

Queensland Racing Disciplinary Board

Appeal decision

Hearing date: 27 July 2015
Decision date: 26 November 2015
Code of racing: Greyhound

Appeal panel: Mr Brock Miller (Chair), Mr Paul James and Mr Daryl Kays

Appearances: Mr A. D Scott, counsel appeared on behalf of the Appellant Mr Michael Campbell
Mr D R Kent QC appeared on behalf of the Respondent Racing Queensland

Decision being appealed: Warned off for life.

Appeal result: Decision varied. The new penalty of ten years warning off.

In this Appeal Mr Campbell appeals the decision of Racing Queensland in respect of a Board of Racing Queensland decision on 28 April 2015 in respect of a charge relating to live baiting as well as providing false and misleading evidence at an interview with Racing Queensland on 25 March 2015 in breach of GAR 86 (D) and that Mr Campbell engaged in conduct which is detrimental or prejudicial to the interest, welfare, image, control or promotion of Greyhound Racing in breach of Rule 86 (Q).

The outcome was that Mr Campbell was warned off for life under Rule 3A of the Local Rules of Racing (Greyhound Racing) (the Local Rules). Further, acting under Greyhound Australasia Rule 14(1)(c), the Board of Racing Queensland decided that all greyhounds owned by Mr Campbell whether wholly or in part should be prohibited from competing in any event within Queensland subject to protocols or a legitimate sale.

Again, in this case, as has been the case in a number of other cases, the background to the charges was the well-known episode of the ABC Four Corners program on 16 February 2015 concerning live baiting practices in particular, at a property operated by Mr Noble at Churchable.

On 25 March 2015 Mr Campbell was interviewed by Racing Queensland officials when he admitted his presence at the track. On 15 April 2015 he was given a show cause notice as to the allegation which is reproduced in the Board's Statement of Reasons.

Essentially, it is alleged that Mr Campbell had engaged in conduct detrimental or prejudicial to the interest, welfare, image, control or promotion of greyhound racing by his participation in live baiting on 12 and/or 15 October 2014 and that he had done so for an improper purpose and/or to affect performance and that he gave false evidence.

At his Appeal Mr Campbell was represented by Mr A.D. Scott of Counsel and we are in possession of submissions made by Mr Kunde's Counsel on behalf of the Appellant. Similarly Racing Queensland, the Respondent to this Appeal, was represented before the Board by Mr D.R. Kent QC and we are also in possession of Racing Queensland submissions from Mr Kent.

The thrust of Mr Scott's submissions in regard to this Appeal centered on a number of issues including the fact that merely witnessing live baiting was not an offence of itself and the video evidence was not sufficient to identify Mr Campbell. On the other hand Counsel for the Respondent submitted that there was sufficient evidence by way of video evidence, admissions by Mr Campbell that he was at the track and that he was audible in the video and was involved and further that the Trial was clearly conducted with his concurrence.

Further, that the use of the piglet was part of Mr Campbell's dog trial which he paid for and participated in.

At page 22 of the Transcript and I quote:

THE CHAIRMAN:

“And you go to this track up to three times a week?”

MR CAMPBELL:

“Yeah. That three times a week has only been over the last, oh – well, I've been here 18 months – probably 10 months. Prior to that, I was going broke running at Ipswich and Albion Park all the time trailing”

At page 23 of the Transcript I quote:

VIDEO SHOWN

THE CHAIRMAN:

“So that's at 9:03.06 – at 9 o'clock. What do you see on the arm there, Mr Campbell?”

MR CAMPBELL:

“A pig”

THE CHAIRMAN:

“Would it be fair to say it’s a live pig”

MR CAMPBELL:

“Oh, yeah, it would probably be a fair call. That’s gone back from the first time you showed it”

THE CHAIRMAN:

“Do you recognise that voice in the background?”

MR CAMPBELL:

“No, I don’t”

THE CHAIRMAN:

“It’s Mr Noble’s voice”

On page 24 of the Transcript I quote:

THE CHAIRMAN:

“At 9:03.18?”

MR CAMPBELL:

“Yep”

THE CHAIRMAN:

“Do you know whose voice that is?”

MR CAMPBELL:

“Tommy Noble”

THE CHAIRMAN:

“Yeah. And who he’s talking to?”

MR CAMPBELL:

“I don’t recognise it”

THE CHAIRMAN:

“We believe that to be you, Mr Campbell”

MR CAMPBELL:

“I don’t think so”

Further on page 25 of the Transcript I quote:

THE CHAIRMAN:

“Do you recognise the voices?”

MR CAMPBELL:

“No, I don’t, to be honest”

THE CHAIRMAN:

“Could that be you, Mr Campbell?”

