Queensland Racing Appeals Panel

DECISION

Racing Integrity Act 2016, sections 252AH, 252BM

Review application number	RAP-126	
Name	Chad Schofield	
Panel	Mr K J O'Brien AM (Chairperson) Mr E Wilkinson (Panel Member) Ms L Hicks (Panel Member)	
Code	Thoroughbreds	
Rule	Australian Rules of Racing 131(a) *A rider must not, in the opinion of the Stewards engage in careless, reckless, improper, incompetent or foul riding*	
Penalty Notice number	PN-011064	
Appearances & Representation	Applicant	Self-represented
	Respondent	A Turner - Queensland Racing Integrity Commission
Hearing Date	16 January 2025	
Decision Date	16 January 2025	
Decision *(delivered ex tempore)*	Pursuant to 252AH(1)(c) the Racing Decision is Set Aside & Substituted	
Case References	*Rawiller v Racing New South Wales* NSW Racing Appeal Panel 1 April 2021 *Berriman v Queensland Racing Integrity Commission* RAP-10 12 May 2023	

Reasons for Decision

[1] The Applicant in this matter is licensed thoroughbred jockey Mr Chad Schofield. On 4 January 2025 the Applicant pleaded guilty before Stewards to a charge of careless riding following the running of race eight at the Sunshine Coast. By way of penalty, he received a license suspension of 13 days. Pursuant to Section 252 AB of the *Racing Integrity Act 2016* the Applicant now seeks a review of that decision.

[2] The careless riding charge to which the Applicant pleaded guilty involved him permitting his mount to shift in when insufficiently clear of another runner, causing that second horse to become crowded for room. The penalty of 13 days suspension of license was arrived at through the application of the Careless Riding Template, which appears as Annexure A to the Queensland Racing Integrity Commission's Thoroughbred Racing Penalty Guidelines.

[3] Applying the Template, the Stewards graded the carelessness as falling within the medium range with a category one consequence of crowding the other runner. They specifically found that the carelessness did not cause any checking or loss of rightful running on the part of that second horse. Through the application of the Template, the result was a starting point of a 10-day license suspension. This then attracted a 20%, or two day, loading as the race was a feature event, and a further two-day penalty by reason of the Applicant's riding record. There was then a discounting of one day to reflect his plea of guilty. The result was the disqualification period of 13 days.

[4] The Applicant had riding commitments at the Magic Millions Race Day at the Gold Coast on the following Saturday, 11 January 2025, and riding commitments also at the Carrington Steaks meeting at Randwick on Saturday 25 January. To preserve those commitments the Stewards exercised their discretion under LR 22(e) and ordered that the suspension should commence at midnight on 11 January 2025 and end at midnight on Friday 24 January 2025. This order enabled the Applicant to preserve his rides at the prestigious Gold Coast meeting and the Carrington Stakes Race Day in Sydney on 25 January 2025.

[5] As noted, the Applicant had pleaded guilty to the charge and clearly had input, as was his right, into determining the starting date for the suspension. Unfortunately, on 11 January 2025, a severe rainstorm after the first three races on the programme caused the postponement of the Magic Millions Race Day, which was then rescheduled for the following Friday 17 January. The applicant commenced his suspension at midnight on 11 January as ordered, which means as the matter presently stands, he is unable to meet his riding commitments at tomorrow's rescheduled Magic Millions meeting at the Gold Coast.

[6] It is this series of events which provides the background to the Applicant's application for a review of the Stewards' decision such as would enable him to fulfill his riding engagements from 11 January. His reasons for seeking the review are set out in his application as follows:

> *I was starting my penalty after Magic Millions Day 11/1/25, however the meeting was washed out and postponed to 17/1/25. I am applying to have the decision reviewed so I can fulfill the engagements of 11th January 2025 that I was engaged for.*
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> *I am appealing the decision that the meeting was programmed for 11/01/2025 when I was free to ride and due to weather event, it has been moved to 17/01/2025. I wish to fulfill my obligations to the connections that I am engaged for without further penalty to myself for a weather event...*

> *While I am happy to serve my penalty for AR131a, I went to the meeting on 11/01/2025 to fulfill my engagements and due to a weather event, that postponed my remaining rides and the race meeting to a date after the suspension commenced, I feel it is the same race meeting and that I should be allowed to meet those commitments and it basically be classified as the same meeting as I was allowed to ride. The meeting was postponed and same fields, barriers, jockeys etc remain intact (No new nominations, scratching re-instated) that has be rescheduled. My understanding is another jockey who was suspended until 16/01/2025 is on standby to ride my mounts, this flys* [sic] *in the face of what QRIC is imposing on myself, considering this jockey was not allowed to ride on 11/01/2025*[1]

