

DECISION

Racing Integrity Act 2016, section 252AB

Review application number	RAP-56	
Name	Ronald Cameron	
Panel	Mr. Kerry O'Brien AM (Chairperson) Mr Peter O'Neill (Deputy Chairperson) Ms Lyndsey Hicks (Panel Member)	
Code	Thoroughbreds	
Rule	Australian Rules of Racing 251(1)(b)(ii) A person must not, without the written permission of the Stewards, have in his or her possession in any motor vehicle, horse float or other mode of transport used for the purpose of transporting a horse/s to and/or from a race meeting, any prohibited substance, or a syringe, needle, naso-gastric tube or other instrument that could be used to produce a prohibited substance in a horse	
Penalty Notice number	PN-008724	
Appearances & Representation	Applicant	Self-represented
	Respondent	Anna Rettke
Hearing Date	11 October 2023	
Decision Date	11 October 2023	
Decision <i>(delivered ex tempore)</i>	Pursuant to 252AH(1)(a) the Racing decision is confirmed.	
Case References	<i>Hickey v Australian Telecommunications Commission</i> (1983) 72 FLR 291	

Reasons for Decision

- [1] This is an Application for Review, pursuant to section 252AB of the *Racing Integrity Act 2016*.
- [2] The Applicant, Mr Ronald Cameron, was issued with one charge pursuant to Australian Rules of Racing Rule 251(1)(b)(ii), that rule relevantly provides as follows:
- A person must not, without written permission of the stewards have in his or her possession;*
- (a) on a racecourse for a race meeting, is being conducted; or*
- (b) in any motor vehicle, horse float or other mode of transport used for the purpose of transporting a horse/a to and/or from a race meeting,*
- any prohibited substance, or a syringe, needle, naso-gastric tube or other instrument that could be used;*
- (i) to administer a prohibited substance to a horse; or*
- (ii) to produce a prohibited substance in a horse.*
- [3] The circumstances of the charge, which was made against Mr Cameron, was on the 26th of August of 2023 he attended a race meeting at the Kilcoy Racecourse.
- [4] The particulars contained within the penalty information notice indicate that Mr Cameron pleaded guilty to a charge under AR251(1)(b)(ii) and that he did without written permission from Stewards have in his possession in the vehicle used to transport the racehorse, Nikki Kireina, to the Kilcoy race meeting on Saturday, the 26th August 2023, a bottle of Acepromazine that could be used to produce a prohibited substance in a horse.
- [5] The factual circumstances that gave rise to that charge was that upon Mr Cameron's arrival at the Kilcoy Racecourse, he was approached by a Steward who requested to search his vehicle.
- [6] Mr Cameron appropriately made a concession or admission to having a bottle of Acepromazine within the console of his vehicle.
- [7] Later that day, a Stewards' Inquiry was conducted, and Mr Cameron was questioned by the Stewards. The Panel have access to the audio recording of the Stewards' Inquiry at which Mr Cameron confirmed that he had a bottle of Acepromazine in his vehicle when he attended the racecourse that day. As a result of the Stewards' Inquiry, Mr Cameron was issued with one charge under AR251(1)(b)(ii) to which he entered an early plea of guilty.
- [8] As a consequence of the acceptance of his plea of guilty a fine of \$500.00 was imposed by the Stewards.
- [9] In the Application for Review Mr Cameron challenges the severity of the penalty imposed and submits that a reprimand would have been an appropriate penalty.

Extension of Time

- [10] An issue that was initially addressed by the Panel related to the Application for Review potentially being out of time. The penalty information notice was dated of the 26th of August 2023 and was sent to an email address that had previously been nominated and provided by Mr Cameron to QRIC.
- [11] Pursuant to section 252AB(2)(a) of the *Racing Integrity Act*, Mr Cameron had three business days upon receipt of the penalty information notice to lodge the Application for Review.

