

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

APPELLANT: LINDA BRITTON
APPLICATION NO: A30/08/611
PANEL: MR P HOGAN (ACTING CHAIRPERSON)
DATE OF HEARING: 5 MAY 2004
DATE OF DETERMINATION: 5 MAY 2004

IN THE MATTER OF an appeal by Miss L Britton against the determination made by the Racing and Wagering Western Australia Stewards of Greyhound Racing on 13 March 2004 imposing a 3 month suspension at all tracks of the greyhound STAR BEYOND TIME for breach of Rule AR80(1) of the Rules of Greyhound Racing.

Mr C Halse was granted leave to appear for the appellant.

Mr C Martins appeared for the Racing and Wagering Western Australia Stewards of Greyhound Racing.

This is an appeal by Miss L Britton, the trainer of the greyhound STAR BEYOND TIME.

Following the running of race 2 at Cannington on 13 March 2004 the Stewards conducted an inquiry into the running of STAR BEYOND TIME. Mr Sumner, the Steward who gave evidence of the incident, related at page 2 of the transcript his observation of what occurred as follows:

"As I was saying before we observed the 8 dog turn its head to the greyhound on its outside and in my opinion made deliberate muzzle contact on that greyhound just approaching the home turn."

After viewing the patrol film on several occasions and hearing evidence from Miss Britton, the Chairman of Stewards announced the decision to convict the greyhound for fighting in these terms:

"Miss Britton we've considered all of the evidence. Mr Sumner's evidence essentially is that STAR BEYOND TIME deliberately turned its head and in doing so it made muzzle contact with the 7 greyhound. Your evidence is that the 7 greyhound comes down on STAR BEYOND TIME. We have viewed the video footage several times and the stewards disagree with your version of events. In our opinion STAR BEYOND TIME veered out did deliberately turn its head and in doing so it made muzzle contact on MISTER DINO

approaching the hometurn and that constitutes the act for fighting. This being the second offence Miss Britton it has been suspended for 3 months all tracks."

Australian Rule of Greyhound Racing AR80 states:

"AR80. Fighting – failing to pursue

Where a greyhound, in the opinion of the stewards:

- (1) fights with any other greyhound during an event; or*
- (2) fails to pursue the lure with due commitment in an event;*

the stewards may, except in the case where the greyhound is found to have been injured pursuant to rule 82, impose a period of suspension in respect of the greyhound pursuant to rule 81 or 82 as the case may be."

"Fighting" is defined in Rule 3 as follows:

"'fighting' means the act of a greyhound which deliberately turns the head and makes head or muzzle contact with another greyhound."

The grounds of appeal are:

"STAR BEYOND TIME receiving 3 months for fighting. Greyhound not being vetted. As Steward Brendan Sumner believed that STAR BEYOND TIME made muzzle contact."

Mr Halse has put everything that could have been reasonably put on behalf of Miss Britton and put the case very well, but in my view the appeal must fail.

The Rule is couched in terms as being 'in the opinion of the Stewards'. That is not entirely the end of the matter, but as in previous cases, as Mr Martins has pointed out to me, I would have to be satisfied that no reasonable Stewards could come to that opinion based on all the evidence. They did have evidence from Mr Sumner, the Steward, who was well placed to observe the incident. The Stewards heard from Miss Britton herself, who saw the incident, but from a different perspective, and Mr Sumner's view no doubt was better.

Mr Halse has also at the hearing of this appeal today given his opinion. Mr Halse was not called to the Stewards' inquiry. I accept the bona fides of his opinion, but his opinion is not something that can be taken into account by me here today.

I have viewed the video tape on several occasions, but I must say, as in all cases where we have video footage of incidents, there is still importance, if not primary importance, placed on the view of the person who actually sees the incident. Seeing it there in real time still carries weight, notwithstanding whatever might be on the video. Having said that, I have seen the video and it is quite obvious that STAR BEYOND TIME turns its head towards MISTER DINO and in the opinion of Mr Sumner, made muzzle contact with that greyhound. That was the opinion that was accepted by the Stewards having heard all the evidence.

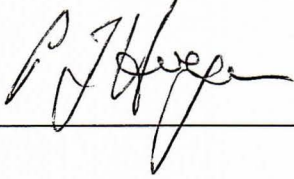
Mr Halse mentions also that the greyhound was not vetted. When one looks at the combination of Rules AR80 and AR82 it is clear enough that the mandatory requirement for a dog to be vetted only rises when it is a AR80(2), not an AR80(1) offence. Having said it is clear enough, I could see where there could be some ambiguity in the Rule and perhaps there could be some rewording of it, but when you look at the two Rules together, it is only where there is a failure to pursue the lure with due commitment that there is a requirement to be vetted.

Mr Halse finished with the observation that Miss Britton is not an owner/trainer, but rather she is a trainer only, and she does not appeal in every case where there has been fighting. The implication

from that is that she would only lodge an appeal where she thought it has some merit. I accept her bona fides in lodging the appeal.

However, in the end, it is the opinion of the Stewards which can not be overturned because there was evidence on which they could have and did make the finding.

For the above reasons the appeal is dismissed.



PATRICK HOGAN, ACTING CHAIRPERSON

