

RACING NSW APPEAL PANEL

APPEAL OF KEVIN RANDALL

Appeal Panel: Mr R Beasley SC Principal Member

Mr T Carlton

Mr J Fletcher

3 FEBRUARY 2017

REASONS FOR DECISION

Introduction

1. This is an appeal by licenced trainer Mr Kevin Randall.
2. On 8 November 2016 the Stewards of the Northern Rivers Racing Association found Mr Randall guilty of a charge of improper conduct under rule 175 (q) of the Australian Rules of Racing. He was penalised by way of a four month suspension.
3. Mr Randall has appealed in relation to both the finding of guilt, and penalty. He has represented himself today before the Appeal Panel. Racing NSW is represented by Mr Philip Dingwall, Deputy Chairman of Stewards.
4. The charge and its particulars in full are as follows:

The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise;

(q) Any person who in their opinion is guilty of any misconduct, improper conduct or unseemly behaviour.

The particulars of the charge being that at approximately 7.20am on the morning of Friday, 23 September 2016 at the Casino Racecourse you, licensed trainer Mr Kevin Randall, did conduct yourself in an improper manner whilst working a horse for licensed trainer Mr Daniel Bowen on the sand training track in that you did intentionally ride your mount along to increase its pace as you approached licensed trainer Mr Peter Stanley, who was working Hot Mist in advance of you, resulting in Hot Mist becoming unsettled and taking fright and Mr Stanley becoming unbalanced in the saddle near the 100m, such conduct endangering both the safe or Mr Stanley and his mount Hot Mist.

5. Exhibit A before the Panel today was the evidence from the Stewards' Inquiry, which included transcript of the evidence taken there.
6. Exhibit B on the appeal was a video of the incident filmed by Mrs Stanley, Peter Stanley's wife. She was standing in the grandstand of the Casino Racecourse when she filmed the incident on her phone.
7. No oral evidence was called on this appeal, the parties content to rely on the evidence from the Stewards' Inquiry.

Steward's submissions on finding of guilt

8. In the submissions he made, Mr Dingwall first drew the Panel's attention to evidence of what might be some bad blood or animosity between Mr Stanley and Mr Randall: see T 14 and T18.
9. Mr Dingwall then took the Panel through the film footage, and made the following observations:
 - (a) the two horses were working on the internal sand track of the racecourse;

- (b) the video shows that near the top of the straight, Mr Stanley's horse is approximately 50m in front of Mr Randall's;
- (c) both horses thereafter until about the furlong or just past it were working at a relatively slow pace. They remained about 50m apart;
- (d) at this point, Mr Randall increased the speed of his horse considerably – at least to half pace, possibly faster. He hunted his horse along;
- (e) Mr Randall then near the 100m mark or just after rode past Mr Stanley's horse at this much quicker pace, and passed him on the inside;
- (f) as a consequence of these actions, Mr Stanley's horse became unbalanced and unsettled.

10. In addition to his submissions based only on the film, Mr Dingwall made the following submissions:

- (a) Mr Randall's handling of his horse, in particularly the sudden quickening of its pace, seemed to be contrary to the instructions of its trainer, Mr Bowen: see T41-44
- (b) Mr Randall owed Mr Stanley a duty of care as a co-rider of a horse on the sand track. What he should have done, if he wanted to overtake Mr Stanley's horse, was to trot his mount up towards Mr Stanley's horse, and when within about 30m, give a clear verbal shout out to Mr Stanley that he intended to pass;
- (c) Mr Randall had a clear opportunity to exercise care by riding in such a manner, and failed to do so. Instead he dangerously increased the speed of his horse and sped past Mr Stanley's mount, thereby frightening the horse. This was dangerous, and could have led to either a fall, or a fall and injury, or even

collision. He exposed himself and his horse to unnecessary danger, and Mr Stanley and his horse to unnecessary danger.

Mr Randall's submissions on guilt

11. Mr Randall made the following submissions and referred the Panel to the following matters:

- (a) he pointed out the dangers and relative narrowness of the sand track. There is no fence on the right (the land goes up about 2 feet), and the running rails of the main track are angled to their right towards the sand. The track is only 5 or 6 horses wide. There is no room for mistakes on this narrow track;
- (b) Mr Randall asserted Mr Stanley was an unsafe rider;
- (c) Mr Randall says he was cantering and not trotting slowly at the top of the straight or just after. He said Mr Stanley's horse was moving in, and he had to make a split second decision – do I hold off or do I go past him: see T8L375-380. He said he was in danger because of Mr Stanley's horse shifting in: T10-L460-470. He was travelling quickly, and had to make a split second decision to get past Mr Stanley's horse on the inside;
- (d) contrary to the contention of the Northern Rivers Stewards, Mr Randall says he did not pull his horse up to a trot past the winning post. The video does seem to confirm this at least.

Finding

12. The Panel generally accepts Mr Dingwall's analysis of the video and of the situation generally. The film to us does show the horses travelling at a relatively sedate pace at and past the top of the straight and thereafter until about the furlong.

13. In our view, the film then shows a dramatic increase in the pace of Mr Randall's horse from 50m behind it until he passes it on the inside.

14. The film shows this caused at a minimum inconvenience to Mr Stanley's horse.

15. We do not accept the appellant's submissions on the film or his version of what occurred.

16. In the circumstances, we consider this riding to be unnecessary, deliberate and dangerous, and sufficiently so to sustain the charge of improper conduct.

Penalty

17. The Racing NSW Stewards submit the penalty of a four month suspension is justified largely on the basis that Mr Randall's actions exposed both horses and both riders to the risk of harm. The Panel accepts that submission.

18. Mr Dingwall provided Mr Randall's disciplinary record to the Panel, which shows two prior breaches of AR 175(q) which resulted in fines. Some previous decisions were also provided, but nothing factually analogous to the circumstances here.

19. For his part, Mr Randall indicated to the Panel that he has 40 years riding experience, and that he has both a number of horses in work, and rides trackwork for up to fifteen horses a day for other trainers. Training and breaking in horses are his main source of income, and a four month suspension would have very severe consequences for him.

20. Mr Randall tendered a bundle of references (Ex 1) which the Panel has had regard to. They indicate his is a man of good character, and a very fine horseman. The references also make allegations against Mr Stanley and bad blood issues between families that the Panel cannot have regard to.

21. The Panel has considered the objective seriousness of the offence, and in particular the need for both general and specific deterrence. Mr Randall's actions seem to us to be an act of aggression.
22. The Panel accepts Mr Randall is a very good rider. We also accept that a four month suspension will create real hardship for him. In circumstances though where we have found he deliberately engaged in a dangerous act, the Penalty in our view must be a suspension, and we agree with the period of 4 months.
23. The orders of the Panel are:
- (a) Appeal against finding of guilt dismissed;
 - (b) Finding of guilt for breach of AR 175(q) confirmed;
 - (c) Appeal against severity of penalty dismissed;
 - (d) Suspension of four months confirmed, such penalty to commence on Wednesday 8 February 2017 and to expire at midnight on 7 June 2017;
 - (e) Appeal deposit forfeited.