

2 February 2023

DECISION

GREYHOUND RACING VICTORIA

and

DAVID BASILE

- Date of hearing:** 24 January 2023
- Panel:** Judge Graeme Hicks (Deputy Chairperson) and Mr Greg Childs.
- Appearances:** Mr Anthony Pearce appeared on behalf of the Stewards.
Mr David Basile did not attend the hearing.
- Charges:** Greyhounds Australasia Rule (“GAR”) 106(1)(a) states:
(1) A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-
(a) proper and sufficient food, drink and protective apparel.
- GAR 106(1)(d) states:
(1) A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-
(d) veterinary attention when necessary.
- GAR 106(1)(c) states:
(1) A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-
(c) kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in a clean and sanitary condition.
- GAR 106(2) states:
(2) A registered person must exercise such reasonable care and supervision as may be necessary to prevent greyhounds pursuant to the person’s care or custody from being subjected to unnecessary pain or suffering.

Local Racing Rule (“LR”) 42.1 states:

It is a Serious Offence if a person keeps a greyhound in conditions which are dangerous or detrimental to the health and safety of a greyhound.

GAR 86(o) states:

A person (including an official) shall be guilty of an offence if the person-

(o) has, in relation to a greyhound or greyhound racing, done a thing, or omitted to do a thing, which, in the opinion of the Stewards or the Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct.

GAR 86(q) states:

A person (including an official) shall be guilty of an offence if the person-

(q) commits or omits to do any act or engages in conduct which is in any way detrimental or prejudicial to the interest, welfare, image, control or promotion of greyhound racing.

GAR 86(p) states:

A person (including an official) shall be guilty of an offence if the person-

(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.

GAR 86(e) states:

A person (including an official) shall be guilty of an offence if the person-

(e) being an owner, trainer, attendant or a person having official duties in relation to greyhound racing, refuses or fails to attend or to give evidence at an inquiry, or produce a document or other thing in relation to an investigation, examination, test, or inquiry pursuant to these Rules when directed by the Controlling Body, Stewards or the committee of a club to do so.

Particulars of charges: Charge 1: GAR 106(1)(a)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 119788) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. At all relevant times, you had the greyhounds, Thunder (THAAI), Baccala (VHDSR), Cardiff Bale (NHABC) and Nobel Prize (VGNRW) in your care and custody.
3. Prior to the 22 September 2021, you failed to provide sufficient food and drink for the abovementioned greyhounds.
4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106(1)(a) (as then in force) to engage in the conduct described in particular 3.
5. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
 - a. affect the previous operation of the Old Rules (including Rule 106(1)(a));
 - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 106(1)(a)); or
 - c. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 106(1)(a)).

Charge 2: GAR 106(1)(d)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 119788) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. On and prior to the 21 September 2021, you had the greyhounds, Thunder (THAAI), Baccala (VHDSR), Cardiff Bale (NHABC) and Nobel Prize (VGNRW) in your care and custody.
3. All above mentioned greyhounds were underweight and had sores requiring veterinary attention.
4. You failed to provide veterinary attention, which was necessary to prevent pain and suffering to the greyhounds.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106(1)(d) (as then in force) to engage in the conduct described in particular 4.
6. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
 - a. affect the previous operation of the Old Rules (including Rule 106(1)(d));
 - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 106(1)(d)); or
 - c. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 106(1)(d)).

Charge 3: GAR 106(1)(c)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 119788) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On and prior to the 21 September 2021, you had a number of greyhounds in your care or custody, including but not limited to Thunder (THAAI), Baccala (VHDSR), Cardiff Bale (NHABC), Nobel Prize (VGNRW), Pasta Fagioli (VHDSO), Myalla Five (NCBHQ), Miss Toy (VGBRU), Autumn Lynx (VHOFT), Ray Galo

(VIHRX), Unnamed (VIQAN), Pumper (VIWKV), Unnamed (VICCR), Lady Barbados (VHIMU) and Roll The Dice (VHPDO).

3. You failed to provide the greyhounds in your care or custody with kennels constructed and of a standard approved by Greyhound Racing Victoria which are adequate in size and kept in a clean and sanitary condition, in that the kennels were not compliant with the 'Code of Practice for the Keeping of Racing Greyhounds 2018', in particular;

- Beds within the kennels were not provided with soft bedding.
- Bags of faeces left within the kennels and in close proximity to greyhounds being kept.
- Failure to disinfect the kennel area.

4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106(1)(c) (as then in force) to engage in the conduct described in particular 3.

5. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:

- a. affect the previous operation of the Old Rules (including Rule 106(1)(c));
- b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 106(1)(c)); or
- c. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 106(1)(c)).

