

DECISION

Racing Integrity Act 2016, sections 252AH, 252BM

Review application number	RAP-119	
Name	Mitchell Goring	
Panel	Mr K J O'Brien AM (Chairperson) Ms D Condon (Deputy Chairperson) Ms L Hicks (Panel Member)	
Code	Thoroughbreds	
Rule	Australian Rules of Racing 131(a) <i>A rider must not, in the opinion of the Stewards engage in careless, reckless, improper, incompetent or foul riding</i>	
Penalty Notice number	PN-010795	
Appearances & Representation	Applicant	Self-represented
	Respondent	Queensland Racing Integrity Commission E Tickner instructed by E Ballard
Hearing Date	7 November 2024	
Decision Date	7 November 2024	
Decision <i>(delivered ex tempore)</i>	Pursuant to 252AH(1)(c) the Racing decision is set aside and a decision of not guilty is substituted	
Case References		

Reasons for Decision

- [1] The Applicant in this matter is Apprentice Jockey, Mr Mitchell Goring.
- [2] On the 2nd of November 2024, the Applicant was the rider of Suisse Scandal in race three at the Dalby and Northern Downs Turf Club race meeting.
- [3] Following a Stewards' Inquiry conducted at the conclusion of the race, the Applicant was found guilty of an offence of careless riding contrary to Australian rule of Racing 131(a). He received by way of penalty a nine-day suspension of licence. He now seeks a review of that determination of guilt.
- [4] The particulars of the charge against the Applicant allege that, leaving the 200-metre mark, he permitted his mount to shift in when insufficiently clear of Kyogle Kid, ridden by Jockey Wayne O'Connell, which was tightened for room, obliged to check and clipped heels.
- [5] The Applicant pleaded not guilty to the charge but was found guilty by the Stewards. The penalty was applied in accordance with the Sentencing Template for careless riding, which appears as annexure one to the Penalty Guidelines for Thoroughbred Racing. Although the level of carelessness was judged to be in the low range, the consequences were considered to be at level three, which attracted a starting point of a 13-day suspension. This was reduced by three days due to the Applicant's good record, described by the presiding Steward as being "outstanding", and by a further day on account of him being an apprentice. The result was a nine-day suspension of licence.
- [6] The Applicant maintains, as he did before the Stewards, that he did not breach the rule of racing. He maintains that his mount did not shift in, that he held his line and that jockey O'Connell, on Kyogle Kid, had attempted to make a run that was never there in the first place¹.
- [7] This Panel must form its own view of the circumstances surrounding the incident. We have had the opportunity of considering the evidence that was given before the Stewards. We have also viewed and indeed reviewed on several occasions the race footage and of course, we have regard to the submissions which have been made to us today by the Applicant and also by Ms Tickner, who appears on behalf of the Respondent. This was a non-TAB meeting and as a consequence the available race footage is limited. In particular, there is no head on video footage of the relevant part of the race.
- [8] At the Stewards' hearing evidence was taken from Steward Emily Tickner, who described her observations as follows²:

I was situated in the chairman's tower which afforded me a head on view to an incident I believe to have occurred [leaving] the 200 metres. Jockey O'Connell, it does appear that you are attempting a run to the inside of Apprentice Goring, who is probably racing in a one off position. It does appear then leaving the 200 metres Apprentice Goring has shifted in, rolled to the fence, when not fully clear of yourself. Jockey O'Connell, you've obviously clipped heels, blundered, and had to take action.

- [9] Jockey O'Connell when asked for his description of events, said this³:

Just approaching the 200 at the end there was a very tight run on the fence. I have approached – I have tried to take it. Mitchell Goring's horse was probably tiring at that stage under hard riding, and it's probably just stepped in – it's probably only stepped in not even half a width. As I say, the

¹ See annexure A to the Applicant's application for review

² Transcript of Stewards' Hearing lines 14-21

³ Transcript lines 27-36

gap was very tight to start with. It left very, very minimal room for error. I think Mitchell's horse was just – under tiring it's just wobbled a little bit. He hasn't really let it run in, it's more the horse under tiring. My horse has proceeded to – look, I think I was sort of at his hindquarters when he's just rolled in that little bit and my horse has blundered.

[10] In response to a leading question from the Stewards, Jockey O'Connell confirmed that he was confident that if Apprentice Goring had maintained his original line, there would have been sufficient room for him to access the run which he sought to access⁴.

