

DECISION

Racing Integrity Act 2016, sections 252AH, 252BM

Review application number	RAP-80	
Name	Kyle Wilson-Taylor	
Panel	Mr K.J. O'Brien AM (Chairperson) Mr E. Wilkinson (Panel Member) Ms J. Overell (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-009517	
Appearances & Representation	Applicant	Nicholas Taylor Suthers Taylor Lawyers
	Respondent	Queensland Racing Integrity Commission Joshua Adams
Hearing Date	8 February 2024	
Decision Date	8 February 2024	
Decision	Pursuant to 252AH(1)(b) the Racing decision is varied <i>(Delivered ex tempore)</i>	
Case References	<i>Briginshaw v Briginshaw & Anor</i> 1938 60 CLR 336	

Reasons for Decision

- [1] The Applicant in this matter is licensed jockey Mr Kyle Wilson-Taylor.
- [2] Pursuant to s252AB of the *Racing Integrity Act 2016* Mr Kyle Wilson-Taylor seeks a review of a racing decision made by Stewards on the 3 February 2024.
- [3] On that occasion, following an Inquiry into the running of race 10 at Eagle Farm, the Applicant was found guilty of an offence of careless riding pursuant to Australian Rule of Racing AR131(a). He received a penalty of 14 days suspension of licence commencing at midnight on 12 February 2024 and ending at midnight 26 February 2024.
- [4] The particulars of the charge against the Applicant were as follows:
- Jockey K. Wilson-Taylor, rider of WARP SPEED was found guilty to a charge of careless riding pursuant to AR 131(a) in that approaching the 100m, he allowed his mount to shift out in an attempt to improve into clear running and when doing so, was insufficiently clear of HELEVA DEEL which had to be checked and lost its rightful running.*
- [5] The Applicant now challenges the finding of guilt. He maintains that Jockey Angela Jones, as the rider of the horse Heleva Deel, made ground into a run that he had established at a time when that horse, Heleva Deel, was more than two lengths to the rear of his mount.
- [6] His Application for Review includes the following:
- I establish the run, A Jones's horse make ground into the run that I have established. S Collett on grey horse also comes in over a horse from the 300 to the 100 where the incident happens which places A Jones's in restricted room. A Jones's wasn't checking to avoid heels, she was just re-directing her mount & horse overreacts as well with the cross over nose band on. If I don't angle out at the 150 the stewards would have been talking to me about a charge of failing to give my mount all chance*
- I am appealing the steward's decision as I should not have been charged for this incident. At the 150-metre mark, I angle my mount around the heels of Melea Castle's mount. At this point A Jones on Heleva Deel is a lot further back than 2 lengths of my mount.*
- [7] The Stewards Inquiry heard the report of Chief Steward Mr Joshua Adams, who had observed the race from the Steward's observation tower. Mr Adams described how the Applicant was looking to shift out to improve his mount and in doing so, was insufficiently clear of Jockey Jones who had to check her mount Heleva Deel to avoid the heels of the Applicant's horse.
- [8] To Mr Adams' observations the Applicant had encroached partially into Jockey Jones' running, sufficient to cause her to take action and check her mount. The Stewards also heard evidence from Jockey Jones. In summary, she described "riding an awkward horse" and described also "seeing a run appear to her inside". She thought the Applicant might have been looking for the same run as well.
- [9] As she improved into that run it felt to her "like he (the Applicant) beat me to the run". At the time, she thought there was room for both horses, but Jockey Collett's horse, The Cullinan "shifted in". She agreed at one point that she was compelled to check but later said she didn't think that she in fact actually did check. She said that her horse's head just came up. The Applicant, she agreed had crossed though marginally into her line, she felt that it was about a length clear.
- [10] The Applicant, when questioned at the Stewards Inquiry described looking to shift out to improve. He felt there was room to move out. His view was that he had not impeded Jockey Jones' line. He didn't

accept that Jones had to check, rather, as he put it, “she grabbed hold of it reading the play ...just pre-empting what may happen, her horse’s head just came up ...its just thrown its head”. Beyond this of course represents what a summary of the evidence given by the Applicant and by Jockey Jones.

