

**RACING APPEALS TRIBUNAL**

**QUEENSLAND**

**NOTICE OF DECISION**

**APPEAL NO:** RT010-08 & RT009-08

**DATE:** 14 May 2008

**APPELLANT:** Sheree Ann Drake

**RESPONDENT:** Queensland Racing

**APPEALS FROM:** Decisions of the First Level Appeals Committee to dismiss the Appellant's Appeal with respect to separate charges both on finding for breaches of AR137(a) and the imposition of an 8 meeting suspension and a 11 meeting suspension respectively.

**BREACHES OF RULE:** AR137(a)

**DECISION:** RT010-08 (First Charge)

1. Appeal against finding dismissed.
2. Appeal against penalty dismissed.
3. Penalty of 8 meetings confirmed.

RT009-08 (Second Charge)

1. Appeal against finding dismissed.
2. Appeal against penalty upheld.
3. Penalty varied to 8 meetings suspension.
4. The penalty to be served concurrently with penalty in Appeal RT010-08.

**APPEARANCES:** JE Murdoch SC appeared on behalf of the Appellant.

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

## REASONS FOR TRIBUNAL'S DECISION

Mr Dennis Standfield - Member

The Appellant Sheree Ann Drake is an Apprentice Jockey and on 29 April 2008 lodged three separate Appeals against decisions of the First Level Appeals Committee ("the First Level") with respect to careless riding breaches under AR137(a). The incidents resulting in the three careless riding charges emanate from the Toowoomba Cup Meeting of 10 April 2008 with the Stewards Inquiry being held that same day.

While the transcripts of the Stewards Inquiries and the First Level Appeals are interwoven with the three charges the incidents under Appeal RT010-08 and RT009-08 are from the same race and the Appeals were heard together as was the course taken by the First Level.

The third Notice of Appeal (RT008-08) relates to a charge during the running of the Toowoomba Cup and I have issued separate reasons in relation to that Appeal.

These two Appeals relate to Race 4 which was a Class 2 Handicap over 1200 metres. Near the 1000 metre point of that race there was an incident in which Mindil Beach ridden by Jockey Kristy Banks and Argung Archie ridden by Apprentice Jockey Brad Evans were both checked. As a result the Appellant was charged with careless riding under AR137(a) which reads:

AR137(a) states:

*“Any rider may be punished if in the opinion of the stewards:*

*(a) He is guilty of careless, reckless improper, incompetent or foul riding.”*

The particulars were stated by the Chairman of the Stewards Panel on the day Chief Steward Mr Reid Sanders (at page 8 line 46 of the Stewards Inquiry First Charge Transcript (“SIFCT”)) as:

“We stipulate careless riding, the careless riding being, as I said at the Toowoomba Turf Club today on Thursday, 10 April 2008, in race 4 at a point near the 1000 metres you rode in a careless manner, that being that you allowed your mount Mr Protector to shift in when insufficiently clear of jockey Banks’ mount, Mindil Beach, which in turn was taken in, tightening the running of Argung Archie, ridden by apprentice Evans, and those 2 horses - that being Mindil Beach and Argung Archie - were tightened for room between your horse, Mr Protector, and apprentice Palmer’s mount, that being Picawile, and as a result both Banks and Evans had to check and lose their positions.”

At the Stewards Inquiry and the First Level this was referred to as “the First Charge”.

The Appellant pleaded not guilty to this First Charge stating that the horse Dustmen ridden by Apprentice Jockey Scott Holcombe had “... just carried me in ...” (page 5 line 44 of the SIFCT). The Steward who reported this First Charge incident was Mr Williamson who viewed the race from the 800 metres stand and when commenting on the interference to Jockey Banks and Apprentice Jockey Evans mounts stated (at page 4 from line 45 of SIFCT):

“... I do feel there was pressure from the outside, which resulted in jockey Evans - apprentice Evans and Miss Banks having to take hold. Jockey - apprentice Evans' mount has got in on the hind quarters of Picawile as a result of the pressure and both riders have had to check. I did feel that the pressure came from Miss Drake's mount, Mr Protector, which had been taken in at that stage by apprentice Holcombe's mount, which was Dustmen.”

Apprentice Jockey Holcombe's evidence at the Stewards Inquiry concerning this incident was (at page 4 from line 26 of SIFCT):

APP. JOCKEY HOLCOMBE: Yes sir. I drew wide on the horse and I was instructed to go forward on him, and I just jumped out and I was sort of looking to come across. I thought I was - sort of come across and Sheree was on the inside, and I was coming across in front of her, and I just started slowly gradually - having a look, and I went to come across and I had a look and I don't think I was 2 lengths and she yelled at me and I just sort of waited and (inaudible) before I sort of come in.”