Charge 4: GAR 106(2)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 119788) and

a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. At all relevant times, you had the greyhounds, Thunder (THAAI), Baccala (VHDSR), Cardiff Bale (NHABC) and Nobel Prize (VGNRW) in your care and custody.
3. You failed to exercise such reasonable care and supervision as was necessary to prevent the abovementioned greyhounds being subjected to unnecessary pain and suffering, in that:
 - a. On and prior to the 21 and 22 September 2021, you failed to provide kennels that were compliant with the 'Code of Practice for the Keeping of Racing Greyhounds 2018', which caused injury to the abovementioned greyhounds. In particular;
 - Beds within the kennels were not provided with soft bedding.
 - Bags of faeces left within the kennels and in close proximity to greyhounds being kept.
 - Failure to disinfect the kennel area.
 - b. Prior to the 22 September 2021, you failed to provide sufficient food and drink to the abovementioned greyhounds in order for them to maintain a healthy weight.
4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106(2) (as then in force) to engage in the conduct described in particular 3.
5. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
 - a. affect the previous operation of the Old Rules (including Rule 106(2));

- b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 106(2)); or
- c. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 106(2)).

Charge 5: LR 42.1

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 119788) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 21 and 22 September 2021, you failed to provide kennels that were compliant with the 'Code of Practice for the Keeping of Racing Greyhounds 2018', which caused injury to the greyhounds Thunder (THAAI), Baccala (VHDSR), Cardiff Bale (NHABC) and Nobel Prize (VGNRW). In particular;
 - Beds within the kennels were not provided with soft bedding.
 - Bags of faeces left within the kennels and in close proximity to greyhounds being kept.
 - Failure to disinfect the kennel area.
3. Prior to the 22 September 2021, you failed to provide sufficient food and drink to the greyhounds, Thunder (THAAI), Baccala (VHDSR), Cardiff Bale (NHABC) and Nobel Prize (VGNRW) in order for them to maintain a healthy weight.
4. The conditions in which the abovementioned greyhounds were kept were detrimental to the health and safety of those greyhounds.
5. At the time of the relevant conduct described, it was an offence under Local Rule 42.1 (as then in force) to engage in the conduct described in particular 4.

6. By reason of Local Rule 1.2 (as currently in force), the rescinding or variation of the Old Local Rules and commencement of the New Local Rules does not:
 - a. affect the previous operation of the Old Local Rules (including Local Rule 42.1);
 - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Local Rules (including by virtue of Local Rule 42.1); or
 - c. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Local Rules (including a breach of Local Rule 42.1).

Charge 6: GAR 86(o)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 119788) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Prior to the 23 September you were the registered trainer for the greyhounds 'Pumper' (VIWKV), 'Ray Galo' (VIHRX), Unnamed (VIQAN) and 'Nobel Prize' (VGNRW) and responsible for the care of the greyhounds.
3. On the 23 September 2021, you transferred the greyhounds 'Pumper' (VIWKV), 'Ray Galo' (VIHRX), Unnamed (VIQAN) and 'Nobel Prize' (VGNRW) to other registered trainers with an understanding that you would give financial aid and return to collect the greyhounds.
4. You failed to maintain contact with the registered trainers and subsequently abandoned all responsibility and care for the greyhounds 'Pumper' (VIWKV), 'Ray Galo' (VIHRX), Unnamed (VIQAN) and 'Nobel Prize' (VGNRW).
5. You failed to notify the owners of the greyhounds 'Pumper' (VIWKV) and 'Nobel Prize' (VGNRW) of the change of location

for the greyhounds or the health issues facing the greyhounds.

6. Your actions are deemed to be improper conduct in the opinion of Stewards.
7. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86(o) (as then in force) to engage in the conduct described in particular 6.
8. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
 - a. affect the previous operation of the Old Rules (including Rule 86(o));
 - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(o)); or
 - c. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 86(o)).

Charge 7: GAR 86(q)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 119788) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Prior to the 23 September you were the registered trainer for the greyhounds 'Pumper' (VIWKV), 'Ray Galo' (VIHRX), Unnamed (VIQAN) and 'Nobel Prize' (VGNRW) and responsible for the care of the greyhounds.
3. On the 23 September 2021, you transferred the greyhounds 'Pumper' (VIWKV), 'Ray Galo' (VIHRX), Unnamed (VIQAN) and 'Nobel Prize' (VGNRW) to other registered trainers with an

understanding that you would give financial aid and return to collect the greyhounds.

4. You failed to maintain contact with the registered trainers and subsequently abandoned all responsibility and care for the greyhounds 'Pumper' (VIWKV), 'Ray Galo' (VIHRX), Unnamed (VIQAN) and 'Nobel Prize' (VGNRW).
5. You failed to notify the owners of the greyhounds 'Pumper' (VIWKV) and 'Nobel Prize' (VGNRW) of the change of location for the greyhounds or the health issues facing the greyhounds.
6. Your conduct is detrimental to the welfare, image or control of greyhound racing.
7. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86(q) (as then in force) to engage in the conduct described in particular 6.
8. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
 - a. affect the previous operation of the Old Rules (including Rule 86(q));
 - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(q)); or
 - c. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 86(q)).