- [11] In addition to the oral evidence, the Stewards also had the race footage to consider. Ultimately they were satisfied that the Applicant was guilty of the offence charged and proceeded to impose the penalty of 14 days referred to above.
- [12] In determining penalty, the Stewards applied the Careless Riding Template. In late September 2023, an industry notice was sent to Thoroughbred participants advising of the implementation of that template. The Careless Riding Template was introduced, it is said, to provide Stewards with a framework to determine a penalty calculation for careless riding, by categorising the incident based on a set of criteria, those being the grade of the charge, the rider’s previous record and feature meeting loading.
- [13] On 29 September 2023, the Queensland Racing Integrity Commission Thoroughbred Racing Penalty Guidelines were amended to update the AR131 table of penalties and insert annexure A - the careless riding template. Those revised Penalty Guidelines came into effect on 1 October 2023.
- [14] In effect, the careless riding template introduced a new methodology to determine the appropriate penalty for careless riding breaches pursuant to AR131(a).
- [15] In the application of the template, in this case the Stewards graded the Applicants careless riding as being in the low category the consequences they found to be the checking of, and loss of rightful running to, the horse Heleva Deel. This provided the starting point of a 10 day suspension. The Applicant’s disciplinary history of some 8 careless riding suspensions in the preceding 12 months attracted then a premium of further 4 days. The resulting calculation was the 14 days suspension of license.
- [16] This Panel, of course, must form its own view of the riding by the Applicant. It is accepted that the responsibility of establishing guilt lies with the Respondent and it is accepted also that the standard of proof is on the balance of probabilities, as that phrase is explained, in cases such as *Briginshaw v Briginshaw*¹.
- [17] It is accepted also that any determination of guilt consistent with those principles should only be made on the basis of evidence that is clear and cogent.
- [18] This Panel has before it all of the material that was before the Stewards, including the testimony that I have summarised as well as the race footage and the evidence of the observations of Mr Adams.
- [19] We have also heard the evidence this morning from Jockey Angela Jones, the rider of the horse Heleva Deel. Jockey Jones essentially confirms the evidence which she gave before the Stewards’ Inquiry.
- [20] We have referred to the observations of Chief Steward, Mr Adams. Stewards are people of considerable experience in this area and as the authorities have long recognised, proper weight should be given to their observations which should not be lightly discounted.

¹ *Briginshaw v Briginshaw & Anor* 1938 60 CLR 336

- [21] Ultimately, we have derived the greatest assistance in this case from our assessment of the race footage. The extent that that race footage is inconsistent with any of the oral evidence, then this Panel acts upon the basis of the race footage.
- [22] It is the Respondent's position that the horse Warp Speed, ridden by the Applicant, moved out approaching the 100-metre mark when insufficiently clear of Heleva Deel ridden by Jockey Jones causing that runner to check and lose its rightful running.
- [23] Watching the race footage, Warp Speed straightens on the fence four to four and a half lengths from the lead. Heleva Deel is a further two to two and a half lengths further back, approximately four horses off the fence. Early in the straight, Heleva Deel under the urgings of Jockey Jones appears to resent being directed out and throws its head. At the 150 metre mark the Applicant shifts off the fence endeavouring to get around the heels of another horse, Tintinwin, and establishes a run between that runner and The Cullinan to his outside.
- [24] Approaching the 100-metre mark, Heleva Deel has improved to the inside of The Cullinan approximately one and a quarter length behind and appears to run out of room when Jockey Jones takes hold and Heleva Deel throws its head awkwardly.
- [25] Watching the rear-view Stewards footage from the 150 metre to the 100-metre mark, the Applicant, whilst improving has shifted out to an approximate four wide position where he gains a run between Tintinwin and the The Cullinan. At this point, Jockey Jones, who was back to the inside of The Cullinan, takes hold of her mount then shifts out across the heels of that runner.
- [26] Watching the Steward's head on footage from the 175-metre mark Jockey Jones has established her line back to the inside of Jockey Collett on The Cullinan. Shortly after the Applicant switches out around Tintinwin heels where approaching the 100 metre mark his mount rolls out an extra horse.
- [27] Jockey Jones anticipates her running being taken and takes hold where her mount Heleva Deel throws its head awkwardly. The Applicant appears to encroach marginally on the running of Jockey Jones without taking up her full running.
- [28] This Panel accepts that a jockey is required to exercise due care and that means care in all the circumstances is the obligation of jockeys at all times to make every effort to ensure that they do not interfere with the rightful running of other competitors.
- [29] Having regard to all the evidence and the video footage, the Panel considers it likely that Jockey Jones anticipates her rightful running might be taken due to the shift out from the Applicant's mount. She then takes hold of her horse which overreacts, throwing its head.
- [30] The difficulty which this Panel has is in determining whether the Applicant's marginal intrusion into the running of Heleva Deel resulted in that horse necessarily being checked or losing its rightful running, or whether jockey Jones, in anticipation of the move, was attempting to steer her mount out slightly to continue her own run. As was evident earlier in the straight when Jockey Jones urged her mount along attempting to steer out, Heleva Deel showed resentment and threw its head. There is no shift by Tintinwin to the inside and minimal shift by The Cullinan to the outside.
- [31] We are satisfied that the Applicant in this case was guilty of careless riding. We have full regard to the expertise of Stewards in these matters. However, there are some conclusions about which reasonable minds may differ, and having regard to the exigencies of proof we are not satisfied to the requisite standard that the consequence of that carelessness was a checking or loss of rightful run to the horse Heleva Deel. A more appropriate consequence, in the terms of the Template, would be a hampering or

crowding of that horse. The result would be a penalty of a reprimand. Given the Applicant's poor record, a severe reprimand is appropriate.

- [32] For these reasons, the decision of this Panel pursuant to section 252AH(1)(b) of the Act is to vary the racing decision and in confirming a finding of careless riding substituting a penalty of a severe reprimand.
- [33] We note from the Applicant's outline that he indicates that he is moving to address some of the issues associated with his riding, we encourage him to do that. His riding record is far from good, and we find no evidence to support the submission that it is attributable to inconsistent application of the rules by those responsible for enforcing those rules. He should look seriously to his method of riding.

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