

## **RACING APPEALS TRIBUNAL**

### **QUEENSLAND**

#### **NOTICE OF DECISION**

**APPEAL NO:** RT009-07

**DATE:** 3 May 2007

**APPELLANT:** Mr Christopher Wearne

**RESPONDENT:** Queensland Racing

**APPEAL FROM:** Decision of the Stewards of Queensland Racing to disqualify the Appellant for a period of 3 months - appeal against penalty only.

**BREACH OF RULE:** AR175(q)

**DECISION:** Appeal upheld - penalty varied to 1 month's suspension from 24 April 2007 and a fine of \$1,000 to be paid by 23 June 2007 and if the fine not paid by that date the Appellant is further suspended until fine paid.

**APPEARANCES:** Mr Paul Wearne with the approval of the Tribunal appeared on behalf of the Appellant.

Mr Norm Torpey, Steward appeared on behalf of the Respondent.

#### **REASONS FOR TRIBUNAL'S DECISION**

Mr Leo Williams AO - Chairman

Mr Brock Miller - Deputy Chairman

Mr Dennis Standfield - Member

The Appellant Mr Christopher Wearne was a Licensed Stablehand and the Stable Foreman for the Trainer Mr Les Ross. On Saturday 21 April 2007 Mr Wearne was involved in an altercation with Licensed Trainer Mr Steele Ryan in the stabling area of the Gold Coast Turf Club during the time the Club was conducting a race meeting.

Both Mr Wearne and Mr Ryan were called to a Stewards Inquiry which commenced on 21 April 2007 and was adjourned to 24 April 2007. Both Licensees were charged

and pleaded guilty to a breach of AR175(q). The Stewards at the Inquiry imposed disqualification periods of 3 months and 6 months respectively on Mr Wearne and Mr Ryan who both have appealed to the Tribunal. At the date of hearing of this Appeal and delivery of these reasons Mr Ryan's Appeal has not yet been heard by the Tribunal.

AR175(q) reads:

"The Committee of any Club or the Stewards may punish:

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

The particulars of the charge against Mr Wearne are stated at page 21 line 9 of the Stewards Inquiry transcript as follows:

"The specifics of the charge are that at the Gold Coast Turf Club meeting on Saturday, April 21 2007, you did display improper conduct by verbally abusing and attempting to strike trainer Steele Ryan during an incident in the race day stable area."

At the hearing Mr Wearne was with the approval of the Tribunal represented by his father Mr Paul Wearne. Mr Paul Wearne was previously a Licensed Jockey for many years.

Mr Paul Wearne's submissions were with respect to the severity of the penalty imposed stating that his son does not deny the charge.

It appears from the transcript that the incident leading to the charge can be summarised as:

1. Mr Wearne's horse was in a tie up stall when it "lashed out" at Mr Ryan's horse which was in the adjoining stall.

2. Mr Ryan became agitated and spoke aggressively to Mr Wearne about the incident.
3. Mr Wearne responded aggressively.
4. Mr Ryan “took a swing” at Mr Wearne over the stall rail and his hand brushed Mr Wearne’s shoulder.
5. Mr Wearne moved away but then returned and challenged Mr Ryan.
6. Mr Ryan responded by striking Mr Wearne with his fist.
7. Both Mr Ryan and Mr Wearne then engaged in throwing punches until someone who has not been identified intervened.
8. The parties then separated and Mr Wearne told Mr Ross about the incident and the matter was referred to the Stewards.

As in most physical altercation situations there are different versions by the participants and witnesses as to who was primarily and most aggressive in the altercation. Generally on perusal of the transcript the facts of the matter as to what occurred really aren’t in dispute.

Findings made by the Stewards at the Inquiry and with respect to Mr Wearne’s conduct when imposing penalty (page 31 from line 46 of the Stewards Inquiry transcript) the Chairman of the Stewards Panel at the Inquiry stated:

“THE CHAIRMAN: Mr Wearne, the stewards have considered the matter of penalty in your case. We accept you pleaded guilty to the charge placed before us, and we do, as stated on record, believe Mr Ryan played a major role in instigating the matter by first striking you. But your actions after that incoming back and attempting to strike Mr Ryan again are totally unacceptable and not what we expect from a licensee at a registered race meeting as such.”

