

**RACING APPEALS TRIBUNAL**

**QUEENSLAND**

**NOTICE OF DECISION**

**APPEAL NO:** RT020-07

**DATE:** 10 August 2007

**APPELLANT:** James Phillip Leo Byrne

**RESPONDENT:** Queensland Racing

**APPEAL FROM:** Decision of the First Level Appeals Committee to dismiss the Appellant's Appeal both on finding and penalty for a breach of AR137(a) and the imposition of a 9 meeting suspension.

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

**DECISION:** Appeal dismissed.

**APPEARANCES:** The Appellant appeared on his own behalf.

Mr John Hackett, Deputy Chief Steward appeared on behalf of the Respondent.

**REASONS FOR TRIBUNAL'S DECISION**

Mr Brock Miller - Deputy Chairman

Mr Dennis Standfield - Member

On 20 July 2007 the First Level Appeals Committee ("the First Level") dismissed an appeal by the Appellant against the imposition by the Stewards of a 9 meeting suspension for careless riding under AR137(a) following an inquiry on 7 July 2007.

This Appeal as was the Appeal against the First Level was against finding and penalty, although the Appellant submitted very little with respect to penalty.

The Notice of Appeal filed on 20 July 2007 stated the grounds of appeal as:

"Initial inquiry unfair - not allowed to view video footage whereas everyone else including Stewards and other riders had already seen footage!

Another horse/jockey was involved in the incident & were not called into the Inquiry!"

The incident leading to the Stewards Inquiry on 7 July 2007 concerned the Appellant's ride on Princess Norma in Race 4 at Eagle Farm Racecourse on Saturday 7 July 2007.

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 of the charge stated by the Stewards to the Appellant at the Stewards Inquiry were (from page 6 line 37 of the Stewards Inquiry transcript):

"... careless riding being that at the Queensland Turf Club today on Saturday, 7 July 2007, that in race 4 you, Jim Byrne, the rider of Princess Norma, did ride in a careless manner, that being at a point near the 300 metres you allowed your filly Princess Norma to shift out when insufficiently clear of Antidotes, resulting in Antidotes having to be checked when tightened for room between Rebounded, which was ridden by Jockey Stewart, and your filly, that being Princess Norma - and Antidotes was ridden by Jockey Shane Scriven."

Both at the First Level and this Appeal, the Appellant submitted that he had been put to a disadvantage in that while the Stewards and Jockeys Scriven and Stewart had viewed the video he had not and his requests to view the video were refused.

The reason why the Stewards and the other jockeys had viewed the video was that Jockey Scriven had exercised his right to view the video to consider whether he had grounds to lodge an objection against Jockey Stewart as the rider of Rebounded which was placed second. Jockey Scriven's mount Antidotes was placed fourth.

While the Appellant's grounds of appeal stated in the Notice of Appeal are unclear First Level Committee Member Ms C Arnold did articulate his argument (at page 8 from line 38 of the First Level transcript) as:

“... I think that what he was saying was he was disadvantaged from the outset, and that had he had the same opportunity then he might have seen an avenue of evidence that he would have liked to have pursued ...”

From the commencement of the Stewards Inquiry the Appellant asked the Chairman Mr Sanders on a number of occasions that he be permitted to view the video before being required to give his account of the incident involving Jockey Scriven having to take hold of his mount near the 300 metre point in the race but these requests were refused.

The Appellant eventually did give an account as to the incident as stated in the following exchange (at page 3 on line 40 of the Stewards Inquiry transcript).

“THE CHAIRMAN: ....we are asking for those recollections prior to viewing the video.

JOCKEY BYRNE: Okay, sir. All right. Okay. From my - my horse, she was rolling around a little bit, but to what extent my horse was involved – what involvement my horse had on Shane Scriven's mount, sir, I would need to get a clear view of the video.”

This scant response seemed to satisfy the Chairman who then went on to ask for observations from Jockey Stewart as well as Steward Hackett.

The Appellant stated at the hearing of this Appeal that he requested to view the video because recollections of what occurred could be mistaken and the video assists in properly explaining a ride. The Appellant also stated that as the others had seen the video he should at least be put in the same footing as them as their evidence would reflect what the video stated and he felt disadvantaged.

Frankly in the circumstances of this matter the Tribunal cannot understand why the Appellant was not permitted to view the video. Certainly it would have made the Appellant feel less aggrieved and the substantive issue of whether or not the Appellant's ride breached the rule could have been dealt with without the Appellant's perception that he was not being treated fairly. However, the Tribunal does note the practice of the Stewards at inquiries to request riders to give their observations prior to the viewing of the video and the Tribunal finds no fault with that as a general practice. It is just that in the particular circumstance of this matter if the Stewards had acceded to the Appellant's request then the Appellant may have accepted the decision of the Stewards without him believing that some injustice had been done to him.

In any event the video was shown both at the Stewards Inquiry the First Level and this Appeal. From the video it is clear that Jockey Scriven had to restrain his mount due to Princess Norma shifting out. While the Appellant submitted that Jockey Powell should have been called to the Inquiry the Tribunal (as did the Stewards and the First Level) is of the opinion that the actions of Jockey Powell could not have contributed to the interference caused to Antidotes near the 300 metre mark. Furthermore, while there was some movement inwards by Jockey Stewart's mount, it was the outward movement of the Appellant's horse that caused the interference to Antidotes. Jockey Byrne himself accepts that there

was some shifting out of his horse stating (page 5 line 41 of the Stewards Inquiry transcript) *“Admittedly, my horse does roll out...”* and (at page 24 line 47 of the First Level transcript) *“...my horse is only half a horse, its half a horse shift”*. While the Tribunal is of the opinion that it was more than half a horse and it is clear that the Appellant did correct his horse’s movement the interference to Antidotes had already occurred.

The Appeal against finding is dismissed.

With respect to penalty, the Tribunal notes the Disciplinary History of the Appellant. While the Appellant is one of the State’s leading riders, he himself stated to the Tribunal that “over the last couple of months my record had not been good” with suspensions for careless riding on 21 April, 22 April and 12 May 2007 as well as a reprimand on 4 July 2007.

With this recent history the Tribunal is of the opinion that a 9 meeting suspension is appropriate and makes the following Orders:

1. Appeal dismissed both as to finding and penalty.
2. Penalty of 9 meetings suspension to commence from midnight Saturday, 11 August 2007.

Mr Brock Miller .....  
Deputy Chairman

Mr Dennis Standfield .....  
Member