

DETERMINATION AND REASONS FOR DETERMINATION OF  
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: SALVATORE TORRE

APPLICATION NO: A30/08/370

PANEL: MR D MOSSENSON (CHAIRPERSON)  
MR R NASH (MEMBER)  
MR J PRIOR (MEMBER)

DATE OF HEARING: 1 JULY 1997

DATE OF DETERMINATION: 1 JULY 1997

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IN THE MATTER OF an appeal by Mr S Torre against the determination made by Western Australian Trotting Association Stewards on 14 June 1997 imposing a 6 week suspension under Rule 440(a) of the Rules of Trotting.

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Mr G Winston was granted leave to represent the appellant.

Mr R Denney represented the Western Australian Trotting Association Stewards.

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This is the unanimous decision of the Tribunal.

This is an appeal by Salvatore Torre in relation to an incident that occurred during the running of Race 4, the Cash Cat Contractors Pace at Geraldton Pacing Club on 14 June 1997. The Stewards after conducting a protest inquiry into the matter inquired into the incident involving Mr Torre. After hearing evidence from various drivers and after viewing the video the Stewards decided to charge Mr Torre of causing interference by careless driving pursuant to the provisions of Rule 440(a) of the Rules of Trotting.

The Stewards specified the particulars of the charge as follows:

*“Racing out of the front straight on the first occasion you’ve allowed your drive MORTARAY JAC to shift down the track when not clear of Mr. Keys’s drive ANVIL JAMES, as a result Mr. Keys’s drive has been shifted towards the rails or the rubber uprights. In doing so, Mr Lindau’s drive ANDY MATAO has been contacted and broke gait, which has resulted in Mr. Kersley’s drive SHARODA SCOTT being checked. Mr. Pellew’s drive THREE HALF WHITES being checked. Mr. Suvaljko’s drive FRANCO’S CHEF being checked. Mr. Senior’s drive SAN SAM being checked. Mr. Cortopassi’s drive COMICAL being checked and Mr. Robert’s drive GAY ICARUS being checked.”*

Rule 440(a) of the Rules of Trotting 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.”*

Mr Denney gave evidence during the course of the inquiry of his observations of the incident. He was stationed at the winning post in the tower and had an ideal view of the incident. His view was from a different angle and at a much closer position than that of the video camera. In addition evidence was presented by a number of the drivers who participated in the race.

The Tribunal has had the benefit of reading the transcript of the inquiry, of viewing the video on a number of occasions and of hearing submissions from both sides. Rule 440(a) is prefaced by the words *“in the opinion of the Stewards”*. It is not appropriate for this Tribunal to substitute its own opinion of an incident for that of the Stewards. The Tribunal can only interfere in a determination of the Stewards in relation to this type of offence where it can be demonstrated that no reasonable Stewards could reasonably have come to the opinion which the Stewards in question did of the particular incident.

The Tribunal is not persuaded in the light of the evidence before the Stewards, including the eyewitness account of Mr Denney, that an error has occurred on the part of these Stewards. We are satisfied that the Stewards were entitled to come to the opinion which they did. Accordingly, the appeal as to conviction is dismissed.

In the course of the inquiry Mr Winston sought and was granted leave to appeal as to the severity of the penalty as well.

It is clear from the material that has been placed before us that the six week suspension which was imposed is consistent with other penalties which have been imposed in the relatively recent period on drivers who have offended in similar circumstances to that of Mr Torre. The Committee of the Western Australian Trotting Association some time ago instructed the Stewards to impose more severe penalties for repeat offenders in these types of offences.

From what was placed before us we are satisfied that the penalty which was imposed on this occasion is consistent with the approach which has been adopted by the Stewards since that direction. In any event, it was virtually conceded on behalf of Mr Torre that the six week period in the circumstances was an appropriate penalty.

Accordingly, the Tribunal is satisfied that there has been no error in the conviction and the penalty. We confirm the decision in relation to both matters.

The appeal is dismissed. The fee paid on lodgement of the appeal is forfeited.

*Dan Mossenson*

DAN MOSSENSON, CHAIRPERSON

