

## APPEAL PANEL OF RACING NEW SOUTH WALES

### THE APPEAL OF LICENSED JOCKEY REGAN BAYLISS

Appeal Panel: **Mr. R Beasley SC – Principal Member; Mrs. J Foley; Mr K. Langby**

Appearances: **Mr. M Van Gestel for the Stewards**  
**Mr. P O’Sullivan for the Appellant**

Date of Hearing: **15 October 2021**

Date of Reasons: **15 October 2021**

### REASONS FOR DECISION ON PENALTY

**Mr. R Beasley SC, for the Panel**

#### **Introduction**

1. On Thursday 7 October 2021, licensed jockey Mr R Bayliss (“the appellant”) pleaded guilty to a breach of AR 131(b) following his ride on the horse *All Too Scottish* in race 4 run that day at the Gosford race-meeting. All Too Scottish started as a \$13 chance, and after leading in the straight until close to the winning post, finished second, beaten by a short head by Midori Beauty, ridden by Josh Parr (\$4.20). AR131(b) provides that:

*A rider must not, in the opinion of the Stewards:*

...

*(b) fail to ride his or her horse out to the end of the race and/or approaching the end of the race.*

2. The particulars of the charge were that the appellant “*did fail to ride [his] mount, which was placed second in that race and beaten a short head, out to the end of the race.*”
3. The Stewards considered that the appellant’s error warranted a 6-week base suspension of his permit to ride in races. They discounted this to 3 weeks on the basis of the appellant’s immediate plea of guilty, his good record, and for the fact that a suspension

would prevent the appellant from participating at some of the feature race meetings being conducted in the coming weeks.

### **Evidence and submissions**

4. The appellant was represented at the appeal hearing by Mr P. O'Sullivan, solicitor. Mr O'Sullivan called oral evidence from the appellant, who provided the Panel with his observations of the concluding stages of the race, including of film from "Tower 2", footage of which had not been available at the time of the Stewards' Inquiry into the appellant's ride. The appellant's evidence can be summarised this way:
  - (a) he fully admitted he made an unintentional error in the race. He misjudged where the winning post was. His head was down, and he was not looking;
  - (b) he stopped riding the horse perhaps a half a stride to a stride short of the finishing post, having ridden his mount with full vigour down the straight;
  - (c) his error in stopping riding and rising in the saddle near the post did not cost his horse the race. He felt his horse did not lose any momentum. Mr Parr's mount would have won the race in any event;
  - (d) his clear feeling in the race near the post was that Mr Parr's mount had headed his own, and this was confirmed by the film from Tower 2.
5. Mr Van Gestel, appearing for the Stewards, put to the appellant that the film demonstrated that he had prejudiced his horse's chances of winning the race, and that he could not be definitive that his horse would have run second despite his error of judgment near the line. The appellant was perhaps not quite as adamant as he had been, but still felt his horse was "probably running second anyway".
6. As for precedent penalties, the Panel was shown film of the ride of Koby Jennings at a race run at Newcastle on Saturday, 29 February 2020. It is fair observation to make that the film was evidence of what was not Mr Jennings best ride. He made a sustained error down the straight that clearly cost his horse first place. Stewards considered an appropriate penalty to be an 8-week suspension of his license to ride, discounted to 6 weeks because of Mr Jennings plea of guilty. Mr Jennings appealed to this Panel, who allowed the appeal, and imposed a 3-week suspension in lieu of 6. This differently constituted Panel does not know the reasons for the appeal being allowed in Jennings,

as no written reasons were given. In any event, Mr O’Sullivan placed reliance on the Jennings appeal determination. His first submission, which the Panel accepts, was that the ride in Jennings was a more culpable ride than that of the appellant. He pointed to the fact that Jennings was riding in a Saturday race meeting, and that it could be conclusively said that the horse in the Jennings appeal was cost first place, which could not be said here. It followed, Mr O’Sullivan submitted, that whether or not the Panel took the view that the appellant’s error cost his horse first place (but particularly if this could not be definitively said) reliance on the Panel’s determination in Jennings would point towards a reduction in penalty for the appellant in this appeal.

