

Appeal decision

Decision Date: 16 February 2016

Hearing Date: 26 August 2015 & 26 November 2015

Code of racing: Greyhound

Appeal panel: Mr B Miller (Chair), Mr G Casey and Mr D Kays

Appearances: Ms T Sykes and Mr D Sykes appeared on behalf of the appellant Mr P Sykes.
Mr J Dart (Steward) appeared on behalf of Racing Queensland.

Decision being appealed: Warned off for life

Appeal result: Penalty varied to time served.

Peter Sykes is a licensed handler of greyhounds who was interviewed by the Stewards of Racing Queensland relating to issues involving live baiting of greyhounds at premises at Wotan Road. These premises were owned by Mr Tom Noble. Mr Peter Sykes lives at 3 Wotan Road which is an adjoining property to that on which the live baiting exercises were undertaken.

A determination was made that he should be warned off. Five charges were initially identified as being open for consideration but during the course of the determination, it became apparent that Mr Sykes' presence on the course or property at 9 Wotan Road, Churchable had nothing whatever to do with the greyhound racing industry itself or with live baiting practices. He in fact was there to find some machinery that he had lent to Mr Noble which had not been returned. As a result, it was identified that it was inappropriate to proceed with the charges relating specifically to the live baiting practices and that left two charges only that were noted in allegations 3 and 4 of the Show Cause Notice. The Board found that the allegations in respect to those charges had been proved to the requisite standard. Pursuant to Local Rule 3A and the findings of fact made in respect to each of those allegations, it was the opinion of the Board that:

- (i) Mr Sykes is a person whose presence on any greyhound racecourse in Queensland is not desirable;
- (ii) Mr Sykes' non-cooperation and failure to comply with the Stewards during their investigations into live baiting is of paramount concern and is sufficiently serious to warn off Mr Sykes.

It is again those two findings that Mr Sykes lodged his Appeal restricted to penalty. He did so simply on the premise that at the relevant time he was not a person able to apprehend, understand or consider appropriate any of the issues with which he had been charged. He alleged that he suffered a psychiatric illness which impacted on his day to day regimen and he sought an adjournment to provide details of that medical condition and of the condition improving treatment that he was to receive.

Mr Ian Colls, Consultant Psychiatrist, provided a report on 8 November 2015. This report identified that he saw Mr Sykes on 19 October and the history provided had suggested that Mr Sykes had a depressive illness for 4 to 5 years, although this had only recently been treated to any specific degree. Ian Colls was aware of the interactions with Racing Queensland and whilst he did not know him at the relevant time, he finds it likely that Mr Sykes was suffering the depressive illness at that time.

Mr Colls was of the view that a depressive illness may manifest itself in many ways, not only with symptoms of sadness that may be noticeable to others, but at times depressed patients mainly identify with symptoms of irritability and that, in his opinion, seems likely with Mr Sykes. He notes irritability is a symptom of the depressive illness and can be expected to resolve either spontaneously or with treatment of that illness. The irritability can be to the extent that a patient may say and do things that are ordinarily uncharacteristic and make calm and reasoned behaviour difficult. With treatment and/or spontaneous recovery, there is no reason to not believe that Mr Sykes would make a full recovery and be a responsible and law abiding member of society.

There is no refuting evidence and the Stewards of Racing Queensland did not seek to have Mr Sykes examined by a consultant psychiatrist of their choice. The evidence presented by Mr Colls is therefore not the subject of any rebuttal and this Board accepts the findings so made by Mr Colls.

In our opinion, Mr Sykes was wrong to act aggressively and to fail to respond to directions given. He should have complied with all of the requirements of Racing Queensland Stewards but, in the opinion of this Board, he is excused from suffering any major penalty because of the seriousness of the medical condition that he was suffering from at the relevant stage. It is the opinion of this Board that with continued treatment Mr Sykes will become a law abiding citizen in the Racing Industry. The Appeal in respect to the penalty is therefore allowed such that the penalty shall be for a period of warning off only until the date of delivery of this decision, thereafter Mr Sykes will be eligible to return to the Greyhound Racing Industry provided, of course, he complies with all reasonable directions and requirements of the Stewards.

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