[7] the Applicant's application is supported by a brief statement in which he says:

> *I am not appealing the AR 131a charge, I am simply requesting that I be able to fulfill my engaged commitments that were scheduled for a period that I was NOT suspended for and due to a weather event. This meeting has be (sic)postponed to a later date and I have been advised that I cannot fulfill these obligations by QRIC at the race meeting with $13.5 million worth of prizemoney.*
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> *I feel if this decision stands, I am basically serving an extra penalty for a meeting of this high priority race meeting.*

[8] Section 252 AB (2) of the *Racing Integrity Act 2016* provides an application to the Racing Appeal Panel must be made within three business days after the person is given notice of the racing decision. In this case, that would mean no later than midnight on Wednesday 8 January 2025. It was not lodged until 14 January 2025, three days out of time, and therefore the Applicant requires leave under section 252 AB (3) for his application to be accepted by this Panel.

[9] That section allows that it may be accepted if the Chairperson of the Panel considers it unjust to refuse its acceptance. It is clear that the factor which triggered the triggered the application was the postponement of the Gold Coast race meeting on 11 January and it is clear that the Applicant moved promptly on Sunday 12 January 2025 to contact the Respondent through the medium of Mr Prentice of the Jockeys Association, seeking to address his concerns[2]. It is clear that those discussions between the Applicant and the Respondent continued into Monday 13 January, at which point they effectively ended.

[10] On 12 January 2025 the Applicant was advised by Mr Adams, on behalf of the Respondent, that it was not possible to extend the nine-day period of grace granted in the decision, and that "if aggrieved with the decision of the stewards, he does have his right of appeal". On the following day, such appeal was lodged. In the circumstances there has been no tardiness on the part of the Applicant in bringing this application. Given that fact and the events which motivated the application It would now be unjust to refuse to accept his formal application and extension of time is therefore granted.

[11] The Respondent has further contended that the Panel has no jurisdiction in this matter as the Applicant is really seeking to appeal the decision to postpone the race meeting, a decision of the

[1] Application for Review

[2] Index of Respondent Documents, Document No.15

Racing Queensland Board as a Principal Racing Authority ("PRA")[3] Such a decision is not a reviewable decision for the purposes of Section 252 AB of the Act.

[12] The Applicant has no legal qualifications and is not legally represented in this matter. Had he been so represented it is likely that his application would have been couched in somewhat different language. It is the view of this Panel, however, that the point taken by the Respondent involves too narrow and too restrictive a reading of the application. The Applicant does not seek to challenge the fact of his conviction, and nowhere does he seek to argue that the meeting should not have been postponed on 11 January. It is the view of this Panel that the decision which the Applicant seeks to have reviewed is in reality the one made by Stewards on 4 January 2025. It is the severity of the imposition of a penalty, the proper purpose and intentions of which has become unduly severe by events beyond the Applicant's control. He has effectively taken up the advice offered to him by the Respondent on 12 January.

[13] It is clear in the Panel's view that is that the Applicant's concern was always with the penalty imposed on 4 January and the consequence associated with that order, given the extraordinary events to which we have referred.

In any event, this is a case in which we would give any necessary leave to the Applicant to amend his application to make it plain that his appeal is related to that decision. The Respondent could not claim to have been taken by surprise in any way and there can be no suggestion of any prejudice to the Respondent if that were to occur. The Respondent, perhaps anticipating such an outcome, has presented arguments in its written Outline of Submissions which address the challenge to the Stewards decision of 4 January. We are therefore satisfied that we have the necessary jurisdiction to determine this matter.

[14] It is to be accepted that the issue of penalty is one in respect of which this Panel must make its own determination. As this panel observed in the matter of *Berryman v Queensland Racing Integrity Commission*[4], although there are many factors to be considered in determining penalty and a wide range of matters that need to be taken into account, the mere fact that a suspension may have the consequence that a jockey may miss the opportunity to ride in a particular race or at a particular race meeting should not, of itself, or as a matter of course constitute a ground for mitigating a penalty otherwise objectively appropriate and merited by the breaching conduct. *Berryman* effectively sets out as a matter of principle that standing alone, the loss of a riding opportunity will not of itself necessarily result in some mitigation of penalty, but that is not to say that it can never be a factor of relevance or that it can never have such a consequence.

