

GREYHOUND AND HARNESS RACING APPEALS TRIBUNAL

TRIBUNAL: B. R. THORLEY, JUDGE

Assessor: Mr J. Schreck

APPEAL OF Mr RAYMOND DIXON

DECISION

The trainer Mr Raymond Dixon presented the greyhound Sure Brett for a race at Goulburn on 2 September 2006. A swab was taken from the greyhound and referred to the Australian Racing Forensic Laboratory, which reported the finding of benzoylecgonine. This finding was confirmed by the Victorian laboratory. Benzoylecgonine is a metabolite of cocaine.

Following the adverse finding by the laboratories the stewards opened an inquiry on 20 November 2006. The inquiry was concluded on that day, when Mr Dixon was charged with presenting the greyhound other than free from the drug. He was found guilty and he was subjected to a penalty of three years disqualification, together with the imposition of a fine of five penalty units, namely, \$550. He has appealed to this Tribunal against both the fact of the conviction and the severity of the penalty.

Mr Dixon has appeared for himself before this Tribunal. Insofar as the appeal presented as one against conviction, no arguments have been presented by him in support. Indeed, Mr Dixon, it might fairly be said, has acknowledged that he is to be held account under the rules for the finding. The appeal then has simply resolved down to an appeal against the severity of the penalty.

It is the fact that Mr Dixon has been involved in the greyhound racing industry for something like 23 years. During that time he has trained, as we understand it, many greyhounds. There have been many occasions on which bodily samples have been taken from his dogs for analysis, and we are informed that this is the only occasion on which there has been an adverse and positive finding.

It appears also to be the fact that about three months before the race date in September 2006 Mr Dixon had entered into some form of loose association with a man called Moffitt to combine together in the rearing and training of greyhounds. The premises in Gunning which were used for this purpose, it now appears, were owned by other people who had been dealt with by stewards in the greyhound industry and who had been at those relevant

times themselves disqualified for the presentment of dogs in which proscribed drugs were found. It can be deduced from this short statement that Mr Dixon had, perhaps unwittingly, become involved with a coterie of people in whose company he would have been advised not to have been. There is of course, somewhat predictably, no evidence as to how it is that Sure Brett came to have cocaine or a like substance in its system from which the metabolite was produced. He has his suspicions. They cannot of course be confirmed.

In deciding the penalty the stewards took into account the fact of the personal references which were submitted to them by persons who knew the Appellant well. They took into account his lengthy involvement in the greyhound industry and the absence of any prior record. However, they did, quite clearly, provide above ordinary weight to the fact that the drug in question was one which not only was in breach of the Rules of Greyhound Racing but also was a prohibited drug under the Drug Misuse and Trafficking Act 1985. They expressed themselves by saying that in that context any penalty that is imposed must act as a deterrent to others.

We would share the stewards' view that the use of any drug should attract a severe penalty, and we would share the stewards' view that, in particular, the use of a drug which itself is illegal should attract a higher penalty. But, nonetheless, we think the period of three years is somewhat of an overreaction to the circumstances in which Mr Dixon finds himself. His liability comes about as the result of the application of rules which impose an absolute liability upon a trainer. It does not come about because there is evidence that he himself was the person who caused the administration to the dog of the prohibited substance.

Whilst it is appropriate to react to the type of drug, care has to be taken not to overreact to the fact that it happens to be an illegal drug. Moreover, there is some need to observe some consistency with other cases, and because of those matters we propose to reduce the period of disqualification to one of two years. That will run from the date of the stewards' order. In addition to that there will be imposed upon the Appellant a fine of four penalty units, namely, \$440.

The appeal deposit is forfeit.

8 January 2007

B. R. Thorley, Judge