

THE RACING PENALTIES APPEAL TRIBUNAL
REASONS FOR DETERMINATION OF MR J PRIOR
(PRESIDING MEMBER)

APPELLANT: JEFFREY RICHARD BULL

APPLICATION NO: A30/08/639

PANEL: MR J PRIOR (PRESIDING MEMBER)
MS K FARLEY (MEMBER)
MR A E MONISSE (MEMBER)

DATE OF HEARING: 17 JANUARY 2006

DATE OF DETERMINATION: 7 FEBRUARY 2006

IN THE MATTER OF an appeal by Jeffrey Richard Bull against the determination made by the Racing and Wagering Western Australia Stewards of Thoroughbred Racing on 9 August 2005 imposing 12 months disqualification for breach of Rule 178 of the Australian Rules of Racing.

The Appellant represented himself.

Mr J A Zucal appeared for the Racing and Wagering Western Australia Stewards of Thoroughbred Racing.

This is an appeal against penalty only.

Mr Bull was the trainer of the five-year old gelding ACE IN FLIGHT when presented to race at Northam on 6 June 2005. On 5 August 2005 the Stewards opened an inquiry into a report received from the Australian Racing Forensic Laboratory in Sydney that the urine sample taken from ACE IN FLIGHT after it won at Northam on 6 June 2005 contained testosterone at a concentration of greater than 40 micrograms per litre in urine. The reserve portion of the sample was reported by the Queensland Government Racing Science Centre to contain testosterone at a concentration of greater than 100 micrograms per litre in urine.

The Chairman of the Stewards' inquiry charged the Appellant as follows:

"... the Stewards believe that you have a charge to answer under Australian Rule of Racing AR. 178 and I'll read that Rule to you. When any horse that has been brought to a racecourse for the purpose of engaging in a race and a prohibited substance is detected in

any sample taken from it prior to or following its running any race, the trainer and any other person who was in charge of such horse at any relevant time, may be punished. You are charged under that Rule with bringing ACE IN FLIGHT to Northam Racecourse on 6th of June 2005 to compete I Race 4 the Avon Valley Advocate Maiden over 1400 metres with the prohibited substance Testosterone at a mass concentration in excess of 20 micrograms per litre in urine being detected in the post race sample taken from that gelding."

Mr Bull pleaded guilty to the charge.

The inquiry was adjourned to allow the Stewards to consider the appropriate penalty.

At the resumption of the inquiry on 9 August 2005 the Chairman announced the Stewards' findings in these terms:

"Mr Bull, the Stewards have considered the matter of penalty taking into account your submissions.

Breaches of the drug rules are serious matters. Such infringements cause considerable damage to the integrity and image of racing.

The support of the betting public is vital to the prosperity of the racing industry. Horses found to have competed in races with a prohibited substance in their system destroys that support.

You are a licensed trainer with the thoroughbred and harness codes. Your main stable is situated at Beeliar and you are in the process of establishing a training complex at York. Approximately twelve months ago you approached the Stewards seeking permission to run a satellite stable at Lark Hill. Your son, Travis, a licensed stable hand and your foreman would be responsible for the basic management of the stable. The Stewards explained at length that you'd be responsible for the function of both stables and all operations. You acknowledged that fact at the interview with the Stewards and again at this inquiry. Stewards approved your request to run a satellite stable.

At the stable at Lark Hill there is your son licensed stable hand Travis Bull, Mr Steven Cookson an unlicensed, casual stable hands and Mr Graham. Mr Graham is a licensed stable hand and managing owner of ACE IN FLIGHT. Mr Graham appears to have assumed many duties in relation to the training of ACE IN FLIGHT. He attended the stables regularly, fed his horses, took them to the track, oversaw their track work and generally cared for them. Mr Graham did not pay training fees. In addition, it appears that Mr Graham had unfettered access to your stables as evidenced by his administering of the testosterone to ACE IN FLIGHT unsupervised. In relation to the stables at Lark Hill, whilst you maintain that you were visiting the stables three or four times a week and that Travis Bull was your "arm", there are no stable protocols, no treatment books or day books and no stable rules such as access times. The Stewards believe that having requested and granted permission to run a satellite stable at Lark Hill and having advised you of your responsibilities that you would have ensured correct procedures would be in place. Unfortunately these were sadly lacking.

In considering this case, the Stewards believe that you've abrogated your responsibilities as a licensed trainer.

There is a heavy onus on trainers to ensure that their horses are presented to race drug free. This extends to ensuring stable protocols are followed rigidly as the principle of the stable that is your responsibility.

