

**THE RACING PENALTIES APPEAL TRIBUNAL**

**REASONS FOR DETERMINATION OF  
MR D MOSSENSON (CHAIRPERSON)**

**APPELLANT:** CHRISTINE ROBARTSON

**APPEAL NO:** A30/08/507

**DATE OF HEARING:** 21 June 2000

**DATE OF DETERMINATION:** 29 September 2000

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IN THE MATTER OF an appeal by Mrs C Robartson against the determination made by the Stewards of the Western Australian Greyhound Racing Authority dated 1 June 2000, imposing a disqualification for 6 months for breaching Rule AR106 of the Rules of Greyhound Racing.

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Mr D Robartson was granted leave to represent the appellant

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

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**Background**

This appeal is against the severity of the penalty imposed on a trainer who was found by the Stewards of Western Australian Greyhound Racing Authority to have breached the Rule prohibiting the production of a greyhound to compete with a drug in its system. The greyhound in question, GET ANGRY, won Race 1 at Mandurah on the 10 April 2000. The Australian Racing Forensic Laboratory had notified the Stewards of an irregularity in a urine sample taken from the greyhound after competing in the race. The Laboratory's certificate of analysis confirmed the presence of Dexamethasone in the sample. As a consequence the

Stewards convened an inquiry on the 31 May 2000. The notice of inquiry referred to the Stewards' visit to Mrs Robartson's premises and to the fact that Mrs Robartson wished to have the referee sample confirmed by the Laboratory. The Stewards informed Mrs Robartson in the notice that the inquiry would be into an allegation that Mrs Robartson had breached Australian Rule 106 of the Rules of Greyhound Racing. That rule states:

*'The owner, trainer or person in charge of a greyhound nominated to compete in an event, shall produce the greyhound for the event free of any drug.'*

Mrs Robartson pleaded not guilty to the charge. The Stewards sought information in defence. When asked by the Stewards whether she had an explanation how the drug appeared in the urine sample Mrs Robartson answered:

*'Not a positive explanation. I treated her for canker of the ear, with some ear drops... and that's the only treatment that she's had any different to any of my...*

*Ear drops for canker, it's like an infection of the ear, but I can't give you dates 'cause I can't remember.'* (p 5)

Mrs Robartson called the ear drops Dexoryl. Mrs Robartson denied that she would have treated the greyhound so close to racing as to throw a positive swab.

The Stewards then made contact with Dr SM Stanley, the official analyst of the Australian Racing Forensic Laboratory, who advised the Stewards that *'Dexamethasone is a... synthetic corticosteroid... it's used as an anti-inflammatory predominantly... it's a Scheduled drug ...'*. The level detected was described as *'a low level'*. Dr Stanley put the administration time *'...at somewhere around 48 hours prior to the sample being collected'*. The doctor believed that the longest period we would find it in a urine sample after administration *'would be four days in... a greyhound'*. (p 9)

Mrs Robartson asked Dr Stanley regarding treatment with ear drops prior to racing. The doctor responded that he had not done work on greyhounds but rather on horses in that regard when the process of absorption from drops is very low and therefore he stated *'...I would say it is unlikely that... would be...*

*Dexamethosone that was detected in the urine sample*'. (p 10) Dr Stanley went on to tell the Stewards that a number of preparations contain Dexamethasone:

*'... ranging from alcoholic solutions that are rubbed onto the scalp to eye drops.. and it is also available in ... in oral dosage form.. it's also available as and injectable, so it would be available in a wide range of preparations.'*  
(p11)

