

Appeal decision

Date: 26 March 2014

Code of racing: Thoroughbred

Appeal panel: Judge W Carter (chair), Mr P James and Mr N Thomson.

Appearances: Mr D. Meagher appeared on behalf of apprentice jockey Ashley Butler.
Mr M Knibbs, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Severity of penalty of suspension of licence to ride in races for a period of eight meetings - AR137A(5)(a)(ii).

Appeal result: Appeal upheld.

Extract of proceedings – in the matter of the Strathayr Class 3 Handicap over 1200 metres at Toowoomba on 14 March 2014. Apprentice jockey: Ashley Butler

THE CHAIRMAN: This appeal is brought by apprentice jockey Ashley Butler, who on 14 March last rode a horse Hialeah Jet in Race 6 at a meeting conducted by the Toowoomba Turf Club. As a result of an inquiry by the stewards it was ascertained that jockey Butler was in breach of Rule 137A(5)(a)(ii) in that he had used the whip in a forehand manner on more than five occasions prior to the 100 metres.

Mr Butler was no stranger to this offence because on 8 March at Toowoomba he had been charged with and convicted of a similar offence, although on that occasion the number of whip movements totalled 17.

Mr Butler appeals against the penalty of eight meetings, which was imposed by the stewards. The previous penalty was to expire on 25 March. The more recent penalty imposed on the 14th is due to expire on 3 April.

The submissions made on his behalf by Mr Meagher, who with his father and brother conduct a training establishment at Eagle Farm, submits that as a result of the imposition of the penalty in question, Mr Meagher personally intervened and sought to re-educate the jockey in relation to what had become something of a continuing fault.

The submission from the Mr Meagher is that not only was he spoken to by the trainer, but also that there was, what you might say, a demonstration on a chaff bag in the feed room at

the stable whereby the whole issue was sought to be addressed by the trainer with apprentice Butler.

We are significantly encouraged by that because it seems to us that it is a case where there has been a serious attempt at intervention on the jockey's behalf by his master. At the same time we are conscious of the stewards' obligations in respect of these rules, and their penalty of suspension for eight meetings, as a general rule, could not be seen as objectionable, nor do we consider that it was on this occasion.

However, we are persuaded by Mr Meagher that because he and his co-trainers have taken a specific interest in the jockey's whip habit and have sought to address this issue specifically with him, that there should be some relief from the suspension of eight meetings. If he continues to offend, he will of course be dealt with appropriately.

We are prepared to reduce the penalty by two meetings, so that the penalty will expire at midnight, 1 April.

Accordingly, the appeal against penalty is allowed to that extent.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 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