Apprentice Jockey Holcombe further clarified this statement when asked by Mr Sanders to comment on the Appellant's claim her horse's movement was dictated to by Apprentice Holcombe's mount and stated (at page 7 from line 17 of SIFCT):

APP. JOCKEY HOLCOMBE: Not really much more than what I said before, sir. I don't think I really sort of come in front of Sheree's horse but I did keep her tight, but (inaudible) the ground I got given from her, but I think her horse was sort of wanting to run away from mine a bit at the same time because I had them fairly tight.”

The Stewards considered the evidence but found against the Appellant stating their reasons as (at page 10 from 9 of SIFCT):

“In regards to the incident near the 1000 metres in race 4, we believe that at a point near the 1000 metres you allow your mount, Mr Protector, to shift in. We don't believe that apprentice Holcombe has a bearing on you at this point. We believe you were riding your horse forward. You were looking back to your inside, you allow your horse to shift in and tighten the running of jockey Banks and apprentice Evans.

Both horses are tightened between your mount and apprentice Palmer's mount - that being Picawile - and as a result both jockey Banks and apprentice Evans lose their positions. We do therefore believe the charge as levelled against you can be sustained and formally find you guilty.”

The First Level Appeal was heard on 28 April 2008 and with respect to this First Charge the First Level dismissed the Appeal with their reasons being stated on the Information Notice as:

“In respect of the first charge, we find that at a point near the 1000m you allowed your mount Mr Protector to shift in when sufficiently clear of Jockey Banks mount Mindil Beach which in turn was taken in, tightening the running of Argung Archie as a result of which the riders of each of those horses had to check their mounts. The appeal is dismissed.”

However, the First Level did when dealing with penalty state “... we find there was some contribution from Apprentice Holcombe ...” and stated that as their reason for reducing the penalty from a 9 meeting to an 8 meeting suspension.

From a viewing of the video of the incident I am satisfied that there was inside movement by Apprentice Jockey Holcombe's mount and there was contact on two occasions with the Appellant's mount. The first occasion appeared to be just after the 1100 metre point of the race and can be described as minor. The second occasion was more significant. While the second contact can be considered as contributing to the interference of Mindil Beach and Argung Archie

I am not satisfied that the interference was such that the Appellant's running was "dictated to" by Apprentice Jockey Holcombe's mount.

Actions by riders which contribute to interference are important to consider however for contribution to be a defence to a charge I have to be satisfied to what extent the resultant interference was caused by another rider.

When viewing the video I am of the opinion that the interference to Mindil Beach and Argung Archie would still have occurred notwithstanding the movement of Apprentice Holcombe's mount although it may have been to a lesser degree. The Appellant simply wasn't sufficiently clear when her horse shifted in. While she did turn her horse's head to the outside her actions by shifting in were such that it comes within the scope of a breach of careless riding under AR137(a).

At the hearing the Appellant produce a letter from Dr Stephen Rayner dated 12 May 2008 which advised that the mount "Mr Prospector" was admitted to the Veterinary Hospital on 6 May 2008 for respiratory distress and was euthanized. The letter further stated the autopsy found a ruptured mediastinal vessel in the horse's chest "... which was sustained from trauma which occurred during the Weetwood Race on 10 April 2008". This letter was produced to assist with an explanation that there have well been something wrong with the horse's action in moving inwards. It is understood that the horse did not pull up distressed after the race and from the viewing of the video nothing can be seen out of the ordinary in its galloping. While one can speculate on the condition of the horse I am not satisfied that this is a contributing factor to the incident.

The Appellant's Appeal against finding for the First Charge is dismissed.

With respect to penalty for the First Charge I do accept that the First Level penalty of an 8 meeting suspension is appropriate. While the contributing actions of Apprentice Jockey Holcombe was not the cause of the interference there was the contact with the Appellant's mount which likely contributed to the degree of interference suffered by Mindil Beach and Argung Archie and an 8 meeting suspension is appropriate in the circumstances and the Appeal against that as a penalty is also dismissed.

After the First Charge interference there was an incident at the 900 metre point of the race where the Appellant's horse to be "taken in". This incident resulted in Apprentice Jockey Holcombe being charged with careless riding and while the transcript of the Stewards Inquiry was not made available the Stewards report on the incident was stated in the First Level transcript (at page 3 from line 23) as:

S. Holcombe, rider of Dustman, was found guilty of a charge or careless riding, in that near the 900 he allowed his mount to shift in when insufficiently clear of Mr Protector, S. Drake, which was taken in, tightening the running of Burmak (C. Isdale) which in turn tightened the running of Master Nick, which in turn shifted in, tightening the running of Jimmy Dean, which as a consequence shifted in, resulting in Jerome's Star (M. Dorrington) having to be checked. In this incident, Master Nick had to be steadied when severely crowded. S. Holcombe was suspended from riding in races for a period covered by 8 meetings, to commence at midnight, 13 April and to expire at midnight, 26 April."