After the completion of that evidence Mrs Robartson was asked what evidence she had to defend the charge. Her reply was *'I really haven't got any evidence'* (p 11). Upon further questioning she advised the Stewards that the only possibility she could think of was treating the greyhound with the ear drops. Mr Martins, who chaired the inquiry, expressed surprise due to the fact that at the time when the Stewards visited Mrs Robartson at the premises she did not mention this fact to them. From reading the transcript at page 12 onwards and after considering all of the material it does not appear that any satisfactory explanation was offered to the Stewards. It is very difficult to draw any other conclusion although the Tribunal does not have the benefit, as the Stewards did, of observing Mrs Robartson in person as she responded to the questions. In effect the Stewards were told that Mrs Robartson was *'... scratching ...'* for an explanation. Although she did not have the container and did not *'... even realise about it at the time'* (p 13) some drops had been left over from her Rottweilers. Mrs Robartson was not able to state where she acquired the treatment from, had no clue whether it was a Scheduled drug, had no idea of the name and did not know where she acquired it. Both Mrs Robartson and Mr Robartson had been asked by the Stewards when they attended the premises whether the greyhound was under a treatment plan. Despite having been told that the greyhound was not, Mrs Robartson responded to the Steward's questioning at the inquiry:

*'I treated her for two days with ear drops, I don't even know when. I mean I'm only... I'm trying to search for a reason how she's come up with the Dexamethasone positive.'* (p 14)

When asked when was the last time Mrs Robartson treated another animal, whether it was a Rottweiler or a greyhound with an ear drop she stated she could not remember and that she had no log or record when she treated her animal.

Subsequently during the course of the inquiry the veterinary surgeon contracted to Greyhounds WA Dr Peter Thomas gave evidence. He told the Stewards that he

took the sample in question. It was just a routine swab. He then went on to describe Dexamethasone as a synthetic corticosteroid with a *'number of uses,... a potent anti-inflammatory, anti-allergic, anti-shock... type drug that's also got some gluconeogenic activity'* (p 21) which was available in many forms.

Dr Thomas advised the Stewards that the recommended withdrawal time when treating a racing greyhound with Dexamethasone varied from a withholding period of probably 4 days, for the most common form (Dexamethasone acetate or sodium phosphate), and 10 to 12 days for another Dexamethasone which is isonicotinate. The Doctor went on to advise that if a greyhound had an injury necessitating some treatment containing Dexamethasone the treatment plan should be stopped 5 days before a race, in the case of the shorter acting drugs, and much longer in the case of longer acting ones like Warnadepo which can be detected around 10 to 14 days. In other words, unless a dog was going to be out of racing for at least 2 weeks Dr Thomas would not advise the course of treatment if he were acting as the veterinary surgeon. So far as the effect Dexamethasone has on a racing greyhound the Doctor advised that it has an anti-inflammatory effect, its main use is to decrease inflammation, it is used for muscle and tendon problems, for things like arthritis or ligament and joint capsule sprain, inflamed muscles or periostitis. It can also be used for allergy type problems such as eczema and itching, in the eyes for things like keratitis and as an ear drop. The basic use is for anti-inflammatory effects. *'What it does is it decreases the reaction... of... some of the drugs or chemicals in the body that can... create... the pain feeling which is... part of your inflammation'* (p 22) according to Dr Thomas. Dr Thomas described Dexoryl as a drug which contains an antibiotic gentamicin and has Dexamethasone and thiabendazole in it. He stated it is *'...a anti-fungal, anti-bacterial, anti-inflammatory type preparation'* (p 23). In his opinion if one were treating a greyhound engaged with Dexoryl one would stop the treatment *'probably at least four days prior to racing'* but being ear drops that were going to stay in the ear canal for a period after administration *'...there'd be a continuing absorption of the drugs from the ear into the body, so obviously you'd be looking at longer than the four days.* (p23)

As to the analyst's report and the patterns detected including the suggestion that administration could have occurred within 48 hours of the sample being taken, Dr Thomas stated:

*'Yes well that sort of ties in with Dexamethasone sort of you know lasting sort of your know three or four days... there's no way that you can tell the administration of... of the Dexamethasone but it's possible that it could come from ear drops and.. you'd... you wouldn't expect there'd be anything more than a low level.'* (p 24)

