

DECISION

Racing Integrity Act 2016, section 252AB

Review application number	RAP-54	
Name	Jake Bayliss	
Panel	Mr Kerry O'Brien AM (Chairperson) Mr Waller (Panel Member) Mr Edwin Wilkinson (Panel Member)	
Code	Thoroughbred	
Rule	Australian Rules of Racing 132(5) In a race, official trial, jump-out or trackwork, or elsewhere, a rider must not use his or her whip in an excessive, unnecessary, or improper manner.	
Penalty Notice number	PN-008790	
Appearances & Representation	Applicant	Self-Represented
	Respondent	Queensland Racing Integrity Commission
Hearing Date	13 September 2023	
Decision Date	13 September 2023	
Decision <i>(delivered ex tempore)</i>	Pursuant to 252AH(1)(a) the Racing decision is confirmed.	

Reasons for Decision

- [1] The Applicant in this matter is licenced jockey Mr Jake Bayliss. On 9 September 2023, following his ride on horse Military Gambler at race seven at Doomben, the Applicant was found guilty of an offense against Australian Rule of Racing 132(5) and received a penalty of 11 days suspension of licence, to commence at midnight on 18 September 2023 and to end at midnight on 29 September 2023.
- [2] AR 132(5) prohibits the use of a whip in an excessive manner, and the particulars of the charge against the Applicant allege that he used the whip on 17 occasions in totality during the running of the Doomben race.
- [3] The Applicant maintains in his Application for Review, submitted on 11 September 2023, that he did not breach the Rule of Racing as he had struck his mount 15 times, not 17 times as was alleged by the Stewards. Two of the strikes he maintains were simply occasions where he 'waved' the whip at the horse.
- [4] The two occasions of the 17 which the Applicant seems to identify as a waving of the whip rather than a striking occurred in the first case around the so-called ninth strike contended for by the Steward, and the second around 75-100 meter mark which corresponds approximately with strike 12 as counted by the Stewards.
- [5] The significance of the number of strikes becomes apparent when regard is had to the penalty provided for under the Penalty Guidelines which suggests a greater and more severe penalty may be more appropriate in a case such as this where the whip is used on 17 occasions or more.
- [6] The Panel has reviewed footage of the race on numerous occasions and listened carefully to the explanations and submissions made by Mr Bayliss and by Mr Adams on behalf of the Respondent. This is one of the occasions where a Panel such as this benefits greatly for having the assistance of two vastly experienced former jockeys.
- [7] The Panel accepts that this Applicant is a young man who has made genuine efforts to improve his usage of a whip during races, and we have seen what seems to be some some positive effort in that regard from some footage he has exhibited from a race he rode at the Sunshine Coast.
- [8] We are aware of the requirements of proof in these matters, and of the need there should be clear and cogent evidence before coming to the conclusion of guilt.
- [9] The Panel is satisfied there were here 17 strikes with the whip. One of these may have been inadvertent in a failed attempt to wave the whip. We are satisfied nevertheless of the 17 strikes and that is allowing for a number of accepted waves of the whip as well.
- [10] It is therefore the view of the Panel that the charge is sustained.
- [11] The penalty imposed of 11 days suspension is in the circumstances at the very bottom end of the penalty range suggested by the guidelines, which provides in this case for a penalty of between 11 to 13 days. The Applicant's record with the whip, as he freely acknowledges, is not at all a good one though as I have said he is clearly making efforts to improve in that regard.
- [12] The result is that pursuant to section 252AH(1)(a) of the *Racing Integrity Act* 2016 the Racing Decision subject to this Review is confirmed.