After this 900 metre point incident there was a further interference at the 800 metres and the Appellant was again charged with careless riding under AR.137(a) with the particulars provided by the Stewards as (at page 6 from line 41 of the Stewards Inquiry Second Charge Transcript) (SISCT):

“We stipulate careless riding, the careless riding being that at Toowoomba on 10 April 2008 in race 4, that at a point near the 800 metres, you again allowed your mount Mr Protector to shift in when insufficiently clear of apprentice Isdale’s mount, that being Burmak, which - that horse in turn then shifts in and tightens jockey Pattillo’s mount that being Master Nick, in and as a result, jockey Galloway, which was racing back and to the inside of jockey Pattillo on Jimmy Dean, has had to check his mount, and as a result of Jimmy Dean being checked, jockey Dorrington, which was the rider of Jerome’s Star, which was following, also had to be checked in consequence.”

On this charge the Appellant reserved her plea.

Again evidence was given by Steward Mr Williamson when he stated (at page 3 from line 16 of SISCT):

MR WILLIAMSON: Thanks, Mr Chairman. I viewed the race, as stated, from the 800-metre mark. It afforded me getting to a lateral view of the incident. I do believe at that stage that apprentice Holcombe had gone clear of Miss Drake.

I do believe at that stage Miss Drake, aboard Mr Protector, has continued to shift in and has then tightened the running further of Burmak, ridden by Clinton Isdale, which in turn was taken in on to jockey Pattillo’s mount, Master Nick, and that resulted in jockey Galloway on the fence aboard Jimmy Dean having to check his mount at that stage and lose his spot. Jockey Dorrington, who was following aboard on Jerome’s Star, had to take hold from jockey Galloway’s heels.”

At the Stewards Inquiry the Appellant did state that she felt this was a continuation of the 900 metre incident and did not believe that she caused any more interference than had already happened in the race.

The Stewards found the Appellant had breached the rule when stating (at page 7 line 39 of SISCT):

THE CHAIRMAN: Apprentice jockey Drake, with regards to the second incident in race 4 near the 800 metres, we believe that after apprentice Holcombe has gone forward of you - an incident near the 900 metres - you do turn your horse's head out for a stride or two. You then, in our opinion, allow your horse to drift inwards and obtain a position 3 wide when not clear of apprentice Isdale.

That horse is then taken in, tightening the running of Master Nick, ridden by jockey Pattillo, which is then taken in onto the top weight Jimmy Dean, which was ridden by jockey Galloway, and as a result jockey Galloway has had to check out. It's lost its position, and jockey Dorrington, the rider of Jerome's Star which was following, had to be checked in consequence as a result of jockey Galloway having to be checked and lose its position. We do therefore believe the charge levelled against you can be sustained and formally find you guilty."

The First Level dismissed the Appellant's Appeal on finding stating as their reasons in the Information Notice as:

"In respect of the second charge, we find that near the 800m you have allowed your horse to drift in tightening the running of Bermack ridden by Apprentice Isdale which then tightened the running of Master Nick and Jimmy Dean ridden by Jockeys Pattillo and Galloway as a result of which Jimmy Dean had to check and lose his position and Jockey Dorrington rider of Jerome Star had also be checked and lose its position. The appeal is dismissed."

In the viewing of this incident from the video it can be seen that the Appellant was allowing her horse to move inwards and there was insufficient room. While I have considered the Appellant's submissions that it was a continuation of the 900 metre tightening of her horse, I do find that it was her mount's inward movement which caused Apprentice Jockey Isdale's horse to move in to cause interference to Jockey Pattillo and Jockey Dorrington's horses.

Again while I have considered Dr Rayner's letter of 12 May 2008 there is nothing in the actions of Mr Prospector at the 800 metre point which I can see contributed to the inward movement of the horse. The Appellant's Appeal against finding is dismissed.

With respect to penalty the Stewards imposed a penalty of 12 meetings suspension which at the First Level was reduced to 11 meetings suspension. While the Stewards in their reasoning stated that the degree of interference was "of a high nature" it is hard to reconcile that when viewing the interference caused by Apprentice Jockey Holcombe who received an 8 meeting suspension. I did ask Mr Torpey at the hearing whether when Stewards consider imposing penalties that they consider other incidents which had occurred on the same day and whether there is any increase in penalty and Mr Torpey stated that it is part of the Steward's deliberation. I am of the opinion that the appropriate penalty for careless riding in this incident is an 8 meeting suspension and that is the penalty imposed.

The orders of the Tribunal with respect to these two Appeals are:

RT010-08 (First Charge)

1. Appeal against finding dismissed.
2. Appeal against penalty dismissed.
3. Penalty of 8 meetings suspension to commence from midnight Saturday 17 May 2008.

RT009-08 (Second Charge)

1. Appeal against finding dismissed.
2. Appeal against penalty upheld.
3. Penalty varied to 8 meetings suspension to commence from midnight Saturday 17 May 2008.
4. The penalty to be served concurrently with penalty in Appeal RT010-08.

Mr Dennis Standfield  
Member

.....