The Stewards went into further questioning of Dr Thomas regarding absorption of ear drops which was followed by a series of questions from Mrs Robartson. After Mrs Robartson offered an explanation of the treatment she gave to the dog Dr Thomas told the Stewards that legally one needed a prescription to obtain Dexoryl. The Stewards then questioned Mrs Robartson in relation to the kennel inspection on the 9 May when both she and Mr Robartson were asked '*...did GET ANGRY get treated in between its race start on 3 April and 10 April and you said that you had not treated it in between them...two starts*'. (p 29) The report disclosed that the actual question was whether '*any treatments or injections... were administered to the greyhound*' between those starts. '*...to which you advised as far as you were concerned no but Mr Robartson normally did that sort of thing. So then Mr Kemp asked Mr Robartson that and he also said no*'. (p 30) Mrs Robartson replied to this line of inquiry in the following terms:

*'Yeah, David checks my dogs. Two (sic) do things ... I spend a lot of time down there of a night time, I do toenails, machine, rub down, massage... you name it I do it of a night time ... and I, as I said to you I really can't even give you a date when I treated her with those ear drops. I just know I've done it... I don't know when... a month past between when the swab was taken and I was notified... I do a lot of things in a month with the greyhounds... the only thing I can come up with is I did treat her with... but I can't tell you if it was within that week or the next week after or the week before that... I am being honest there, I don't know... I just know I have used the drops on her and... that's it.'* (p 30)

When asked whether she was aware it contained Dexamethasone she replied '*Not at the time... I most probably should've put my glasses on and been more careful, I just grabbed ear drops, no*'. (p 30)

Mrs Robartson finally gave evidence that she did not back the greyhound and that neither she nor the owner bet. The Stewards proceeded to deliberate and subsequently reconvened to announce that:

*'The Stewards, after deliberation, find that there has been nothing presented which contradicts the specifics of the charge... It is of no*

*consequence insofar as the... as far as the charge is concerned how the Dexamethasone was introduced into the greyhound when it is clear that the greyhound was presented with Dexamethasone already in its system. None... no ...nonetheless, we have heard your explanation in regard to the ear drops and having heard the expert evidence we are of the opinion that this would be an unlikely source. We therefore find you guilty as charged and the Stewards will now proceed to a consideration of a penalty as a result of the guilty findings made by us. You are invited to call any evidence, produce any documents or make any submissions you think fit on the question of penalty. You are entitled to apply for an adjournment to seek further evidence or we will continue with the inquiry'. (p34)*

In addressing penalty it emerged that Mrs Robartson had been in the industry for 20 years, at the time of the offence she had about 16 dogs in her kennel, she is otherwise employed and only relies on any income derived from training greyhounds 'to a degree'. (p 36) Mr Robartson is also otherwise employed but does some training of greyhounds. The Stewards sought clarification as to whether he was leaving the industry. Mrs Robartson said that '... we've been a little disillusioned, we were going to ... cut back ... ' and that Mr Robartson was not leaving it all together but that '... he was just going to cut... back so that he raced a few dogs'. (p 36)

Next the Stewards talked to Mrs Robartson regarding 2 similar cases involving Dexamethasone. The first was Craig Norwell in 1991, for a first offence. Mr Norwell's 12 months disqualification was reduced to 9 months on appeal to the Tribunal. Mr A Lindsay, for a first offence in 1984 was disqualified for 12 months for breach of both the presenting and administering rules. Mr Lindsay's appeal to the then Board was dismissed.

The Stewards proceeded to read out Australian Rule 111 dealing with penalties. Mrs Robartson then referred to what she believed to be eastern states decisions which distinguish between different drugs according to whether they were stimulants or treatments. Mr Martins stated 'I don't think you can compare an antibiotic with an anti-inflammatory'. (p39)

After reserving their decision the Stewards wrote a letter dated the 1 June 2000 to Mrs Robartson advising her of their findings in respect of the penalty as follows:

*The detection of a drug in a greyhound which has competed and won an event whilst the drug was in its system is a serious offence. It is serious because it is detrimental to the image of the industry and has the very real*

potential to effect the confidence of the public that supports greyhound racing by investing on the outcome of races. In the best interest of the industry the Stewards must ensure that the confidence of the betting public is maintained. It is a concern to the Stewards that a public trainer of your experience, who has presented a greyhound to race with a prohibited substance in its system, has failed to provide specific evidence of administration times and dates. A public trainer is entrusted with the responsibility of training greyhounds for other persons and as such it is disturbing to us that you failed to demonstrate specific knowledge of what substance was being administered to the greyhound at a particular time. The explanation that was offered by you involving the administration of eardrops containing dexamethasone did not include a specific administration time. You did, however advise that as a general rule you ceased all treatments at least three days prior to racing. The analyst, who is the expert in detection, has advised that the eardrops in his opinion would be an unlikely source of the dexamethasone he detected. Given these circumstances, we are not satisfied that this explains how the dexamethasone appeared in the urine sample.

You have suggested that an appropriate penalty would be a fine of some value. In support of this you made mention of a case involving a Ms Britton. We are quite familiar with that case which involved an entirely different drug, namely an anti-biotic. It is our view that an anti-biotic is incomparable to a corticosteroid and in our experience this is a view shared by the experts and penalties over time have reflected this. This authority has never issued a fine in the circumstance of a parent drug being detected in the case of a corticosteroid. Having considered your submissions and the circumstances of your case we can not see any reason to dilute our stringent approach to the detection of such drugs in a racing greyhound by issuing a fine as we simply do not see that as an appropriate penalty under these circumstances. We are mindful of the two previous cases dealt with by this Authority involving dexamethasone, in particular the case involving Mr Norwell. We do recognise that you have been involved in the industry for a very long period of time and have maintained an impeccable record during this time. Your level of involvement is quite high and this is your first drug offence. We also recognise that as a public trainer, you do rely in some degree on the income generated from greyhound racing. In recognition of these mitigating factors we feel that the penalty issued to you should reflect this when compared to Mr Norwell. In consideration of all of the circumstances we feel that the appropriate penalty is a period of 6 months disqualification.

In view of the fact that the drug concerned was not a stimulant and that you do have some greyhounds already drawn to compete owned by others, we feel that in the best interests of greyhound racing the Stewards shall act under Local Rule 181(2), which states:

*"The stewards shall have the power to defer for a period of no longer than 3 days, the commencement of any disqualification or suspension."*

And hereby order that the penalty shall become effective as of Friday 2<sup>nd</sup> June 2000.

*Acting under Rule AR108, the Stewards have disqualified the greyhound GET ANGRY from winning Race 1, Peel Stake, run over 410 metres at Mandurah on 10<sup>th</sup> April, 2000 and amend the placing as follows:*

|            |                        |
|------------|------------------------|
| <i>1st</i> | <i>ONSLow CHIEF</i>    |
| <i>2nd</i> | <i>SARGE'S BOY</i>     |
| <i>3rd</i> | <i>BOBBIE'S REWARD</i> |

*The stake money of \$525 shall be retained by the Authority for redistribution amongst the connections of the amended placings.'*

## **The Appeal**

The grounds of appeal against the severity of the sentence are as follows:

1. *I have been training greyhounds for nearly twenty years. I have never appeared before the Stewards in that time for any reason. In the words of the Stewards, I have maintained an impeccable record.*
2. *The treatment which was detected was given by myself. It was a human error which I unfortunately made.*
3. *Our Property has a mortgage on it and without the income generated by the greyhounds we will experience great hardship trying to meet the mortgage commitments. This may force us to sell the property.*
4. *As the reading of the sample was of a low level I believe this had no effect on the performance of the dog or on the outcome of the race. As the winnings of the race was only \$525 I would certainly not be risking my good reputation by knowingly doing something illegal.*
5. *My husband is an owner and trainer and he now cannot train his greyhounds on our property unless I move off the property or he leases another property. As this is financially an impossibility it means he now has also lost most of his income.*
6. *As I train greyhounds for people in the Eastern States the cost of transporting them home is going to cause financial hardship to these owners.*
7. *I know that I have broken the rules of racing by making this mistake. I have been involved in the industry for nearly twenty years and being in the top five – six top leading trainers for most of that time I have had my greyhounds swabbed many hundreds of times with no problems.*

The appellant sought a suspension of operation of penalty. This was granted on 6 June 2000 which was the same day as the notice of appeal was lodged. The

appeal came on before the Tribunal which reserved its decision on the 21 June 2000. The suspension of operation of the penalty continued.

