Tribunal is whether the penalty of six weeks suspension can be regarded as excessive in all the circumstances. There is no limit set on the time period or the amount of penalty which the Stewards can impose for a breach of Rule 450(a). The matter is totally at the discretion of the Stewards.

The question now for the Tribunal is whether the Stewards were in error in fixing a suspension period of six weeks and whether it can be said that there was an error in the exercise of that discretion. The Tribunal has been informed in other cases for breaches of this rule without malpractice that the range of penalties imposed is between six weeks and six months suspension.

It is apparent from the transcript that the Stewards properly took into account all relevant mitigating factors.

The Tribunal is of the opinion that, bearing in mind that the appellant was driving a horse as the favourite on the night, as a profession where there was a high degree of public expectation a high professional standard was required of him. Then in those circumstances, not only did the Stewards not fall into any error in exercising their discretion in imposing a penalty of six week suspension but the Tribunal is of the view that the penalty so imposed was correct. Therefore the appeal is dismissed.

The fee paid on lodgement of the appeal is forfeited.

*John Prior*

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**JOHN PRIOR, PRESIDING MEMBER**

15 /12/95

