

Appeal decision

Date: 3 September 2013

Code of racing: Thoroughbred

Appeal panel: Judge W Carter (chair), Mr B Miller and Mr N Thompson.

Appearances: Jockey Chris Whiteley appeared on his own behalf.
Mr N Torpey, senior stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Suspension of jockey Chris Whiteley's licence to ride in races for a period of four weeks – AR135(b).

Appeal result: Appeal dismissed.

Extract of proceedings – in the matter of the Wes Mackay Newmarket Open Handicap over 1300 metres at Mackay on 4 July 2013. Jockey: Chris Whiteley

THE CHAIRMAN: Thank you, gentlemen. The board, constituted by myself and my colleagues, has considered jockey Whiteley's appeal against penalty. The penalty imposed was a suspension for four weeks. We note that the stewards deferred the serving of the penalty for some period to allow the jockey to engage with other mounts at the time of the North Queensland series of racing carnivals. Be that as it may, we have had the advantage of seeing the film and hearing from both Mr Whiteley and also Mr Torpey. It is not in dispute that jockey Whiteley is a very experienced jockey and it seems to us on what was said by the stewards and by Mr Whiteley in the course of the inquiry and our viewing of the film that the stewards' case is amply made out. We are satisfied that the four-week suspension is in line with other penalties of suspension which have been imposed and accordingly we do not regard the penalty as being manifestly excessive. Accordingly, the appeal against penalty is dismissed. Thank you, gentlemen.

JOCKEY WHITELEY: Can I put forward of when this -----

THE CHAIRMAN: Of course.

JOCKEY WHITELEY: Of when it could commence?

THE CHAIRMAN: Yes, of course.

JOCKEY WHITELEY: Sir, as Mr Torpey knows, nominations closed yesterday for this weekend, for this coming weekend, therefore I am asking if I could fulfil my engagements from this Saturday, the 7th. If I could commence my suspension from midnight on 7 September. As I stated, I have -----

THE CHAIRMAN: What engagements do you have?

JOCKEY WHITELEY: I have eight engagements in North Queensland over the two-day Cairns Amateur carnival, which owners and trainers have already requested my services and I have said I would fulfil those engagements. So Mr Torpey can elaborate on that.

THE CHAIRMAN: Well, just a moment. I will hear Mr Torpey in a moment. You know, there is a concern that – and a similar concern arises in relation to stays of proceeding – that stays and such matters as you've referred to are really matters of convenience for the jockey and, indeed others. I well understand, and understand the racing industry well enough, that the engagement of a jockey is a significant event. It's not to say that owners and trainers are necessarily inconvenienced if, for instance, this tribunal were to refuse the stay or, indeed, to refuse an application such as you've just made. We would not want it to be thought that we regard it as consistent with our obligations under the statute to simply reduce the impact of a suspension, particularly a suspension in the case of a jockey, simply because there is some level of inconvenience accorded to others.

I simply make that point because as I indicated, this is the first occasion this board has sat. All of us are experienced with these matters from past experience – significantly experienced – and, as I say, I would be concerned to ensure that the person who is guilty of the offence is able to elect when that person will serve the suspension. I simply make that point. I will hear Mr Torpey.

MR TORPEY: Mr Chairman, it's quite refreshing to hear statements like that bearing in mind some of the penalties that we have faced previously, but the only matter I would say in this regard is the meeting that jockey Whiteley is talking about riding is a dual meeting on Friday and Saturday in North Queensland -----

THE CHAIRMAN: Of course.

MR TORPEY: It's the Far North Queensland Amateurs.

THE CHAIRMAN: Yes.

MR TORPEY: It is a significant event in that particular area, and whilst they would be able to get other riders for the horses, the connections as far as that go, I'm not sure – and Chris Whiteley can elaborate further – as to how long he may have been engaged or riding these horses in preparation for the attendance at the particular carnival. And my concern is in regard to that impact or whatever it would have on the connections of those horses because of that particular status of that meeting.

THE CHAIRMAN: Yeah, that's a fair enough submission, yeah. All right, we will order that the four-week suspension operate from midnight on Saturday the 7th.

JOCKEY WHITELEY: Thank you, sir.

THE CHAIRMAN: So you can ride Friday and Saturday in Cairns.

JOCKEY WHITELEY: Thank you, sir.

Further right of appeal information: The Appellant and the Steward may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 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