### The Submissions

Mr Robartson presented a wide ranging argument covering many relevant issues including Mrs Robartson's career path and success in the industry, the expert evidence, the excretion period of ear drops, cases where fines had been imposed and the purpose of the new rule. Regarding the latter point, as the penalty rule has changed and this offence occurred after the new rule was introduced it is helpful to compare the 2 rules. Formerly the penalty provision which applied was Rule 231 of the Rules Governing Greyhound Racing in Western Australia which read:

- (1) *A person may be disqualified if he is found on inquiry –*
- (a) *to be guilty of a breach of these Rules;*
  - (b) *to have failed to comply with a requirement of these Rules;*
  - (c) *to be guilty of a breach of the rules of a Club or a Syndicate;*  
*or*
  - (d) *to be guilty of any negligent, dishonest, corrupt, fraudulent, or improper act or practice in connection with greyhound racing or the registration of a greyhound or any act detrimental to the proper control and regulation of greyhound racing or the registration of greyhounds; or*
  - (e) *to have refused or failed to pay a fine imposed under these Rules.*

This Rule must be looked at with the then Rule 232 which specified:

- 'Where a person is found to be liable to disqualification –*
- (a) *he may be fined an amount not exceeding one hundred (100) dollars in respect of each offence; and*
  - (b) *any registration, licence or permit held by him under these Rules may be cancelled, including the registration of any greyhound registered in his name,*  
*either in addition to, or in substitution for, the penalty of disqualification.'*

The former offence provision was Rule 234 which stated :

*'A person may be found to be guilty of the breach of any provision of these Rules not specified in this rule, but without prejudice to the generality of that liability a person who –*

*'...'*

- (7) *had at any relevant time the charge or control of a greyhound brought to compete in a race or a qualifying trial which is found by the Stewards to have had any apparatus used upon it, or any drug, stimulant or deleterious substance administered to it, for any improper purpose;*

...

*commits a breach of these Rules.'*

Since 1 January 1999 Rule AR111(1) of the Rules Governing Greyhound Racing has specified the following regarding penalties:

*'Any person found guilty of an offence under these rules shall be liable to, in the sole and absolute discretion of the Board/Commission or the stewards:*

- (a) a fine not exceeding \$5,000 for any 1 offence; and/or*
- (b) suspension; and/or*
- (c) disqualification; and/or*
- (d) cancellation of registration.'*

Mr Robartson submitted further that the mistake which had been made by Mrs Robartson was not denied, but that it was an honest one involving no intent.

In reply to these arguments Mr Martins, for the Stewards, commented on some of the findings of the Stewards. He reiterated the Stewards' concerns in the matter regarding the lack of any information in relation to the alleged administration, lack of records, the importance to the industry of betting turnover and the fact that it is essential that races be won by honest means so that all competitors race on equal terms. The Stewards did not accept Mrs Robartson's explanation and, had they done so, it was submitted the element of negligence may well have come into it.

Mr Martins then referred the Tribunal to a number of authorities. The first is Jeffries which involved the use of Lignocaine, a parent drug and available as a lowest metabolite of Myoton cream. The explanation offered in that case had been accepted and the drug was not performance enhancing. For this his second offence Mr Jeffries was fined \$2,000. The next case of Dodgson was said to possibly be the first case to be dealt with after the Rules had been amended to remove the opportunity for a trainer to treat greyhounds with antibiotics. A fine of \$100 was imposed. The third is Rick Smith whose first offence resulted in a fine of \$500. Linda Britton also used antibiotics and was fined \$750.