[11] Throughout the hearing the Applicant maintained his innocence of any careless riding. He said⁵:

If you just watch my shadow line from the horse's shadow line following the inside rail it does not move the whole – so, if you rewind, the whole time that Wayne is trying to make a run, that shadow line does not move any closer to the rail until his horse has knuckled. Then I do sit up on my horse and then you see my horse's shadow line go in under the rail. That's when I roll in to the fence. I feel I did not move an absolute inch when Wayne was making a run. I don't know where he's clipped my heels, if it's if my horse's back end has moved in. There is – I have not moved my line one little bit. If he's trying to make – if I've moved and he's still trying to make that run, it must be a very neat run to make because it was the moment of – oh, the centimetre, it was down to the centimetre of him knuckling and him not knuckling.

[12] During the Inquiry Jockey O'Connell agreed again that the run he sought was “very tight. It was a very tight squeeze there”⁶. Even on Jockey O'Connell's account, the gap was small⁷.

[13] As indicated, the Applicant maintained throughout that he did not depart from his line. After viewing the available race footage, he later said⁸:

Even to the naked eye the horse does not move an inch. The only time it does roll in is when I do sit up on it, but that is after the fact that Mr O'Connell has clipped heels. I believe there is no room for a safe run. There was a very neat, tight run but if you want to come to safety, the safety side of things, he's put himself in a very dangerous position. To that matter, it's clear to say that he's clipped heels because of the room that he's left himself, which is little to none. I'm entitled to that line. I stayed on that line for quite some time from the top of the straight. At not one point do I think I rolled in until I'd sat up on my mount when I thought he was completely out of contention and going backwards.

[14] It was put to the Applicant by the Stewards that if there was insufficient room for Jockey O'Connell to take the inside run, he would have struggled to “get his mount one half to three quarters to (the Applicant's) inside. The Applicant responded:⁹

I disagree. The horse's head is a lot narrower than the horse's body, so his head was in that gap, which again is a very neat tight run. So yes, he probably could fit a horse's head in that run. is it a safe run? 100 per cent not. Once the horse's shoulders are in the gap, he's immediately tightened for room because of the amount of room he's left himself. I do not think I rolled in one

⁴ Transcript lines 48-50

⁵ Transcript lines 89-102

⁶ Transcript lines 114-115

⁷ Transcript lines 114-117

⁸ Transcript lines 214-224

⁹ Transcript lines 230-242

bit to cause the causing of him- the matter of him clipping heels. I just can't see it, and I'm really defensive in this case. I'm very quick to admit when I'm wrong.... for me to be this certain about my horse not rolling in while he was making a run, I am very confident in that.

- [15] These passages from the evidence serve to demonstrate that the Applicant was consistent in his insistence that he had not departed from his rightful line.
- [16] As indicated above, there is no head on video of the relevant incident. The Respondent acknowledges that it is difficult to make an accurate assessment of that incident based on the race footage at hand.¹⁰ The Respondent submits that considerable weight could be placed upon the evidence of Steward Tickner referred to above.
- [17] We do, of course, have full regard to the evidence, which was given, particularly as Stewards do have expertise in evaluating rides. However, the Panel must form its own view of the incident. Having reviewed this footage on numerous occasions we do not consider that sufficient room existed for jockey O'Connell to take the run which he proceeded to take to the Applicant's inside. The Applicant does indeed shift to the rail, but only after the incident with which we are concerned and at a time when it was clear for him to do so.
- [18] This of course occurred over a very short period of time and over a short distance and may have given the mistaken impression of the Applicant having caused the incident in the first place rather than it occurring simply because there was no sufficient room for jockey O'Connell to attempt his inside run. There were other events taking place in this race, which included a protest involving other runners. In short, we as a Panel are inclined to accept the Applicant's analysis of the race, or at least, to put that as it should be put, his analysis raises real doubt that it occurred in the manner alleged by the Respondent.
- [19] After consideration of the footage the account as described by the Applicant causes us to entertain a doubt as to his guilt of the charge. I should add that in reaching this conclusion, we make no criticism of Ms Tickner. We find no reason at all to suppose that she is other than a very capable Steward. But we must have regard to the exigencies of proof which apply in these cases and in a case such as this where the absence of video footage can be so critical we are ultimately left in a state of doubt which must be resolved in the favour of the Applicant.
- [20] In the result, pursuant to section 252AH(1)(c) the order of this Panel is that the decision the subject to this appeal is set aside and a determination of not guilty is substituted.