

APPEAL PANEL OF RACING NSW

APPEALS OF LICENCED JOCKEY NASH RAWILLER

PANEL: MR R BEASLEY SC, PRINCIPAL MEMBER; MS J FOLEY; MR J MURPHY

APPEARANCES:

RACING NSW MR M VAN GESTEL, CHAIRMAN OF STEWARDS

APPELLANT MR W PASTERFIELD

DATE OF HEARING: 14 August 2020

DATE OF REASONS: 17 August 2020 (orders made 14/8/20)

REASONS FOR DECISION

Mr R Beasley SC

Introduction

1. Licensed Jockey Nash Rawiller (the appellant) was charged with breaches of the Australian Rules of Racing following the running of races 5 and 7 at the race meeting conducted at Rosehill Gardens on Saturday 25 July 2020.
2. Following race 5, the appellant was charged with a breach of AR 132(7)(a)(ii) (Charge 1), relating to excessive use of the whip. Following race 7, he was charged with a breach of AR 131 (a), the careless riding rule (Charge 2).
3. The appellant pleaded guilty to both charges. For Charge 1, he was penalised by the Stewards by a suspension of 1 week, which commenced on 9 August, and which was

to expire on 16 August. For Charge 2, his licence to ride was suspended for 7 meetings, with such suspension to commence on 16 August, and expire on 1 September 2020. The appellant appeals against the severity of penalty imposed on him in relation to each charge. He also appealed in relation to the finding of breach of the careless riding rule. On appeal, he was represented by Mr W Pasterfield. The Stewards were represented by the Chairman of Stewards, Mr M Van Gestel.

Charge 2

4. The particulars of the careless riding charge (AR 131(a)) were “that in race number 7, the Missile Stakes, as the rider of Eduardo, that near the 100 metres you did permit Eduardo to shift in when not clear of Imaging, resulting in Imaging having to be checked by its rider, Tom Berry”.
5. Film of the race was tendered as an exhibit. It clearly demonstrated why the appellant was charged, and confirmed the particulars alleged.
6. In support of the appeal in relation to the challenge to the finding of breach of the rule, it was said that Eduardo was a difficult horse to ride, a “green” horse despite its 7 years, and that attempts had been made to straighten the horse down the straight on occasions when it shifted in. “Expert” evidence was called by Mr C Brown to support this submission.
7. Mr Brown is a senior rider of great experience and skill. He said that “stopping riding” a horse like Eduardo – meaning to stop riding with vigour – and to forcefully try and straighten it (as the Stewards submit the appellant should have done), might “do more harm than good”. That evidence can be accepted up to a point, although not as any universal rule. It is also accepted that Eduardo is a difficult horse to ride. However, the appellant continued to use the whip on the horse when it shifted in on Mr Berry’s horse. Mr Brown conceded the appellant should have stopped riding with the whip, even if the event of shifting in happened suddenly. That really disposes of the appeal against the finding of breach of the rule. The failure at least to stop striking the horse with the whip as it shifted in was careless.
8. The Panel is also of the view that this makes good the Stewards’ assessment of medium carelessness for the purposes of the “Careless Riding Penalty Template”, which is also the Panel’s assessment. A low grading of carelessness as contended for

by the appellant does not sit comfortably with the actions of a rider who continues to ride with the whip as his horse shifts in and causes interference to another horse.

9. As to the Template, Mr Pasterfield submitted it did not sufficiently take into account the very large number of rides the appellant has had in the last 12 months. We do not agree. The Template is not binding, but it is usually a very good guide to an appropriate penalty. It was here. Taking into account plea, riding record, and the feature meetings the appellant will miss, a 7-meeting suspension is appropriate. The appeal against severity of penalty is dismissed.

10. The Panel these orders:

1. Appeal against breach of AR 131(a) dismissed.
2. Finding of breach of AR 131(a) confirmed.
3. Appeal against severity of penalty dismissed.
4. Penalty of a suspension of 7 meetings confirmed. The suspension of the appellant's licence to ride commences on 14 August, and expires on 30 August 2020, on which day he may ride.
5. Appeal deposit forfeited.