Mr Martins submitted that these 4 cases involving antibiotics were of no real assistance in determining the penalty for Mrs Robartson as anti-inflammatories are different. The Stewards do distinguish between an antibiotic and anti-inflammatory despite the fact that both are not performance enhancing. After a number of questions by the Member Mr Monisse and myself Mr Martins agreed that one should not be influenced by the Schedule Number of a drug but rather the actual drug in question, the nature of the substance and its effect on the animal.

Six more authorities were referred to and relied upon by Mr Martins starting with Kevin Phillips back in April 1996 who pleaded guilty to a breach of Rule 234(7) of the previous rules. This was his first offence after 14 years experience. The drug in question was the metabolite of Phenylbutazone called Gammahydroxyphenylbutazone. Mr Phillips was disqualified for 2 months. Frank Moyle pleaded guilty in relation to the same Rule and the same substance (being the metabolite only). He was disqualified for 3 months. Following appeal to the Tribunal (Appeal 304) in May 1996 the penalty was reduced to 2 months due to the severe financial difficulty being experienced and the fact that the detection was only in relation to the last metabolite of a parent drug. John Polczynski pleaded not guilty to the same charge and to the same drug. He was disqualified for 3 months for a first offence after 27 years involvement in the industry (Appeal 301). His appeal in April 1996 was dismissed.

Mr Martins continued:

*'It must be pointed out that in all these three cases Gammahydroxyphenylbutazone was the drug. It's important for the Tribunal to be made aware that Gammahydroxyphenylbutazone is the last metabolite that can be detected following an administration of the parent drug Phenylbutazone. In all these cases, two of which have been reviewed by this Tribunal, a metabolite was present, and the persons involved had had long unblemished records in the industry, in the case Mr Polczynski after 27 years, and they were all first offenders. Some of them suffered very severe financial hardships and in all these cases, they all received a disqualification ranging from two to three months. So it is fair to say that this Tribunal has endorsed the Stewards and the Authority's view that a disqualification is an appropriate penalty for anti-inflammatory offences, even where the substance detected is not the parent drug. This of course indicates that the administration was some lengthy period prior to the*

*greyhound being presented. Also the fact that the parent drug is not there, obviously it is not having that effect.'*

Mr Martins then referred to previous cases where similar anti-inflammatory drugs have been reported. Mark Simpson pleaded guilty under Rule 234(7) in relation to the anti-inflammatory Methylprednisolone. He was disqualified for 12 months. It was his first offence. On appeal to the Tribunal (Appeal 345) in February 1997 the penalty was reduced to a disqualification of 7 months. The early case of Alex Lindsay in 1984 involved Dexamethasone. Mr Lindsay was disqualified for 12 months. This was his first offence also. On appeal to the then Western Australian Greyhound Racing Association Board the appeal was dismissed. Craig Norwell in December 1991 was found guilty under Rule 231(1)(d) with negligence. He was disqualified for 12 months. On appeal to the Tribunal (Appeal 39) the penalty was reduced to 9 months.

Towards the conclusion of his submissions Mr Martins stated that:

*'As we have outlined in the findings, the Stewards in the past have never imposed a fine as a penalty where a parent drug of this nature has been reported. That is not to say that every time the Stewards conclude an inquiry of this nature, that a disqualification isn't the only appropriate penalty. Of course, should different circumstances arise, quite obviously the powers which are conferred on by the Stewards by virtue of Australian Rule 111 which includes a fine of up to five thousand dollars would be considered. However in this case there has been nothing presented to the Stewards to convince the Stewards that a fine is an appropriate penalty. We would say that a fine of any value is grossly inadequate. In this case as said in the findings, under the circumstances we have here, we don't know how the drug got there, when or how much was administered, and all the other relevant circumstances. There is no reason for us to set a unique precedent of issuing a fine. Stewards have already seriously taken into account the mitigating factors and issued a penalty which was actually below the range ...'*