MR CAMPBELL:

“Could it be me? I don’t know. I don’t really think so”

THE CHAIRMAN:

“Why do you say that?”

MR CAMPBELL:

“It doesn’t sound like me”

THE CHAIRMAN:

“Well, that’s where we disagree. To me, that sounds like the man I’m talking to right now”

MR CAMPBELL:

“Well, I don’t listen to myself too often, I guess, but it doesn’t sound like me. Look, even if it was, what have I done wrong?”

At page 33 of the Transcript I quote:

THE CHAIRMAN:

“Did you hear those comments?”

MR CAMPBELL:

“Yeah”

THE CHAIRMAN:

“Any comment you want to say in relation to that?”

MR CAMPBELL:

“I probably did whinge about the track being dry that day”

THE CHAIRMAN:

“But Tom Noble said, “I’ve got Mick Campbell here whingeing about the track””

MR CAMPBELL:

“I probably was there whingeing about the track”

THE CHAIRMAN:

“So these are the same time slots on the same day”

MR CAMPBELL:

“I probably was there whingeing about the track. I would say by then I had gone home or was waiting to trial. No, I would have gone home, because I whinged about the track being dry on a few occasions, but after I had trailed, because my dogs would walk off with that bloody sand burn underneath their feet”

At page 26 of the Transcript reference is also made to a live pig being on the arm and that the person standing outside the fence had a clear view of that pig on the arm. The decision of this Board is that the evidence is sufficient to sustain the convictions. The Appellant is visible and audible in the video and was involved. The live pig on the arm was clearly visible and the Trial was clearly conducted with his concurrence. We are comfortably satisfied to the required standard that Mr Campbell was an active participant by his voluntary and deliberate presence at the Churchable property where live baiting was taking place and in particular in relation to his dog trial.

We also consider that this conduct is detrimental and prejudicial to the interest, welfare, image and control of Greyhound Racing and we dismiss the Appellant’s Appeal in regard to conviction in that regard. In all the circumstances we make no further ruling as to whether Mr Campbell provided false or misleading evidence at a record of interview or in relation to the other matters canvassed herein in this Appeal.

We now address the question of penalty. Mr Campbell is 58 years of age and has had dogs all his life, around 30 to date and his primary income has come from breeding. Mr Campbell lives alone and currently suffers from depression from having to sell his dogs. Mr Campbell has been in the greyhound business for 35 years as President of the Townsville Greyhound Racing Club and the Townsville Greyhound Owners and Trainers Association periodically for 20 years.

Mr Campbell has donated a great deal of time to the industry, has mentored many trainers and has been involved in the rehoming of many greyhounds that would have otherwise been euthanised.

Nevertheless as the Board has found in various Appeals including the Appeal of Wright, a strong message needs to be sent to the industry that conduct of this nature cannot be tolerated and significant penalties have to be imposed either by way of deterrent or otherwise to reflect this view.

Mr Kent QC on behalf of Racing Queensland has urged this Board to maintain the life ban. Mr Scott of Counsel on the other hand has referred us to the previous decision of this Board in the matter of Wright and other reasons why we should consider a lesser penalty.

Recent amendments to the Greyhound Racing Rules on 20 April 2015 make it mandatory for a period of disqualification of not less than 10 years to be imposed on any person who is involved in the practice of live baiting or is convicted in any Court of an offence in relation to the use of an animal carcass or part of an animal with greyhound training.

As stated in previous cases, this legislation postdates the commission of this offence and does not take the matter very much further other than to identify that post the offence being committed the minimum penalty that should be imposed on anybody in these circumstances would be a minimum of 10 year disqualification. This Appeal is allowed to the extent to reflect the substitution of penalty only and the Board decision is that a period of 10 years warning off should be substituted for the original decision of warning off for life by Racing Queensland. We now address the prohibition decision.

The prohibition decision

Pursuant to Greyhound Australasia Rule 14(1)(c), the Board decided that all greyhounds owned by Mr Campbell, whether wholly or in part, should be prohibited from competing in any event within Queensland, subject to protocols or a legitimate sale.

Very little argument took place on appeal to this Board concerning the above decision or in submissions to this Board by Counsel for the parties in respect thereof.

We are mindful of the recent decision of Justice J Dalton in *Arnold v Racing Queensland & Another (2015) QSC293* and in particular to points [35] and [36] on page 17 of that transcript as well as point [58] on page 23 of that transcript.

Accordingly we make no decision on that aspect of this appeal but rather in accordance with the reasoning of Justice Dalton in the above case, we remit that matter back to the decision maker Racing Queensland for further determination after necessary submissions from the Appellant and the original decision maker encompassing such further matters that could be relevant to that original decision and as envisaged in *Arnold's* case.

Further right of appeal information: The Appellant and the Steward may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **28 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