The Stewards then imposed a disqualification of 3 months from 24 April 2007.

The personal circumstances of Mr Wearne as stated by him at the Inquiry and presented by his father to the Tribunal are that he has been in the industry since about 1999 when he was 15 years of age. He was initially apprenticed to trainers Ron Quentin and Malcolm Johnson in Sydney. Because of his weight he became a Registered Stablehand with New South Wales Racing until about 2006 when he was working with Trainer John Hawke’s establishment. For the last few months he has been with Trainer Les Ross’s Stable and holds the position as Stable Foreman. He is a single person and although receiving a modest income as a Stablehand he also resides in premises at the licensed stables. Both the income and residence in the premises have been lost to him because of the disqualification. While he has been in the industry all his working life he did state that he can drive a truck but at the present time he does not have a licence.

Mr Paul Wearne submitted that the incident was out of character for his son. Certainly there was evidence from the transcript that Mr Wearne and Mr Ryan have put the matter behind them. In some ways the incident can be regarded as spontaneous and caused by initial action of Mr Wearne’s horse in striking Mr Ryan’s horse. It is clear from the transcript that Mr Wearne was forthright in his evidence and accepted his wrong doing.

While Mr Torpey accepted that there was an allowance for Mr Wearne’s plea of guilty and frankness at the Inquiry he submitted that a period of 3 months was justified in

light of the fact that this occurred at a registered TAB meeting in front of a number of persons. Mr Torpey submitted this was much more than a “push and shove” and was a “fight”. Mr Torpey stated that deterrence has to be a major factor to show that fighting between licensees at race meetings will not be tolerated.

It is accepted Mr Wearne has had no similar breaches of the rule and from what he stated at the Stewards Inquiry (page 26 line 26) his other breaches of the rules related to careless riding and a positive urine sample to lasics.

Mr Torpey was asked for details of similar penalties imposed for breaches of AR175(q) and handed to the Tribunal five schedules. The first two schedules are from Queensland Racing and refer to Improper Conduct matters between the period 1 January 2000 and 30 April 2007 deal with Licensee Bans and Licensee Fines. The three remaining schedules are from Racing New South Wales and deal specifically with Improper Conduct, Misconduct and Unseemly Behaviour penalties applied under AR175(q). Mr Torpey commented that and the Tribunal agrees that the schedules are not of much assistance as the penalties vary from remands to long periods of disqualification.

The Tribunal has considered previous Appeals which have come before it under the Rule and thankfully fighting between Licensees in the Racing Code are not that common. The Tribunal notes its decision in the Appeal by Trainer Kelly Schweida (QRAT 5 22 January 2004) where there was a “fight” between Mr Schweida and Jockey Neil Jolly. In that Appeal while the altercation did occur at Eagle Farm Racecourse it was during track work and the participants did move away to “settle their differences”. While it can be stated that the circumstances of Mr Wearne’s Appeal is more serious the spontaneous nature of this altercation has to be compared to the circumstances of the Mr Schweida’s Appeal where there was an on

going dispute over a period of time. In the Mr Schweida's Appeal the penalty imposed was a fine of \$4,000.

It is the Tribunal's view that when considering the Appellant's age, the Stewards finding in relation to how the altercation occurred, the detrimental effects of disqualification on the Appellant, the Appellant's plea of guilty together with the remorse shown at the Inquiry and the hearing, that a more appropriate penalty is a period of suspension together with a fine.

The Tribunal therefore orders:

1. the Appeal be upheld;
2. the penalty be varied to one month's suspension from 24 April 2007 together with a fine of \$1,000.
3. that the fine be paid by 23 June 2007 and if the fine is not paid by that date the Appellant is further suspended until the fine is paid; and
4. the Appeal Deposit Fee be refunded to the Appellant.

Mr Leo Williams AO .....  
Chairman

Mr Brock Miller .....  
Deputy Chairman

Mr Dennis Standfield .....  
Member