

REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: JOHN PIERRE CLAITE
APPLICATION NO: A30/08/663
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING: 8 DECEMBER 2006
DATE OF DETERMINATION: 8 DECEMBER 2006

IN THE MATTER OF an appeal by John Pierre Claite against the determination made by the Racing and Wagering Western Australia Stewards of Thoroughbred Racing on 22 November 2006 imposing 22 days suspension for breach of Rule 137(a) of the Australian Rules of Racing.

Mr JP Claite appeared in person.

Mr D A Hensler appeared for the Racing and Wagering Western Australia Stewards of Thoroughbred Racing.

This is an appeal by Mr JP Claite against the penalty imposed by the Stewards for careless riding on 22 November 2006. The appeal was heard and dismissed on 8 December 2006. I now set out my reasons for dismissal.

The Stewards had charged Mr Claite as follows:

'...that in Race 1 on today's programme at Ascot, when you rode LADY CHALMERS we allege that at a point inside the 900m you permitted that filly to shift inwards when insufficiently clear. That resulted in the horse ridden by Apprentice

Bynder, being SHAKIN STANLEY, being carried inwards which resulted in Jessica Hill's mount HAGELIN being tightened for room and checked. Further to the inside was Miss Sansom's mount which was CATTLE CHOSEN. It was crowded inwards which resulted in Craig Staple's mount which was further to the inside, namely JEZEREEL, being crowded inwards and steadied. Further, as a result of that shift in, Jason Brown's mount PAK IN BLACK, it was restrained and checked and Richard Rhode's, the apprentice which was following, namely his mount was AERIAL MUSTER also was checked and blundered after striking heels. Now, that's the nature of the charge. Do you understand that? Careless riding?

Some discussion ensued which led to Mr Claite pleading "... guilty to the interference". The Stewards then went onto discuss with him briefly his record and his forthcoming rides. The Stewards' finding on penalty was announced as follows:

'... we believe that the level of carelessness is high in ... this case. You've shifted inwards on a fairly acute angle and you weren't clear to do so. The degree of interference is also at the high end of the scale as we've indicated there were six horses interfered with, in particular three horses had to be checked by their riders so we've taken that into account as well. We've looked at ...your record which indicates you haven't been suspended since the 7th of January, you received an 18 day suspension and prior to that it was the 1st of November 2005 and you received 14 days, so in effect that's virtually ten months without a suspension which is certainly a good record and you've had 369 rides since your last suspension. So we've also looked at, within the suspension period that we're intending to issue that you're going to miss two feature race days and they are Railway and the Fruit 'n' Veg and so the starting point under our new tariff system we believe should be 28 days on the interference that occurred. But taking into account the facts, ... that you are missing feature races, the fact that you've pleaded guilty, that always goes to your credit, and your record, we believe that that can be reduced back to a period of 22 days. So, your suspension will commence after this coming Sunday night the 26th ..'

In brief Mr Claite argued:

- the 22 days suspension was manifestly severe in the light of the 'Notice to All Riders' issued by the Chief Steward Thoroughbreds, Mr Brad Lewis,
- the race in question was just a midweek race, and

- as a result of the suspension he would miss the most prestigious and richest part of the season.

A copy of the Notice which Mr Claite referred to was produced and was the subject of submissions from both sides. I had not previously seen the document. It comprised 3 pages and was undated. I was told it was issued on 20 June 2006. In its introduction it explains the intention of the Stewards was to '*... introduce a revised penalty scale that incorporates a tariff or base penalty of 14 days suspension from riding in races*'. It goes on to state that previously Stewards had applied a minimum penalty of approximately 12 days suspension for careless riding. The Stewards believed such a system would encourage riders to maintain and achieve higher standards and would formalise the process of calculation of penalty and remove perceived inconsistencies. The Notice proceeds to explain that aggravating factors will increase the penalty from the tariff whilst mitigating factors would have the opposite effect of decreasing the penalty. The penalty was designed to achieve equality and consistency across the State by taking into account regional racing season factors.

In dealing with "Grading of Carelessness and Interference" the Notice states the degree of carelessness and subsequent interference will be graded as low, medium and high, with combinations of these potentially being used. These factors would be considered together with the riders overall record and other relevant factors. '*Aggravating factors such as a high degree of carelessness coupled with a significant level of interference will obviously result in a more severe penalty. Factors such as these will have the effect of increasing the standard 14 day tariff and result in a higher starting point. In such a circumstance, even a remission for a good record or guilty plea, the Act or penalty imposed is likely to be greater than 14 days depending upon the degree of aggravation*'.

It further states '*Stewards will take a particularly dim view of an act of carelessness resulting in multiple horses being affected or interference which causes a fall or a rider to be dislodged. Severe penalties will be applied in such places*'.

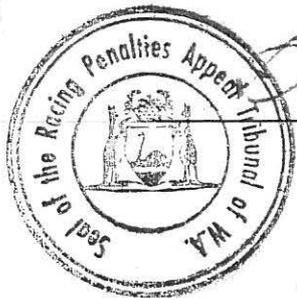
In response to Mr Claite's submissions Mr Hensler argued:

- there were aggravating circumstances in view of the degree of interference to 6 horses, 3 of whom were checked,
- the Stewards took into account the fact that Mr Claite rode from a wide barrier and from an acute angle initiated and caused the interference to many horses on his inside,

- the Stewards took a dim view of the multiple adverse affect,
- all these factors warranted a 28 day suspension,
- the provincial meetings and country meetings were taken into account, and
- the range of penalties was from 10 days to 2 months plus a fine,
- the policy had been applied properly to the circumstances of the case.

I was satisfied that it had not been demonstrated the Stewards fell into any error in relation to the penalty which had been imposed. Nothing was presented in argument or was apparent from the transcript to show the Stewards were unreasonable in reaching the conclusions which they did of the incident. Having seen the video of the race it was apparent to me the Stewards properly described the level and degree of carelessness as being 'high'. The description of the incident and their findings were entirely appropriate. Mr Claite's good record had been taken into account, as it should have been. So was the forthcoming racing calendar as to racing opportunities which would potentially be affected. Credit was also given, as it should have been, for the plea of guilty. The 28 day starting period in determining the length of suspension was appropriate as was the adjustment which was made to it by the Stewards.

The penalty of 22 days suspension which was imposed clearly fell well within the usual range of penalties imposed for careless riding, namely 7 days to 2 months inclusive of the possibility of a fine. The Stewards clearly took into account the forthcoming riding engagements of Mr Claite in reaching their conclusion. The Stewards had properly arrived at their determination. The Stewards evaluation of the matter could not be faulted. For these reasons there is no justification to interfere with the penalty which had been imposed.



Dan Mossenson

DAN MOSSENSON, CHAIRPERSON