7. Mr Van Gestel submitted fairly that it could not be definitively said that the appellant’s error cost All Too Scottish first place. However, he said the Panel could not be certain it did not. While that was unclear however, it was clear that the appellant’s error had at least prejudiced the horse’s best chance of finishing first.
8. As to precedents, Mr Van Gestel referred the Panel to numerous precedent penalties for breaches of this rule. These show a range of penalties, for a range of various outcomes from jockey error. Most common involved penalties imposed for horses missing a particular place, rather than first. Of most significance though we were referred to Paula Heath (30/5/20; cost 2<sup>nd</sup> place; 2-week suspension); Hugh Bowman (28/3/20; possibly cost horse 2<sup>nd</sup> in Group 1 race; 2-week suspension); Allan Chau (26/5/17; failed to ride mount out when beaten a nose; 4-week suspension); Sophie Young (16/7/12; failed to ride out when horse in contention to win; 5-week suspension). Mr Van Gestel’s submission was that, perhaps in contrast to these other precedent penalties, the Panel’s decision in Jennings was “lenient”.

### **Resolution**

9. AR 131(b) is an important rule concerning the integrity of racing. By “integrity”, we are not suggesting that the appellant’s error was deliberate, or that it involved misconduct. It did not. The integrity issue involved in this rule is bound up in this: participants and followers of racing, and in particular punters and owners, should have confidence that horses are given, as far as possible, every chance to finish in the best possible position they can in a race. That occurs when horses with a realistic chance of winning, placing or finishing in the money for a race are properly ridden out at the end

or approaching the end of a race. Although it was a mere error, because of the appellant's error, that did not happen in the relevant race here.

10. Having viewed footage of the film of the race, the Panel is not able to confidently say the appellant's error either did or did not cost All Too Scottish first place. We don't know – it's just too close to call. The appellant felt that his actions did not cost his mount any momentum, but our collective view is that this cannot be stated with absolute certainty. Certainly, the appellant did not restrain his horse in any way. The charge would probably be different in such circumstances. But in a race decided by such a small margin, we are of the view that the appellant's error in stopping riding probably a stride to a stride and a half short of the line was one that leaves us uncertain as to what might have happened had he kept riding with vigour right to the line. It was a relatively minor error of judgment, right at the end of the race, but we accept that it at least prejudiced the chances of All Too Scottish winning, even if we cannot say with certainty or even on the balance of probabilities that it did cost the horse first place.
11. As to precedent penalties, we perfectly understand Mr O'Sullivan's reliance on Jennings. His submission for a reduced penalty would have a lot of force if that was all we had to go on. While not having enough to go on to suggest the penalty in Jennings was lenient, we agree with Mr Van Gestel that it looks slightly out of whack with other penalties imposed for breaches of this rule, and does appear on its face to be an "outlier".
12. The Panel has taken account of the appellant's plea, and his excellent record. We know that suspension of riders' permits to ride causes financial loss, which is why we approach the task of imposing such penalties with utmost seriousness, and in recognition of the consequences for riders. We also take into account the fact that a suspension at this time of the year will cost the appellant the opportunity to ride in races carrying high stakes. Taking all matters into account however, we are in agreement with the Stewards – a 3 week suspension is the appropriate penalty for the breach of the rule involved here.
13. As the appellant is suspended from riding from 17 October until 29 October 2021, his penalty for the breach here will commence on the later date.

**Orders**

14. The Panel makes these orders:

1. Appeal against severity of penalty dismissed.
2. Penalty of a 3-week suspension of the appellants' license to ride in races confirmed. Such penalty commences on 29 October 2021, and expires on 19 November 2021, on which day the appellant may resume riding in races.
3. Appeal deposit forfeited.