

## Appeal decision

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**Decision date:** 12 November 2015

**Hearing date:** 26 August 2015

**Code of racing:** Greyhound

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**Appeal panel:** Mr Brock Miller (Chair) Mr Gary Casey and Mr Daryl Kays

**Appearances:** Mr John Keep appeared on behalf of the appellant  
Mr Jamie Dart appeared on behalf of the respondent

**Decision being appealed:** That the appellant be warned off for life.

**Appeal result:** That the appeal against conviction be dismissed but that the penalty be varied to being warned off for 10 years.

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John William POLLOCK (the appellant) appeals against the decision of the Queensland All Codes Racing Industry Board (Board) made on 28 April 2015 to warn him off all Queensland greyhound courses for life pursuant to Rule 3A of the Local Rules of Racing (Greyhound Racing).

The Board's decision was the culmination of its deliberations resulting from a Show Cause Notice (Notice) to the Appellant issued by Queensland Racing on 15 April 2015 alleging various infractions of the Greyhounds Australasian Rules. On 20 March 2015 the Appellant was interviewed by Racing Queensland officials in connection with his involvement at a property (9 Wotan Road, Churchable, Queensland) which was the subject of an ABC Four Corners program televised on 16 February 2015. The program revealed the involvement of persons participating in what has become known as the 'live baiting' of greyhounds which was recorded using covertly installed video cameras.

Four grounds formed the basis for the issuing of the Notice and the Board's subsequent decision:

- 1) You provided in an interview with Racing Queensland Deagon on 20 March 2015 evidence that was false and misleading in breach of GAR Rule 86(d);
- 2) You used the live baiting of animals for a purpose connected with greyhound racing that was improper in breach of GAR Rule 86(af) including on or about 15 October 2014 at 9 Wotan Road Churchable;
- 3) You used the live baiting of animals for the purpose of affecting the performance of a greyhound in breach of GAR Rule 86(aa) including on or about 15 October 2014 at 9 Wotan Road Churchable;

- 4) You engaged in conduct which is detrimental or prejudicial to the interest welfare image control or promotion of greyhound racing in breach of GAR Rule 86(q) including on or about 15 October 2014 at Wotan Road Churchable.

In his undated response to the Notice he replied: “ At the time of replying, have not been charged or found guilty of any offence or rule under the Australasia greyhound rules. I believe I am being deprived of natural justice”. The appellant did not appear before the Board or make any additional written submission to it.

In the Notice of Appeal to this Board (Racing Disciplinary Board) the Appellant relied upon the following grounds of appeal: “Re – visual evidence of video fails to involve/participate (sic) or assist in breaking rules of GRA (sic). Also G.R.A (sic) failed to advise me as a licensee (sic) I was committing any offence by entering the property of Tom Noble. Denial of Natural Justice”. The appeal was lodged against both the conviction and penalty. The appeal is by way of a rehearing unaffected by the appellable decision being appealed against, on the material before the control body and any further evidence allowed by the Racing Disciplinary Board (ref. S149ZE(3) Racing Act 2002). At the appeal before this Board the appellant was represented by Mr John Keep a former licensee with 62 years’ experience in the greyhound racing industry. No additional evidence to that which was available to the Board was tendered. The defendant deferred to the oral submissions of Mr Keep. Racing Queensland was represented by Mr J Dart, Chief Steward of Greyhound Racing (Queensland) who relied upon a compendious adoption of the evidence before the Board. In contrast Mr Keep made prolix statements which when considered in the context of the whole of the evidence were of limited evidentiary value and lacked persuasive quality. He submitted that the appellant had in effect been disadvantaged throughout the investigative process, from the beginning of the investigation by Racing Queensland stewards to its finalisation before the Board, citing illiteracy of the appellant and concomitant failure to comprehend questioning by the stewards. He suggested that the appellant had only witnessed a dead pig’s body inside a lamb’s wool covering attached to the lure arm and that the stewards “surmised or wanted to believe it was a live pig” [P9 L36 Transcript]. He stated that the stewards’ behaviour justified his conclusion that there had been a conspiracy to implicate the appellant and subsequent injustice perpetrated by them. He further submitted that the appellant was unaware that the track at which the property was located was unlicensed and by extension he had been “in the wrong place and the wrong time by accident” [P10 L11 Transcript].

This Disciplinary Board has carefully considered the whole of the evidence before it and is unable to find any support for the contention that the appellant was not afforded natural justice or put colloquially “a fair go” and that throughout the process of investigation culminating in the Board’s decision, it is apparent that he was afforded due process and every opportunity to co-operate with investigators; he refused to do so and begrudgingly conceded that he was identifiable on the video tape and that in fact there was a live piglet on the lure arm on 15 October 2014 when his greyhound trialled. His putative defence of lack of knowledge that the training facility was unregistered as somehow justifying his attendance at

the facility by ascribing blame to Racing Queensland for that lack of knowledge reflects his lack of insight into the serious nature of the activity in which he had been filmed participating. Furthermore when considered against his background of 35 years' experience in the greyhound racing industry and his written acknowledgment to be bound by the rules of Racing Queensland his defence is further impugned. His answers to stewards during their inquiry were patently misleading and intended to sanitise his involvement at the property and protect the identity of others who he had seen there.

There can be no question that the charges preferred against the appellant and proven to the requisite standard of proof as published in the Statement of Reasons by the Board on 1 July 2015 are confirmed to this Board's satisfaction.

In this Board's decision in the appeal of Craig Wright dated 11 June 2015 the following statements were made when considering penalty for 'live baiting':- "The question of penalty is obviously of paramount importance. The Board of Racing Queensland believed that a life ban was warranted and of course Mr Wright's representative was of the view that such a ban was not reasonable in all of the circumstances. The integrity of the sport of greyhound racing is very much the subject of public scrutiny and it is essential that the practice of live baiting be stamped out and there must be a precedent set to act as a deterrent in that respect. The sport in question does not need to be associated with persons who engage in such practices. Of some assistance to this Board are the recent amendments to the Greyhounds Australasia Rules (GAR) made on 20 April 2015. Those amendments make it mandatory for a period of not less than 10 years to be imposed to any person who is involved in the practice of live baiting or is convicted in any Court of an offence in respect to the use of any animal, carcass or part of an animal with greyhound training. That of course is legislation that postdates the commission of this offence and does not take the matter very much further other than to identify that post the offence being committed the minimum penalty that shall be imposed by anybody shall be a minimum 10 years disqualification. In this particular instance, the Board of Racing Queensland has identified that a period of life should be the appropriate penalty imposed. In the opinion of this Disciplinary Board, such a period of life is not likely to have any more of an effect by way of a deterrent nature on a participant than would a period of 10 years as suggested in the relevant legislation. This board is of the opinion that a period of 10 years should be substituted for the determination of Racing Queensland and the life ban is amended such that the Appellant shall be warned off for 10 years. The penalty is varied to such an extent and the Appeal is allowed to reflect that substitution".

Adopting the principle stated in Wright's case this Board makes the following order:

- Appeal against conviction and penalty dismissed to the extent that the life ban imposed is reduced to 10 years disqualification.

Further right of appeal information: The Appellant and the Steward may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **28 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)