- [12] The Application for Review in this case was in fact not lodged until 5 October 2023 and therefore on its face was out of time by approximately twenty-five days.
- [13] The onus is on Mr Cameron as the Applicant to prove that an extension of time should be granted. It is not for the Respondent to establish that Mr Cameron does not have a case for extension.¹
- [14] In the course of the hearing, Mr Cameron informed the Panel that prior to the penalty information notice being issued by the Respondent he had contacted QRIC to inform them of a change in his email address. Miss Rettke, the representative appearing on behalf of QRIC, confirms that information as being accurate.
- [15] Ms Rettke confirmed that due to an error or miscommunication at QRIC, the penalty information notice was sent to Mr Cameron's old email address rather than to the new email address he had provided to QRIC.
- [16] Mr Cameron also informed the Panel that he followed up with QRIC and ultimately as a result of one of those follow-ups, he became aware that the penalty information notice had been issued by QRIC. The Penalty Information Notice was then issued to Mr Cameron by email to his new email address.
- [17] Mr Cameron further informed the Panel that he conducted a search of his old computer, and he could find no indication in his old email address that the notice was actually received by him.
- [18] The Panel is satisfied that this is an appropriate case for there to be an extension of time for the Application of Review to be filed and that pursuant to section 252AB(3) of the *Racing Integrity Act*, the Chair and Panel consider that it would be unjust to refuse the Application in the circumstances outlined above.

Penalty Submissions

- [19] Regarding the factual circumstances of the case, there is no dispute by Mr Cameron that he in fact breached AR251(1)(b)(ii). Mr Cameron in his submission today, has contended that he was not aware of the rule and was not aware that he was breaching the rule by having the substance Acepromazine in his vehicle.
- [20] Mr Cameron explained that he has had a number of past instances of horses becoming fractious when they were being transported by him, and that this has on previous occasions caused some safety concerns for him.
- [21] Mr Cameron informed the Panel that he considers it necessary as a safety issue to have available Acepromazine in his vehicle as part of his medical kit to be used in circumstances where a horse that he is transporting becomes fractious.
- [22] In response to Mr Cameron's submission about not being aware of the relevant rule AR251(1)(b)(ii), the Respondent has made reference to Australian Rule of Racing AR3.
- [23] Australian Rule of Racing 3 relevantly, provides as follows:

Application of these Australian Rules

Any person who takes part in any matter or race meeting coming within these Australian rules agrees with the Racing Australia and each PRA to be bound by and comply with them.

¹ *Hickey v Australian Telecommunications Commission* (1983) 72 FLR 291.

- [24] The Panel is satisfied that Mr Cameron is a trainer of extensive experience, and as a result of AR3, should have been aware of all of the relevant rules, in particular AHRR 25(1)(b)(ii).
- [25] The Panel also considers that it is relevant that pursuant to AR251(2), the Stewards may in their discretion, give written permission to a person to have in his or her possession drugs such as Acepromazine to be used for the purposes of dealing with fractious horses.
- [26] Mr Cameron confirmed that he was not aware of AR251(2) or his ability to obtain written permission from the Stewards to have Acepromazine in his possession and available for his use. Mr Cameron further confirmed that he has not subsequently made an application to the Stewards for written permission to have Acepromazine in his possession.
- [27] The Panel has available to it an affidavit provided by Dr Stacey Flynn, veterinary surgeon. In paragraph 15 of that affidavit Dr Flynn confirms that she has often received requests to sedate horses for travel, and she would only deny such a request if the horse was in a compromised physiological state.
- [28] Dr Flynn's evidence was not subject to cross-examination by Mr Cameron and the Panel is entitled to act upon the contents of her affidavit and in particular paragraph 15.
- [29] In the Respondent's submissions, the Respondent says at paragraphs 27 to 30:
27. The Applicant's case for review invites the Panel to mitigate penalty on the basis that it was 'a necessary horse and human welfare precautionary choice'. The Panel should decline this invitation.
 28. In his Application for review, the Applicant states that the Stewards' ruling is endangering his life. The Applicant could have sought the written permission of the oncourse Steward or asked the race day vet to administer acepromazine to a fractious horse.
 29. This rule exists to prevent licensed participants from bringing prohibited substances to the racetrack without the written permission of a steward.
 30. The Respondent submits that in the circumstances the imposition of a \$500 fine is the appropriate penalty and is consistent with the comparative penalties.
- [30] The Panel questioned the Respondent about the disciplinary history of the three trainers in the three comparatives that are relied upon by the Respondent in paragraph 22 of the Respondent's submissions as follows:
- a. Stewards' Report – 26.08.2023 - John Johnston - \$500 fine;
 - b. Stewards' Report – 13.05.2023 - Jennifer Hatfield - \$500 fine; and
 - c. Stewards' Report – 28.01.2023 – Peter Blackwell - \$500 fine.
- [31] The matter involving John Johnston appears to be the other matter dealt with by the Stewards at the Kilcoy racecourse on the same day that Mr Cameron was charged by the Stewards.
- [32] The Panel questioned the Respondent about the disciplinary history of those three trainers, particularly in comparison to the disciplinary history of Mr Cameron. The Panel notes that Mr Cameron has an exemplary disciplinary history given the length of time that he has been a licensed trainer.
- [33] The Respondent was afforded the opportunity of obtaining further information relating to the disciplinary history of the three trainers identified above. Following a short adjournment the Respondent informed the Panel that in relation in relation to at least two of the trainers, although they