The Stewards acknowledge your guilty plea and forthright manner in which you've addressed this inquiry. As stated you are licensed at thoroughbred and harness codes of racing.

Testosterone is a performing enhancing substance and ACE IN FLIGHT was not suffering any veterinary condition which required the testosterone but merely to build up the gelding.

The Stewards have considered the provisions of AR. 196 and understand that a penalty applies to both harness and thoroughbred codes. Your record shows you have no prior convictions in relation to drug rules. Finally, Mr Bull, the Stewards have decided to disqualify you for a period of twelve months."

In the Appellant's Notice of Appeal dated 22 August 2005, the Appellant stated his grounds of appeal as "severety (sic) of penalty".

At the hearing of this appeal, the Appellant made initial submissions in relation to his ground of appeal which indicated that his ground was effectively that the penalty imposed by the Stewards of a twelve month disqualification was manifestly excessive in the circumstances.

The Appellant referred the Tribunal to a number of other decisions in relation to similar offences under Rule 178 of the Australian Rules of Racing for drugs, such as testosterone, or similar types of drugs, to support his submission that the penalty imposed was well above the range of penalties previously imposed for a breach of the rule of this nature in the circumstances of his matter.

The decisions which were referred to by the Appellant were the following:

1. Coulson, 20 April 2005, \$5,000.00 fine.
2. Scott, 21 May 2005, 3 months disqualification and a \$5,000.00 fine.
3. Durrant, 23 June 2005, 9 months disqualification.
4. Corvea, 27 October 2005, 6 months disqualification.
5. A Warwick, 29 July 2005, \$5,000.00 fine.

The matter of Durrant was the subject of an appeal against conviction and penalty to this Tribunal, being Appeal 642. Mr Durrant pleaded not guilty to the charge, was convicted by the Stewards of breach of Rule 178 and had a previous conviction three years before where a horse trained by him returned a positive swab for the same drug, testosterone, in excess of the permitted level.

In addition to the five matters referred to above, the representative for the Stewards, Mr Zucal, also referred to us the matter of Tapper, Appeal 506, which was the subject of an appeal against conviction and penalty to this Tribunal.

In Tapper, a disqualification of 12 months was imposed by the Stewards after a plea of not guilty was entered and Mr Tapper was convicted of breaching Rule 178, where the relevant drug found in the horse was also testosterone. Both the appeal against conviction and sentence were dismissed. Mr Tapper had two previous convictions for the rules related to drug related offences.

In response to this appeal, the representative for the Stewards, Mr Zucal, referred to this Appellant's matter as being "the worst case scenario" for an offence of this nature.

There were a number of significant mitigating factors that applied in imposing the penalty in this matter and they were the following:

1. The Appellant had pleaded guilty to the breach of the rule.

2. The Appellant had co-operated with both the Stewards' investigation of the positive swab and co-operated at the Stewards' hearing.
3. The Appellant had an unblemished record of approximately 12-13 years as a licensed person.
4. The Appellant relied on his training licence as his sole personal source of income.

When one considers the penalties imposed, in particular in relation to the matters of Durrant and Tapper, which were subsequent offences and where each Appellant had pleaded not guilty to the charges, under Rule 178, I am unable to find that this Appellant's case was "the worst case scenario".

I accept from the representative of the Stewards' submission that because the Appellant was given the right to operate a satellite training facility, he had additional responsibilities and was given a privilege. However, that circumstance does not persuade me that this Appellant's case can be significantly distinguished from the matters of Durrant and Tapper and the other matters that the Appellant has referred to this Tribunal listed above.

There are very few cases that come before the Stewards where there is an admission as to the administration of a substance when there has been the detection of a positive swab. This case is unusual in that evidence clearly existed before the Stewards that licensed stable hand Mr Peter Graham admitted to the administration of testosterone to ACE IN FLIGHT prior to the race in question. The Appellant maintained before the Stewards and again before this Tribunal that he has never abrogated his responsibilities as a licensed trainer. Mr Graham has as a consequence been disqualified for 10 years.

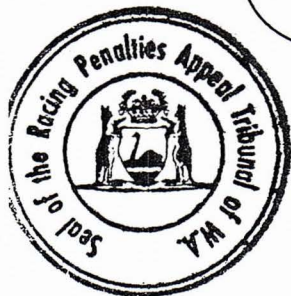
In those circumstances, I am satisfied that the length of 12 months disqualification imposed by the Stewards was manifestly excessive in the circumstances of this case.

I am satisfied, given the drug in question can have a performance enhancing effect on a horse and given there was the privilege given to the Appellant to operate a satellite stable, that an appropriate penalty was one of disqualification. Giving proper weight to the mitigating circumstances that I have referred to above and considering the penalties referred to for similar offences, I am satisfied that in the circumstances, a penalty of 6 months disqualification was appropriate.

