

RACING NEW SOUTH WALES

APPEAL PANEL

18 November 2014

MR R CLUGSTON — Chairman
MR K LANGBY
MR T CARLTON

IN THE MATTER OF THE APPEAL OF
MITCHELL BELL

REASONS FOR DECISION

CHAIRMAN: This is an appeal by licensed jockey Mitchell Bell (hereinafter referred to as “the Appellant”) against conviction and the penalty imposed by Stewards at the Clarendon Racecourse on 6 November 2014 in respect of a breach of AR 137(a).

The particulars of the “careless riding” charge were that as the rider of *Supercharged* in Race 4 the Blakes Marine Maiden Plate at the Hawkesbury Race Club meeting on 6 November 2014 he did allow that filly to shift in near the 100 metres when not clear of *Millijule* ridden by apprentice Taylor Marshall resulting in *Millijule* striking the heels of his mount and blundering badly and further resulting in apprentice Marshall being dislodged from that filly.

The Appellant pleaded guilty to the charge before the Stewards and the Stewards suspended his licence for eighteen (18) meetings to commence on Sunday 9 November 2014 and to expire on Saturday 13 December 2014 on which day he may ride. Stewards subsequently acceded to a request from the Appellant to amend the dates of his suspension period with the result that his suspension commenced on Sunday 16 November 2014 and is to expire on Thursday 18 December 2014 on which day he may ride. The Appellant entered a plea of not guilty to the charge in the proceedings before the Panel.

This appeal is a rehearing on the questions of guilt and penalty. The Stewards were represented in the proceedings before the Panel by Mr M Van Gestel, Deputy

Chairman of Stewards – Operations, and the Appellant appeared unrepresented. The transcript of the Stewards' inquiry conducted on 6 November 2014 and the hearing of the charge which took place on the same day and the video recording of the race in question have been admitted into evidence in the proceedings before the Panel.

The Panel considers that the circumstances which gave rise to the commission of the alleged breach by the Appellant were succinctly described in the evidence given at the Stewards' inquiry by Steward Mr R Livingstone and by the Deputy Chairman of Stewards - Operations Mr M Van Gestel. In his evidence Mr Livingstone said (at pages 2 and 3 lines 87-95) "..... I had a rear on view being positioned at the home turn and I was of the view that getting towards the 100m that *Millijule*, that being Taylor Marshall's mount, I was of the view that that filly did have an inclination to lay out, although I didn't see it shift any discernible ground. I was of the view that there was a shift from the outside, namely *Supercharged*, ridden by Mitchell Bell. There was a shift in when under pressure from that filly and as a result *Millijule* appeared to clip the heels of *Supercharged* and Taylor Marshall was dislodged, and that was of course at the 100 metre mark." In his evidence Mr Van Gestel said (at page 3 lines 101-108):

"..... I had a lateral view of this incident at about the 100m. In fact, as Mr Livingstone indicated, *Millijule* initially in the early part of the straight wanted to layout. I thought Taylor Marshall endeavoured to improve into a run to the inside of *Supercharged* initially at the 200 m and was inconvenienced, but at the 100 m I thought *Supercharged* under riding shifted in and as a consequence *Millijule* struck the heels of *Supercharged* and blundered quite badly and dislodged Taylor Marshall from his mount". The Panel is satisfied that the oral evidence of Mr Livingstone and Mr Van Gestel is consistent with the images depicted on the video film of the race.

Further, the Panel is satisfied that after the field entered the straight the Appellant's mount was five (5) horses off the fence and the horse ridden by apprentice T Marshall was about one (1) length to his rear and had established a run to the inside of the Appellant's mount at the 200 metres. The Appellant's mount then at that point shifted in and inconvenienced *Millijule*. Approaching the 100 metres two (2) horses travelled past the Appellant's mount on the outside which then shifted in in excess of one (1) horse under pressure causing *Millijule* to clip its heels and blunder and apprentice T Marshall to be dislodged. The Panel is satisfied from the evidence that the Appellant continued to ride his horse out from the top of the straight to the

point of impact and that at no stage did *Millijule* shift out. In the circumstances the Appellant was obliged to stop riding and straighten his mount and his failure to do so constitutes careless riding as charged.

The Panel has had the advantage of citing the “Careless Riding Penalty” template utilised by the Stewards in determining the penalty imposed by them. The Panel notes the following relevant entries in that document:

1. the Stewards assessed the level of carelessness as grade two (2) on an ascending scale of one (1) to three (3);
2. the Stewards assessed the consequences of the Appellant’s careless riding (as it involved a fall) as grade five (5) on an ascending scale of one (1) to six (6); and
3. the Stewards applied a discount of ten (10) percent in respect of the Appellant’s plea of guilty on the basis that the Appellant had incurred more than two (2) suspensions in the last twelve (12) months for careless riding breaches.

The Panel in forming its own opinion in relation to the appropriate penalty in this case agrees with the approach taken by Stewards when completing the Penalty template and with the penalty imposed by Stewards notwithstanding that given the change of plea by the Appellant he is not, under the template, now entitled to a discount.

The Appellant’s Disciplinary Report is in evidence before the Panel. That Report discloses that in the period commencing 30 January 2001 to date the Appellant has accumulated forty six (46) prior entries for “careless riding”. The Panel views that record as an aggravating feature of this case and takes this opportunity to remind the Appellant that the paramount consideration for a jockey riding in a race is the safety of the horses and fellow jockeys participating in the race.

The orders of the Panel are as follows:

1. Appeal dismissed;
2. Finding of guilt confirmed;
3. Penalty of suspension for eighteen (18) meetings imposed by Stewards confirmed such suspension to commence on 16 November 2014 and to expire on 18 December 2014 on which day he may ride;
4. Appeal deposit of \$200 forfeited.