

**GREYHOUND AND HARNESS RACING APPEALS TRIBUNAL  
NEW SOUTH WALES**

**TRIBUNAL: JUDGE J. C. MCGUIRE**

**ASSESSOR: DR P. KNIGHT**

**APPEAL OF MRS FRANCES SCERRI**

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**DECISION**

The Tribunal is considering an appeal by Mrs Frances Scerri (the Appellant) against a disqualification of three months imposed by the stewards on 12 March 2009. Before the Tribunal is a transcript of the stewards inquiry, which discloses that a urine sample was taken from the Appellant's dog Black Luna when it competed at the Dapto non-TAB meeting on 18 December 2008. She was the registered trainer of the subject dog.

She was charged with a breach of Rule 83 of the Rules of Greyhound Racing which provide:

- (2) *The owner, trainer or person in charge of a greyhound –*
- (a) *nominated to compete in an Event;*
- shall present the greyhound free of any drug.*

Particulars of the charge are:

*That you did on 18.12.2008 present the greyhound 'BLACK LUNA' for an event being Race (3) the Illawarra Yacht Club Maiden held at Dapto other than free of prohibited drugs in that the race day urine sample taken from the said greyhound has returned on confirmatory analysis positive to TOLFENAMIC ACID (Rule 82(2)(a) Rules of Greyhound Racing).*

No dispute was raised with regard to the propriety of the taking of the urine sample. The stewards relied upon the certificates issued by the Australian Racing Forensic Laboratory and Racing Analytical Services Limited, Victoria. Initial testing of the urine sample taken disclosed the presence of tolfenamic acid. The certificate was issued on 16 February 2009. A confirmatory analysis certificate was obtained from Racing Analytical Services Limited, Victoria on 23 February 2009.

Dr Craig Suann, the Chief Veterinarian of Racing NSW, advised:

*Tolfenamic acid is a nonsteroidal antiinflammatory agent and would be defined as a drug according to the Australian Greyhound Racing Rules ...*

The Appellant was not present at the time the dog raced. Her brother handled it on the day. It had only been in her kennels for some two weeks. Black Luna opened at 6/4 in the betting and started at 7/4. The Appellant's evidence before the stewards was to the effect that the family had only a few dollars on the dog.

When the Appellant was questioned as to the presence of the drug, the following exchange occurred. The Chairman of Stewards asked:

*Mrs Scerri, can you explain to the inquiry how the urine sample from Black Luna came to be detected with tolfenamic acid in that sample?*

To this she responded:

*Well, the first time I've heard of tolfenamic acid was that Monday you rang me up in the afternoon, when my brother and I were on our way to Wentworth Park ... I've never heard of it before, tolfenamic acid, and as far as I'm concerned, as a matter of fact, I've never given the dog anything. I've been swabbed numerous times before, and I've never had a positive swab. To tell you the truth, I was shocked, and I'm just baffled how come that has happened, because I've always had a clean record. I've never given the dog anything.*

She went on to explain the dog's feeding regime of 200 grams of semi-lean meat and 100 grams of chicken, together with supplements. She had been purchasing her meat from the same supplier for some ten years, obtaining 100 kilograms every three weeks. No inquiry was directed to the meat supplier so as to elicit any information as to the meat or any possible contamination.

Yet again the Chairman of Stewards asked the Appellant:

*In regard to the positive finding. Is there anything further at this stage that you wish to add?*

She responded:

*No. I'm just a hobby trainer. No, we all work. My son and my brother and I, we all work. We're just hobby trainers. That's all I can say to you.*

At times, the three family members would have between six and eight dogs in work. She was first licensed as an owner/trainer in 1998 and as a public trainer in 2002. There was no suggestion raised by the stewards that she had previously transgressed in any way.

In imposing a penalty by way of a three-month disqualification, the stewards had regard to the fact that she was hobby trainer with but two to three dogs in work. However, there was no mention of her prior good recording being taken into account, and no suggestion that she had received any consideration because of this.

In her grounds of appeal the Appellant complains that the urine sample was taken on 18 December 2008, however, she was not advised of the finding of tolfenamic acid until 23 February 2009, some 67 days later.

She indicates that her inquiries of veterinarians have resulted in a possible explanation for the presence of the drug in that antiinflammatory substances could have been injected into cattle and the meat from such cattle fed to her dog. Because of the delay, she was unable to trace the possibly offending batch of meat and to seek to check its provenance. She had made no inquiries of her meat supplier. Nor was there any evidence as to whether the cattle from which the meat was sourced had in fact been injected with the antiinflammatory substance.

At the stewards inquiry there was no explanation proffered to account for the delay between the taking of the urine sample and the issue of the initial positive test result dated 13 February 2009 and the subsequent confirmatory test result.

Clearly, the stewards and this Tribunal have a duty to apply the rule, which is designed to ensure drug-free racing, to ensure that public confidence is maintained in the integrity of the sport. Owners, trainers, punters and all associated with the industry either as participants or simply as spectators and interested persons, have the rightful expectation that dogs compete on their merits, with their performance neither hindered nor enhanced by drugs. The rules do not envisage that proof must be forthcoming of some deliberate administration of an offending substance, or that careless or negligence are factors for consideration. The rule is clear: the dog must be presented drug-free.

That is not to say that ameliorating circumstances will not influence the question of penalty.

The Tribunal considers that, although it is highly unlikely, it is remotely possible that a prompt notification of the presence of the drug may have afforded the Appellant the opportunity to investigate a feasible explanation for its presence and to place this before the inquiry as a mitigating factor. By reason of the delay she was hampered or disadvantaged. This matter and the apparent failure to take the Appellant's good record into account are factors which the Tribunal finds should result in a reduction in the penalty.

The disqualification is reduced from three months to one month.

The Appellant did not seek a stay of proceedings. The original disqualification was to date from 12 March 2009. Accordingly, the Appellant is now free to resume her training activities.

I make no order with regard to the appeal deposit.

J. C. McGuire, Judge  
14 April 2009