## **Determination**

The first and final grounds of appeal rely on Mrs Robartson's fine record in the industry extending over many years. It is clear however that many of the offenders exemplified above, and relied on by Mr Martins to support the 6 month period of disqualification imposed, also enjoyed lengthy unblemished records in the industry. Clearly the fact of a first offence by a long standing trainer must be taken into account and allowed for in arriving at an appropriate penalty. The Stewards have acknowledged this and have taken that into account. However, on

its own this aspect does not justify reducing to a fine what otherwise should be a disqualification for such a serious type of offence.

From passages quoted above in the Background and the comments I have already made it should be clear that I support the Steward's conclusions regarding Mrs Robartson's explanation. The so called 'treatment' evidence relied upon in ground 2 is implausible and unconvincing. But even if one were to accept Mrs Robartson's explanation, the administration of an unknown ear drop which was left over from the treatment of another dog (not even a greyhound) and was not prescribed for GET ANGRY, in circumstances where the trainer maintained no records of its administration to the racing greyhound, in itself is a very serious situation. The circumstances are further aggravated by the other surrounding factors. The treatment was not professionally supervised. The composition of the substance was unknown. The amount of the substance administered was unknown as also was the time of administration. Even presuming the ear drop explanation had been accepted by the Stewards these surrounding factors would have justified the Stewards imposing the penalty which they did.

From the extent of their involvement in the industry and the information which was presented to the Stewards and relied on at the appeal on behalf of the appellant it is entirely unclear how the appellant can justify all of the adverse financial consequences said to be likely to flow from the disqualification. If the underlying premise regarding the income from greyhound racing were established grounds 3 and 5 at best would affect the length of a disqualification which would be appropriate rather than justifying imposing a suspension or a fine. This is certainly not the first time this Tribunal has been confronted with both husband and wife trainers where one is adversely affected by the disqualification of the other. The non-disqualified trainer has the option of training or living elsewhere. The disqualified trainer has the option of shifting. There is a good underlying reason why the racing rules in all 3 codes do cause these consequences to flow despite the inconvenience. I am not persuaded that Ground 4 justifies altering the penalty which the Stewards arrived at. The same can be said of Ground 6.

After giving careful consideration to the transcript, the submissions and the authorities quoted by the parties I am satisfied that it has not been demonstrated that the Stewards were in error in imposing the 6 month disqualification.

I am entirely satisfied that despite the change to the Rules to increase the amount of a fine that potentially may be imposed it is not appropriate in the circumstances of this case for a fine to be imposed in lieu of disqualification. The offence in my assessment justifies the imposition of a disqualification. Further, based on the previous cases, I am satisfied the disqualification period which the Stewards imposed in this matter is within the range. The Stewards do appear to have properly taken into account all of the mitigating factors.

The fact that the offence rule now compared to the equivalent previous one is expressed differently does not in the circumstances of this case justify departing from the approach in the previous decisions. The fact that in the more recent period both the penalty provision has changed and the amount of the fine has been increased collectively are not factors, in the light of all the circumstances of this case, to warrant treating this offence in terms of the type of penalty any different from Phillips, Moyle, Polczynski, Simpson, Lindsay and Norwell. This long line of authorities going back to 1984 demonstrates that other trainers with impeccable records were meted out disqualifications for anti-inflammatories. Nothing was presented on behalf of Mrs Robartson to demonstrate the Stewards were in error in their assessment, as stated in their findings, that:

*'It is our view that an anti-biotic is incomparable to a corticosteroid and in our experience this is a view shared by the experts and penalties over time have reflected this. This authority has never issued a fine in the circumstances of a parent drug being detected in the case of a corticosteroid.'*

As was stated by Anderson and Owen JJ in Harper v Racing penalties Appeal Tribunal of Western Australia & Another 12 WAR 337 at 347:

*'The prize money which is paid to successful horses is generated for the most part from betting turnover. The commissions and taxes on these bets not only provide the prize money for which the horses compete but as well, as an examination of the legislation shows, provides the cost of administration and contributes to government revenue. Hence, the very survival of the industry as well as substantial government revenue would*

*seem to depend on encouraging the public to bet on horse racing, that is, to bet on the outcome of each race.*

*If it is correct to think that the financial well-being of the industry depends significantly on the maintenance of betting turnover, the need to maintain integrity in horse racing, and to do so manifestly, is easily seen to be imperative and of paramount importance. It may well be anticipated that unless racing is perceived to be fair and honest, people may be discouraged from betting. This might be thought to justify stringent controls in respect to the administration of drugs to horses and the enforcement of those controls by peremptory means.'*

This approach clearly applies equally to greyhound racing. The health of the greyhound racing industry to a significant degree depends on maintaining drug free racing and the appearance of fairness between competitors.

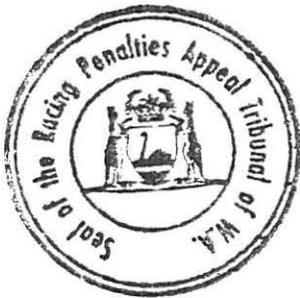
I am satisfied that Mrs Robartson's penalty serves the dual purpose, which is appropriate in a case such as this, of being both a general and specific deterrent even though it involves a therapeutic drug (Dagostino Appeal 492 at p 3). The veterinary evidence indicates the drug in question, whilst undoubtedly therapeutic, could assist a dog to race better than if it was not treated.

Accordingly I would dismiss the appeal.

*Dan Mossenson*

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DAN MOSSENSON, CHAIRPERSON



**DETERMINATION OF**  
**THE RACING PENALTIES APPEAL TRIBUNAL**

**APPELLANT:** CHRISTINE ROBARTSON

**APPLICATION NO:** A30/08/507

**PANEL:** MR D MOSSENSON  
MR J HEALY  
MR A MONISSE

**DATE OF HEARING:** 21 JUNE 2000

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Mr D Robartson was granted leave to represent the appellant.

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

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This is a unanimous decision of the Tribunal.

For the reasons published the appeal against penalty is dismissed.

The suspension of operation of the penalty automatically ceases.

*Dan Mossenson*

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DAN MOSSENSON, CHAIRPERSON



THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR A MONISSE (MEMBER)

APPELLANT: CHRISTINE ROBARTSON

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IN THE MATTER OF an appeal by Mrs C Robartson against the determination made by the Stewards of the Western Australian Greyhound Racing Authority dated 1 June 2000, imposing a disqualification for 6 months for breaching Rule AR106 of the Rules of Greyhound Racing.

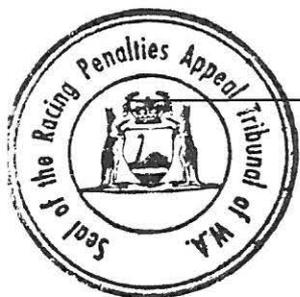
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Mr D Robartson was granted leave to represent the appellant.

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

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I have read the draft reasons of Mr D Mossenson, Chairperson. I agree with the reasons and conclusions and have nothing to add.



*A E Monisse*

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ANDREW MONISSE, MEMBER

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR J HEALY (MEMBER)

APPELLANT: CHRISTINE ROBARTSON

APPLICATION NO: A30/08/507

DATE OF HEARING: 21 JUNE 2000

DATE OF DETERMINATION: 29 SEPTEMBER 2000

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IN THE MATTER OF an appeal by Mrs C Robartson against the determination made by the Stewards of the Western Australian Greyhound Racing Authority dated 1 June 2000, imposing a disqualification for 6 months for breaching Rule AR106 of the Rules of Greyhound Racing.

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Mr D Robartson was granted leave to represent the appellant.

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I have read the draft reasons of Mr D Mossenson, Chairperson. I agree with the reasons and conclusions and have nothing to add.



*Healy*

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JOHN HEALY, MEMBER