

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

APPELLANT: SAM SAMMUT
APPLICATION NO: A30/08/440
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING 11 JANUARY 1999
DATE OF DETERMINATION: 11 JANUARY 1999

IN THE MATTER OF an appeal by Mr S Sammut against the determination made by the Western Australian Greyhound Racing Authority Stewards on 26 December 1998 imposing a one month disqualification on FLYING AMBER at Cannington Raceway for breach of Rule 170 of the Rules Governing Greyhound Racing in Western Australia.

Mr M Adams was granted leave to appear for the appellant.

Mr C Martins appeared for the Western Australian Greyhound Racing Authority Stewards.

This is an appeal made by Mr Sam Sammut in relation to the disqualification of *FLYING AMBER* which ran in Race 2 at Cannington Greyhounds on 26 December 1998. Following the running of the race the Stewards conducted an inquiry into an incident which was reported on by one of the Stewards, Mr Sumner. The inquiry proceeded after an initial statement was made by the Chairman of the inquiry, Mr Borovica to Mr Sammut that the Stewards had received a report that the greyhound fought during the race. After hearing some brief evidence from Mr Sumner and also from Mr Sammut and following the showing of the video of the race, the Stewards deliberated on the matter and formed the view that the greyhound did fight during the race.

The Stewards in announcing their decision actually state:

“ ... We believe you can see on the video where the greyhound has turned it's (sic) head and it is very quick ... we can see it ... there where Mr Sumner's reporting it, so ... on the video ... it's consistent with what he tells us. So that being the case, we've disqualified it for one month at Cannington only under Rule 170.”

At the outset of the appeal leave was granted for new grounds of appeal to be substituted as follows:

1. *The evidence of the single Steward, Mr B Sumner, as seen in the transcript ought to be rejected as being unreliable and therefore subject to doubt in which case Mr Sammut ought to have been given the benefit of that doubt.*

2. *The video evidence shown to Mr Sammut at the original hearing affords no satisfactory corroboration of Mr Sumner's evidence that the greyhound, FLYING AMBER, misbehaved towards any of its competitors during the running of the race in question.*
3. *Mr Sammut ought to have been given an appropriate amount of time to consider his position and the charge laid against his greyhound and the possibility of his needing assistance and calling for supporting evidence.*

Rule 170 of the Rules Governing Greyhound Racing in Western Australia states:

- (1) *Where in the opinion of the Stewards a greyhound fights during a race the Stewards shall submit a report of their findings to the Board and shall disqualify the greyhound in accordance with this Part of these Rules.*
- (2) *Any question as to what constitutes the act of fighting shall be determined by the Stewards."*

Mr Adams on behalf of Mr Sammut put forward a fairly eloquent argument in support of each of the three grounds of appeal. I have had the benefit not only of those submissions but have also viewed the video of the race.

As has been pointed out by Mr Martins, this Tribunal has on previous occasions entertained appeals regarding the same provision of the Rules Governing Greyhound Racing in Western Australia. Previously the Tribunal has considered what constitutes the act of fighting for the purposes of the Rule and what tests should be applied by this Tribunal in determining appeals of this nature when the Rule in question is couched in language "*in the opinion of the Stewards*".

This Tribunal in an earlier decision in relation to the appeal of *G O'Keefe*, (Appeal 205 heard 6 July 1994), concluded that there were two elements to the act of fighting, namely turning of the head and making muzzle contact.

Further in the appeal of *J Thompson*, (Appeal 303 heard 23 May 1996) the following passage was stated:

"In order for this Tribunal to interfere with a determination made in respect of a Rule which specifies 'in the opinion of the Stewards', we have to be satisfied that no reasonable Stewards, armed with all the relevant information, could reasonably have formed the opinion which these Stewards did in all of the circumstances."

Dealing specifically with some of the matters which Mr Adams has raised, I am not of the opinion that there was anything unreliable or unsatisfactory regarding the evidence or indeed the observation of Mr Sumner who was the Steward who viewed the incident live. This is despite the fact that, as has been pointed out, the Steward was not in the tower at the relevant time. There is nothing to suggest that Mr Sumner's observation was in any way obscured or unsatisfactory as a consequence of his position and there is no other evidence to contradict his live observation of the incident. The Stewards were entitled to rely on Mr Sumner's observation in coming to the conclusion which they did and in forming the ultimate opinion which they formed of the incident. Further, the Stewards were persuaded by their own observation from the video that the incident did occur.

It is not appropriate for me to substitute my own opinion of the video for that of the Stewards who after all are the experts duly charged with the duty of observing these matters and with the necessary background and experience to draw conclusions and form opinions of racing incidents. It

is not the case that the video evidence does anything other than to corroborate the live observation of Mr Sumner.

As to the final ground I am satisfied that despite the speed with which the Stewards dealt with this matter, there was nothing untoward at all and no breach of any of the rules of natural justice or any other unfairness perpetrated on Mr Sammut as a consequence. It is quite normal for Stewards to work quickly between races in investigating matters, in forming conclusions and in determining the merits of cases. They are qualified and equipped and required on many occasions to do so.

There is nothing from what has been presented to me to support an argument of indecent haste. The fact that Mr Sammut is an experienced trainer and owner of greyhounds who was told at the outset of the inquiry precisely what the purpose of the inquiry was supports the conclusion that he has in no way been unfairly treated in the matter. Had Mr Sammut been afforded more time, it is unlikely that the Stewards would have come to a different opinion of the incident from the one which they actually arrived at.

I am therefore not persuaded on the arguments that have been presented that there was any error on the part of the Stewards who conducted this inquiry on 26 December 1998. I am satisfied that the Stewards were entitled to come to the opinion which they did of the incident.

In those circumstances I am satisfied the appeal should be dismissed and I order accordingly.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