[15] What differs in the present case is that the loss of the opportunity to ride in a particular race or at a particular meeting was never part of the penalty imposed on the Applicant. He does not seek to avoid the fact of a suspension for that reason of itself. In determining the starting point of the suspension, the Stewards had reference to the Applicant's riding commitments at the Magic Millions meeting of 11 of January. LR 22(e) invested the Stewards with a discretion to defer the commencement date for as long as nine days. The Stewards were not bound to delay the commencement as they did, but they obviously considered that it was appropriate for the Applicant to fulfill his riding obligations before the suspension commenced to operate.

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[3] Outline of Respondents Submissions, Preliminary Issue for Determination Para 13 and Outline of Respondents Submissions, Issues for Determination Para 1

[4] RAP-10, 12 May 2023

[16] The power granted under LR 22(e) is a discretionary one, and the Stewards obviously did not consider the circumstances of the offending were such as would warrant a suspension which would result in the applicant missing the Gold Coast program. This is not the type of situation referred to in the *Berryman* case.

[17] The penalty imposed always envisage that the Applicant would ride at the Magic Millions meeting and indeed would ride at the meeting in Sydney on 25 January. The postponement of the Gold Coast meeting was a matter totally beyond the control or fault of the Applicant. If he is not permitted to ride in those races, then the intention of those who impose the penalty will have been frustrated and the Applicant can legitimately claim that he has been the subject of an additional penalty. His unavailability to ride has implications for owners, trainers, and the wagering public as well as for the Applicant. They should not be disadvantaged by reason of extraordinary circumstances, such as those which arose here.

[18] Trainers Mick Price and Michael Kent Junior have provided a statement in the following terms[5]:

> *We are writing this letter in recommendation for Chad Schofield's appeal. We have engaged Chad Schofield to ride Space Rider in the $3 million Magic Millions 2YO Classic; an extremely important race in this young colt's potential stud career. Through countless training sessions Chad has developed intricate knowledge of Space Rider and it would be against the colt's chances this Friday if we had to replace him on short notice.*

[19] It is necessary that this Panel should revisit afresh the issue of penalty. The Penalty Guidelines to which we have referred, make clear that although they provide starting point penalties for nominated offences, each case must be assessed according to its own merits. As the guidelines expressly state, all situations are assessed on their individual merits. The Guidelines identify the "starting point for the imposition of a penalty" and thereby set a starting level which is adjusted up or down to meet the circumstances of the particular case. The Guidelines do not purport to set out an exhaustive list of considerations relevant to the determination of penalty. Moreover, and importantly, the careless riding template, useful though it may be, is not intended to be applied in a rigid manner which ignores all other factors impacting on the question of penalty.

[20] Although the level of carelessness in this case was graded by the Stewards as being within the medium range, in the view of this Panel the carelessness involved here was, at worst, at the very lower end of that medium range. As the NSW Racing Appeal Panel observed in *Rawiller v Racing New South Wales*[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"*

[21] All things considered, including the degree of carelessness and what the Panel regards as the exceptional nature of this case, we consider that there is scope for a lesser period than one of 13 days suspension. We consider that there is scope to reduce that period by period of a further period of one day, such that a period of 12-day suspension of license would not be inappropriate for the conduct involved.

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[5] Index of Applicant Documents – Document No.4

[6] Rawilla v Racing NSW, Appeal Panel of Racing NSW, 1 April 2021

[22] The Applicant here has already served, or will have served at the conclusion of today, five days of suspension. We consider, therefore, that a further period of seven days, making in reality a total period of 12 days suspension, would be a just outcome in this matter.

[23] The order of this Panel is to grant the necessary leave pursuant to s 252AB (3) of the Act for the Applicant to bring this application.

[24] Pursuant to section 252AH(1)(c) the further order of the Panel is to set aside the racing decision the subject of the application and to substitute a period of seven days suspension of licence. Such suspension is to commence at midnight on the 17 January 2025 and to end at midnight on Friday 24 January 2025.

[25] By way of further explanation, it should be reemphasised that the Panel considered a period of 12 days suspension was objectively appropriate here. The outcome we have achieved effectively imposes a suspension of that length.

[26] It has been submitted for the respondent that an Order such as this represents a "resumption", after a "break", of the suspension imposed on 4 January. Although a PRA may have certain powers in that regard, there is no such express power given to this panel under the Rules. The submission however misconceives the nature of the Order. The original Order, in the language of s 252AH (1)(c), is set aside and consequently there is no Order to "resume". A completely new Order is made operative from midnight on 17 January. In determining the length of that Order (suspension) the Panel took into account the five days served under the set aside Order.

[27] It should be made plain that this decision is confined to the circumstances of this particular case. In no sense should it be seen as providing a mechanism by which in the usual case an order for suspension can be circumvented, or as a way in which a suspended jockey can pick and choose at which race meetings to serve his or her suspension.