

Appeal decision

Date: 11 May 2015

Code of racing: Thoroughbred

Appeal panel: Mr P Elliott (chair) and Mr R Dickinson.

Appearances: Mr B Taylor, solicitor, appeared on behalf of stablehands Phillip Davies and George Ashford.

Mr S Woolaston, senior stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Phillip Davies: Three months disqualification – AR175(q).
George Ashford: Six months disqualification – AR175(q).

Appeal result: Appeal upheld. Penalty varied.

Extract of proceedings – in the matter an altercation that took place following the running of Race 7 at Cairns on 22 February 2015. Stablehands: Phillip Davies and George Ashford

THE CHAIRMAN: This is an appeal by Mr Davies and Mr Ashford. I note they are represented and all parties are present in the room.

Mr Dickinson and I have considered the evidence that has been put before us today very carefully. We have carefully considered not only the exhibits but also those submissions against the severity of the penalty imposed.

In considering it we take into account that the aim is to have parity in sentencing when imposing penalties. Our board deals with each case on the merits and justice, taking into account all matters relevant, including each appellant's personal circumstances.

We have also had regard to the nature and circumstances of the offence and the deterrent effect that any sentence or order under consideration may have on the person. It is accepted by both parties that the appellant and the protagonist in each case are related.

In the case of Davies, the appellant has no previous for this type of offence. He has been licensed as a stablehand for Racing Queensland for nine years and he has entered a plea of guilty at the first reasonable opportunity.

Mr Dickinson and I, however, consider that any physical altercation by any licensee on a race track cannot be condoned. A physical altercation in this case took place at a race meeting conducted by the Cairns Jockey Club on the 22nd of the 2nd 2015. I noted earlier in reading out the charge that I may have stated that the offence took place on the date that

the inquiry was actually conducted, but the offence was actually on the 22nd of the 2nd 2015.

In the circumstances, and taking into account the evidence as a whole, we don't think that the incident can be passed off simply as a family spat. However, taking all of the other matters into account that I mentioned earlier, in particular the early plea, we consider it appropriate to downgrade the penalty from a disqualification of three months to a suspension of three months, and we substitute that for the penalty that was imposed.

In the case of Mr Ashford, I repeat the earlier matters. Unlike Davies, Ashford has two previous for similar offences, one within three years and one within six years. He, however, has entered a plea at the first reasonable opportunity and, as I stated earlier, all of the other relevant matters have also been considered.

I repeat what I stated about the physical altercation and the fact that this altercation took place at a race track and indeed when other people were present and who witnessed the incident.

In the circumstances we consider it appropriate, however, to downgrade the penalty, and we downgrade the penalty from a six-month disqualification to a suspension of four-and-a-half months.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at www.qcat.qld.gov.au