I would allow the appeal and substitute the penalty of 12 months disqualification for a period of 6 months disqualification. As the Appellant was not granted a stay of the penalty, this 6 months disqualification should run from 9 August 2005.

John Prior

JOHN PRIOR, PRESIDING MEMBER



THE RACING PENALTIES APPEAL TRIBUNAL
REASONS FOR DETERMINATION OF MS K FARLEY
(MEMBER)

APPELLANT: JEFFREY RICHARD BULL

APPLICATION NO: A30/08/639

PANEL: MR J PRIOR (PRESIDING MEMBER)
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MR A E MONISSE (MEMBER)

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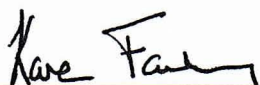
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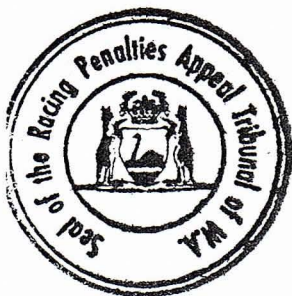
Mr J A Zucal appeared for the Racing and Wagering Western Australia Stewards of Thoroughbred Racing.

I have read the draft reasons of Mr J Prior, Presiding Member.

I agree with those reasons and conclusions and have nothing to add.



KAREN FARLEY, MEMBER



THE RACING PENALTIES APPEAL TRIBUNAL
REASONS FOR DETERMINATION OF MR A E MONISSE
(MEMBER)

APPELLANT: JEFFREY RICHARD BULL

APPLICATION NO: A30/08/639

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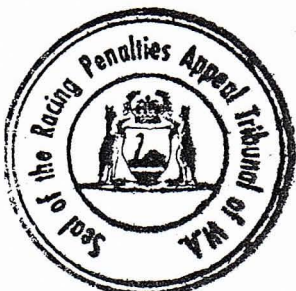
Mr J A Zucal appeared for the Racing and Wagering Western Australia Stewards of Thoroughbred Racing.

I have read the draft reasons of Mr J Prior, Presiding Member.

I agree with those reasons and conclusions and have nothing to add.

A E Monisse

ANDREW MONISSE, MEMBER



THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR S PYNT (MEMBER)

APPELLANT: SHANNON JAMES SUVALJKO

APPLICATION NO: A30/08/638

PANEL: MR D MOSSENSON (CHAIRPERSON)
MR J PRIOR (MEMBER)
MR S PYNT (MEMBER)

DATE OF HEARING: 9 NOVEMBER 2005

DATE OF DETERMINATION: 17 FEBRUARY 2006

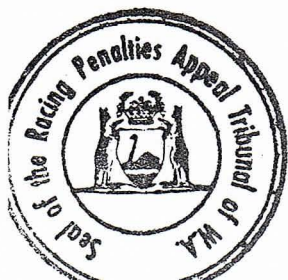
IN THE MATTER OF an appeal by Shannon James Suvaljko against the determination made by the Racing and Wagering Western Australia Stewards of Harness Racing on 4 August 2005 imposing a 12 month disqualification for breach of Rule 188 of the Rules of Harness Racing.

Ms B Lonsdale with Ms R Coughlan instructed by DG Price & Co appeared for the Appellant.

Mr RJ Davies QC appeared for the Racing and Wagering Western Australia Stewards of Harness Racing.

I have read the draft reasons of Mr D Mossenson, Chairperson.

I agree with those reasons and conclusions and have nothing to add.



A handwritten signature in black ink, appearing to read "Steven Pynt", written over a horizontal line.

STEVEN PYNT, MEMBER

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR J PRIOR (MEMBER)

APPELLANT: SHANNON JAMES SUVALJKO

APPLICATION NO: A30/08/638

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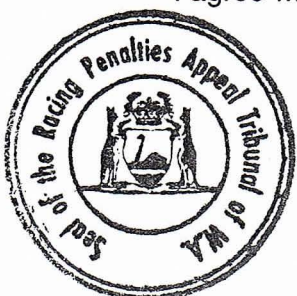
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Ms B Lonsdale with Ms R Coughlan instructed by DG Price & Co appeared for the Appellant.

Mr RJ Davies QC appeared for the Racing and Wagering Western Australia Stewards of Harness Racing.

I have read the draft reasons of Mr D Mossenson, Chairperson.

I agree with those reasons and conclusions and have nothing to add.



John Prior

JOHN PRIOR, MEMBER