

APPEAL PANEL OF RACING NSW

APPEAL OF LICENCED JOCKEY NASH RAWILLER

PANEL: Mr R Beasley SC; Mr C Tuck; Mr P Losh

APPEARANCES: **Racing NSW** Mr M Van Gestel, Chairman of Stewards

Appellant Mr P O’Sullivan, Solicitor

REASONS FOR DECISION – 1 April 2021

The Panel

1. On 27 March 2021, licenced jockey Nash Rawiller pleaded guilty to a breach of the careless riding rule (AR131(a)) following his ride on Four Moves Ahead in the Group 1 Golden Slipper. It was alleged by Stewards, and agreed to by the appellant, that near the 700m mark of the race, he allowed his mount to shift in when insufficiently clear of Ingratiating (ridden by Damien Oliver) causing that horse to in turn be taken in, and take the running of Mallory. Mallory was crowded into the running rail, and blundered.
2. As a result of another suspension, the appellant’s licence to ride was suspended from 17 April until 29 April 2021 (a 6-meeting suspension). This was through the application of the Careless Riding Penalty Template for a ride deemed of “medium” carelessness that caused a check, which on its own results in a 7-meeting base penalty. To this, the Stewards applied a discount of 10% for plea, and a further 30% to reflect the fact that the suspension rules the appellant out of two significant feature race days, including Day 2 of the Championships. To that, a premium of 25% was added for the fact that the careless riding rule was breached in a particularly prominent Group 1 race.
3. On the appeal, the Stewards were represented by Mr M Van Gestel, the Chairman of Stewards, and the appellant by Mr P O’Sullivan, solicitor. The appeal book containing transcript of the Stewards’ Inquiry, and film of the race, were admitted into evidence. The appellant also gave oral evidence.
4. There were only two issues for the Panel to decide on the appeal. First, should the carelessness be graded as “medium”, or “low”? Secondly, is a premium of 25% too great for this race, or races like it?

5. No disrespect to the appellant, but his evidence was no substitute for the film. He cut in on Mr Oliver on Ingratiating when he was not sufficiently clear of that horse. He was probably at best one and a quarter length clear. That was clear from the answers he gave to Mr Van Gestel, and was the ultimate cause of the interference to Mallory, which was significant. We agree with these matters raised by the appellant however:
 - (a) Racing requires riders to make split second decisions while riding horses travelling at high speed. The Panel acknowledges that this requires skill and bravery, and that not every inevitable error of judgment should result in a finding of breach of AR131(a). Further, not every breach of AR131(a) should automatically or easily be graded as “medium” rather than “low”.
 - (b) Mr Oliver did push his horse forward as the appellant shifted in. They were both after the “run of the race”, or something close to it. That said, Mr Oliver did have a rightful run that the appellant cut in on.
6. Making a decision on grading carelessness as “low” or “medium” is not a precise art. Experience and judgment come into it, but even two experienced and reasonable judges of horse racing (including those with race riding experience) might respectfully disagree over whether a ride is in breach of the rule or not, or if in breach, whether the carelessness should be graded as “low” or “medium”. Having considered all aspects of this race, the Panel is unanimously of the view that the appellant’s conduct does fall within the “medium” range of carelessness. He cut in on Mr Oliver’s horse when far too close to it.
7. As to the 25% premium because the breach of AR131(a) occurred in the Group 1 Golden Slipper, we agree with the Stewards that some premium is warranted. Carelessness in such a prominent race can have the potential to do more damage to racing than in a less followed race. Equally, we were told, and accept, that the Golden Slipper once had a reputation for particularly wild rides where safety took a long second place to winning. That is probably well known. An extra deterrent effect is warranted.
8. The appellant’s ride however, as he pointed out, may have been careless, but involved nothing like throwing safety overboard. It was a ride where there was one act of carelessness, but by no means was one where he abandoned all regard for the safety of other riders and horses. In those circumstances, while a 25% premium might frequently be appropriate for breaches of the careless riding rule in a race like the Golden Slipper, that should not be an inflexible rule. On this occasion, we would reduce the premium to 15%. That is somewhat of a pyrrhic victory for the appellant, as it only reduces his suspension by 1 meeting.
9. The orders the Panel makes are as follows:
 1. Appeal against severity of penalty allowed.

2. In lieu of a 6-meeting suspension, the appellant's licence to ride is suspended for 5-meetings. That suspension commences on 17 April 2021, and expires on 28 April 2021, on which day the appellant may ride.
3. In view of the limited success of the appeal, appeal deposit forfeited.