

RACING APPEAL PANEL NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF LICENSED JOCKEY JOSH ADAMS AGAINST DECISION OF THE STEWARDS GIVEN ON SATURDAY 2 JUNE 2018

Racing NSW Offices
Sydney

Appeal Panel: **Mr T Hale SC (Convenor)**
Mr K Langby
Mr C Tuck

Date of hearing: **12 June 2018**

Date of decision: **12 June 2018**

Appearances: **Mr J Adams - licensed jockey**
Mr T A McDonald (Stipendiary Steward)

REASONS FOR DECISION

Convenor: Mr T Hale SC (Mr K Langby and Mr C Tuck concurring)

1. Joshua Adams is a licensed jockey. On Saturday, 2 June 2018 he rode the horse *Purton* in the World Wide Cables 2YO Maiden Handicap over 1400m at Kembla Grange. He was beaten into fourth place by a short half head by the horse *Battle Plane*.

2. Later that day Stewards held an inquiry into the running of the race. Mr Adams was charged with a breach AR 137(b), namely that he failed to ride his horse out to the end of the race.
3. He eventually pleaded guilty to the offence. I say eventually because he initially said that he wanted to reserve his plea. The Stewards rightly said that he could not reserve a plea. After a short adjournment, Mr Adams pleaded guilty to the offence. The Stewards accepted that plea. The Stewards suspended Mr Adams for nine meetings, commencing on Saturday, 10 June and expiring on Tuesday, 19 June.
4. Mr Adams has appealed to this Panel against the decision of the Stewards pursuant to section 42 of the *Thoroughbred Racing Act 1996*, both on conviction and penalty. The appeal is by way of a new hearing and Mr Adams is entitled to withdraw his plea of guilty, which he has done.
5. At the hearing before the Panel, Mr T McDonald appeared for the Stewards and Mr Adams represented himself.
6. The particulars of the charge are:

That you, Josh Adams, at the Kembla Grange Race Meeting on 2 June 2018 in Race 3, as the rider of Purton, failed to ride your horse out to the end of the race where you were placed 4th, beaten a short half-head to 3rd.
7. The Panel received as exhibit A a bundle of material, which included, amongst other things, the transcript of the hearing before the Stewards. We received as exhibit B the film of the race.

8. Mr Adams tendered as exhibit 1 an email from Mr Robbie Dolan, who was the jockey on *Battle Plane*, the horse which came third. In that email Mr Dolan said:

My horse got stopped of a run 100 metres from the finish but when got a clear run extended to the finish, from my perspective I believe I was in front of Mr Adams 50 metres from the finish and I believe it was always going to beat Mr Adams for third place once my horse got into a clear run.

9. Mr Adams also gave sworn evidence before this Panel and was cross-examined by Mr McDonald.
10. The Stewards' case is that at approximately 50 metres from the finish, Mr Adams on *Purton* was in third position, with *Battle Plane* on the outside challenging for third position. There is some dispute on the evidence as to when it was that *Battle Plane* moved into third position. It is accepted that the angle from which the film was taken gave rise to some uncertainty on this question.
11. Based upon the film, Mr McDonald, on behalf of the Stewards, submitted that at approximately one and a half to two strides from the finish line Mr Adams did not fully push out with extended arms. Rather, he relaxed. The horse *Battle Plane* crossed the finish line a short half head in front of Mr Adams' mount. On that basis, Mr McDonald submits that the breach of the rule has been established. Mr McDonald also submits that there was a good chance that this lack of vigour in riding compromised Mr Adams' mount's chances of finishing third.
12. Mr Adams gave evidence and made submissions, in which he contended that he had maintained his actions through to the closing stages of the race and his actions did not change. He said that as far as he was concerned, he did not stop riding and that his horse lost no momentum. He also said that the horse was tiring. He said that *Battle Plane* had greater momentum as it

approached the finish line, which was also demonstrated by how quickly it moved in front of Mr Adams' mount after the finish line.

13. Having viewed the film from two angles on multiple occasions and having had the benefit of submissions in relation to that film, we have reached the conclusion that the film does show that Mr Adams did in fact stop riding shortly before the winning post and that he did not show the same level of vigour that he had shown in the previous strides. He did not fully push out with extended arms, as he had done in the previous strides.
14. In these circumstances we find that the Stewards have established that Mr Adams breached AR 137(b). It is not necessary for us to determine whether this breach caused *Purton* to finish fourth rather than third. We cannot know what would otherwise have been the result. However, it is possible that Mr Adams on *Purton* could have come third, were it not for his failure to ride his horse out to the end of the race. This then leads us to the appeal on severity of penalty.

(The parties made submissions addressed on penalty)

Convenor:

15. This Panel has found Mr Adams was in breach of AR 137(b). It is now incumbent upon the Panel to determine the appropriate penalty.
16. The importance of complying with rules has been discussed by this Panel on a number of occasions, more recently *In the Matter of Corey Brown Appeal*, delivered on 18 July 2017, a Panel comprised by myself, Mr Marney and Mr Murphy. There, I referred to a number of decisions of this Panel, which emphasised the importance to the integrity of racing of compliance with the rules and of ensuring that all horses race on their merits. This goes to the very heart of the integrity of racing. In determining penalty, deterrence is an

important consideration, so as to deter others from failing to ride out their horses to the end of the race.

17. The Stewards imposed a penalty of 9 days suspension. That included a discount for a plea of guilty. Before this Panel, Mr Adams changed his plea and pleaded not guilty, as he was entitled to do. As a consequence, Mr McDonald, on behalf of the Stewards, contended that the appropriate penalty is a suspension of 14 days.
18. In considering the appropriateness of the penalty, we take into account that Mr Adams' mount came fourth by a short half head and there was the possibility that it might have come third.
19. We also take into account his record. This is the third occasion in less than 12 months in which he has been found to be in breach of AR 137(b). We also take into account the fact that he withdrew his plea of guilty before the Stewards and pleaded not guilty before us.
20. On the other hand, we take into account that his breach occurred shortly before the winning post.
21. We also take into account his frank acknowledgement that he has a problem in respect of this rule and he recognises that he must rectify it. We accept the sincerity with which he expressed this.
22. We also take into account that this a provincial meeting in which the prize money on offer was not of the same size as might be expected in a city meeting.

23. The Stewards also acknowledge that, because there were only 7 runners, there was no third dividend, but exotic pools have the potential to be affected by the conduct of Mr Adams.
24. We also take into account the list of penalties that have been imposed from 23 August 2017 for similar offences, which are generally for a period of suspension between 7 and 10 days, with occasional suspensions of 14 days.
25. In all the circumstances, we consider that a suspension of 9 days is appropriate. We do not consider it appropriate to increase the penalty, as a consequence of which we confirm the suspension of 9 days, commencing on Sunday, 10 June and expiring on Tuesday, 19 June, on which day Mr Adams may ride.
26. In summary then, the orders of the Panel are:
 1. Appeal on conviction dismissed and the finding of the breach by the Stewards on 2 June 2018 is confirmed.
 2. The appeal on penalty is dismissed and the penalty of 9 days suspension is confirmed, which is the suspension commencing Sunday, 10 June and expiring on Tuesday, 19 June, on which day Mr Adams ride.
 3. The appeal deposit is forfeited.
