

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

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

**APPEAL OF MR CAMERON FITZPATRICK**

**DECISION**

The Tribunal is considering an appeal by Cameron Fitzpatrick (the Appellant) against the severity of a penalty imposed by the stewards following an inquiry into an incident that occurred in race 3, at Harold Park, on 8 May 2009.

He was charged with a breach of Harness Rule of Racing 163(1)(a), which provides:

*A driver shall not —*

*(a) cause or contribute to any crossing, jostling or interference.*

The stewards pointed out they were dealing with the cause interference section of the rule.

The particulars of that charge were that:

*... you, licensed driver Cameron Fitzpatrick, are charged by the stewards with contravening Harness Rule of Racing 163(1)(a) as read, the particulars of that charge being that, during the running of race 3 at Harold Park on 8 May 2009, you did permit your drive Ballbarboy to shift in when insufficiently clear of Torpedo Bay, driven by Greg Bennett, resulting in that horse being crowded in onto River Wild, which was checked and went roughly, and as a consequence of that a number of runners trailing that horse were checked.*

Mr Cameron Fitzpatrick did not attend this Tribunal hearing. He was represented by his father, Mr Paul Fitzpatrick, who appeared by leave, as did Mr Chris Paul on behalf of the stewards.

The Tribunal has considered the transcript of the stewards hearing and has viewed the video of the incident, which depicts the occurrence from several angles.

The stewards observed the Appellant, the driver of Ballbarboy, shift down the track in an endeavour to cross Torpedo Bay when insufficiently clear of that that horse. This resulted in Torpedo Bay shifting in and tightening the racing room of Wild River. That horse in turn came back and caused horses behind it to break or run erratically.

The Appellant agreed that he had put pressure on Mr Bennett, the driver of Torpedo Bay. He was asked in the inquiry:

*"Do you think you gave Mr Bennett sufficient room?"*

He responded:

*"Probably not approaching the turn."*

Having viewed the video of the incident, it appears to the Tribunal that the Appellant paid scant heed to his obligations. He moved down the track when obviously not clear of the horse to his inside. This affected the performance of other horses. It is to his credit that he did not seek to avoid the allegations made against him. He pleaded guilty and made frank admissions.

It is to be noted that his driving offence record discloses 21 reprimands and 28 fines over a period of some five years. Many of these entries related to jostling, interference, impeding other runners, and the like.

It was pointed out by Mr Fitzpatrick Snr that in the course of some 2,000 drives the Appellant had attracted but three suspensions and that he had driven on some 600 occasions since his last suspension. It was further argued by Mr Fitzpatrick that more serious instances of interference on the first turn involving other drivers had been treated no more seriously, and indeed in some cases more leniently, than the Appellant.

The fact that other drivers might have been dealt with more leniently is not relevant, and as far as this Tribunal is concerned, it will deal with the matters before it on their merits. This Tribunal is unaware of the facts in those other matters, and in particular it is in ignorance of whether those drivers received excessive consideration and inappropriate penalties.

This Tribunal does not consider itself to be bound by any rule of practice adopted by the stewards in awarding a suspension of 35 days, 45 days, 65 days or whatever. This Tribunal will view each matter before it on its merits. It may well be that the interference should attract a penalty of less than 35 days, or more than 35 days. As stated, each matter will be treated on its merits, as the facts are always different.

As far as this Tribunal is concerned, the Appellant was treated with the utmost leniency. From the starting point deemed by the stewards to be appropriate, that is, a suspension of 35 days, he was given discounts for his guilty plea and his good driving record.

Although reference has been made to various fines and reprimands, this Tribunal is prepared to accept the proposition that, in the course of 2,000 drives or thereabouts, to attract but three suspensions, does reflect generally responsible behaviour.

It would be obvious to all associated with harness racing that clean racing is essential. It must be taken into account that there are horses and drivers within any field who are inexperienced, less able and less competent than others, and if actions are taken which cause interference to the charges of those who are either less capable or less competent to look after their drives, that is of little comfort to the punter who has backed those horses and of little consolation to their owners or trainers.

This Tribunal considers that the penalty imposed was entirely appropriate.

The appeal is dismissed. The suspension is confirmed, and is to date from today.

The appeal deposit is forfeited.

23 June 2009

J. C. McGuire, Judge