may have had more disciplinary history compared to Mr Cameron, their disciplinary history also largely related to minor breaches of a similar nature to the one entry in Mr Cameron's disciplinary history from 2009. In relation to Miss Hatfield, the Respondent informed the panel that her disciplinary history was very much in accordance with that of Mr Cameron.

[34] The Panel is therefore satisfied that it is appropriate to rely upon those three matters as penalty precedents in this case.

[35] In determining the appropriate penalty to impose, the Panel takes into account what is indicated in the Penalty Guidelines. The Penalty Guidelines state that they have been designed to identify the starting point for the imposition of a penalty for a particular offence.

[36] The Penalty Guidelines confirm that the purpose for the penalty is to;

- maintain standards of integrity and animal care in the thoroughbred code, which are maintained by enforcement of the rules of racing;
- provide general deterrence to the industry, by ensuring that the penalty imposed on an individual for a rule breach is sufficiently serious to discourage other participants from breaching the rule; and
- provide specific deterrence to the individual contravening the rule, that is, the penalty imposed on an individual for a rule breach must be sufficiently serious to discourage the particular individual from engaging in similar conduct.

[37] In considering the appropriate penalty to impose the Panel takes into account that:

- Mr Cameron fully cooperated with Stewards on 26th August 2023;
- he entered a timely, plea of guilty to the charge;
- Mr Cameron has a lengthy history as a trainer and his largely exemplary disciplinary history.

[38] Mr Cameron informed the Panel that he has not previously been charged with any type of drug offences during his training career.

[39] The Panel has also considered the submission provided by Mr Cameron Partington from the Australian Trainers Association and has taken note of the contents of that submission.

[40] As noted by the Penalty Guidelines in determining the appropriate penalty, the Panel is required to consider both general and specific deterrence.

[41] In this matter, the issue of specific deterrence perhaps has less significance in light of the lengthy period of time that Mr Cameron has been training, and the fact that he has largely an exemplary disciplinary history. The issue of general deterrence, however, is a matter of some importance.

[42] The Respondent in its submissions rightly submitted that it is fundamental to the integrity of racing, that licensees are in fact discouraged or deterred from bringing drugs or other prohibited substances or items onto racecourses.

[43] The Respondent submits that if this type of behaviour is not deterred, it could in fact give rise to many other problematic issues for the industry, which may in fact adversely impact upon the integrity of the racing industry.

[44] The Panel accepts the force of that submission in the circumstances of this particular case.

- [45] The Panel finds that in the circumstances of this case, despite Mr Cameron's lengthy good training record, his early plea, and his cooperation, that the imposition of a \$500.00 fine was appropriate.
- [46] This is particularly so in light of the fact that Mr Cameron had the ability under Rule AR251(2) to apply for and receive permission from the Stewards to have Acepromazine in his possession for the purposes that he has outlined to the Panel.
- [47] As a consequence, pursuant to section 252AH(1)(a) of the *Racing Integrity Act* the decision of the panel is to confirm the stewards racing decision to impose a fine of \$500.

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