Charge 8: GAR 86(p)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 119788) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You failed to comply with the lawful order of a Steward in that:
 - a. On the 25 November 2021, you were given a direction by a Steward in the following 48 hours to make contact with registered trainers Jennifer Wilson (170269) and Theo Van Taarling (39687) who were caring for greyhounds owned by you and to make arrangements to free them up of the responsibility of caring for your greyhounds.
 - b. You failed to make contact with either of the abovementioned trainers or the Steward issuing the direction.
3. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86(p) (as then in force) to engage in the conduct described in particular 2.
4. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
 - a. affect the previous operation of the Old Rules (including Rule 86(p));
 - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(p)); or
 - c. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 86(p)).

Charge 9: GAR 86(e)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 119788) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. On the 29 November 2021 a Notice of Inquiry was forwarded to you by email and text message for you to attend an inquiry with Investigative Stewards at the Meadows Greyhound Racing Club on the 2 December 2021.
3. On the 2 December 2021, you failed to attend the scheduled Inquiry with Investigative Stewards or make contact with them to inform them of your non-attendance.
4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86(e) (as then in force) to engage in the conduct described in particular 3.
5. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
 - a. affect the previous operation of the Old Rules (including Rule 86(e));
 - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(e)); or
 - c. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 86(e)).

Pleas: Not Guilty

RULING

Mr David Basile did not attend this hearing. Mr Anthony Pearce, on behalf of the Stewards, gave evidence before us, as did Ms Kathleen Scully, Assistant Registrar to Victorian Racing Tribunal (“VRT”), as to the extensive efforts they made to contact Mr Basile, but to no avail.

In all the circumstances, considering the extensive efforts made to contact Mr Basile, I determined, it being a matter of law, that it was appropriate to proceed with this matter in the absence of Mr Basile. I note that, subsequent to my determination, it came to light that Stewards had indeed contacted Mr Basile and he in fact had requested on two occasions to

change the Inquiry date. This, in my opinion, is a significant matter in that Mr Basile was well aware of proceedings being on foot.

In all the circumstances, the Tribunal will enter pleas of not guilty to all nine charges. The Tribunal will proceed on the basis of the evidence contained in the Stewards brief of evidence dated 29 August 2022.

DECISION

On 20 September 2021, Mr Basile contacted Investigative Stewards by phone to discuss concerns he had regarding his greyhounds and his inability to provide proper care for his greyhounds.

On 21 September 2021, Investigative Stewards attended at Mr Basile's address for the purpose of inspection of his facilities and an assessment of the health and welfare of his greyhounds.

CHARGES 1 – 5

There are four named greyhounds the subject of the above charges. These are "Thunder", "Baccala", "Cardiff Bale" and "Nobel Prize". Each of the greyhounds was found by the Stewards to be in poor condition. As a result of the Stewards inspection, a veterinary surgeon was organised to attend the next day.

On 22 September 2021 Investigative Stewards attended with veterinary surgeon, Dr Sarah Dornbusch, at Mr Basile's premises. Dr Dornbusch made the following assessments as to each of the relevant greyhound's condition.

Thunder was observed to be thin and emaciated, with poor coat and signs of alopecia. Decubital ulcers were observed on the body. There was swelling to the right carpus which discharged fluid from the ulcerated skin when squeezed. There appeared to be trauma to the greyhounds tail and there was no soft bedding present in the kennel.

Baccala was observed to be thin and emaciated with soft tissue swelling over the lateral aspect of the left carpus. Multiple decubital ulcers were also observed on the greyhound and there was no soft bedding present in the kennel.

Cardiff Bale was found to be to underweight, with crusted ulcers to many parts of the body with alopecia and inflammation. Crusting of the skin to the chest was also observed. There was no soft bedding present in the kennel.

Noble Prize was observed to be underweight with the tail tip bleeding and required attention. A large area of scar tissue to the right elbow was from a suspected spider bite that had occurred some several months prior to the to the date of the assessment. There was no soft bedding present in the kennel.

Dr Dornbusch was of the opinion that the dogs suffered from severe malnourishment and that they had not received proper or sufficient food to maintain a healthy weight. She was of the opinion that the same greyhounds were suffering non-healing decubital ulcers that were caused by lack of bedding.

At no stage did Mr Basile seek veterinary attention for the greyhounds that displayed wounds or for weight loss or for Noble Prize when it was suspected of having received a spider bite.

In summary, Dr Dornbusch stated as follows:

“I believe greyhounds 1-3 and 8 as identified in Table 1 in Appendix B were subjected to unnecessary pain and suffering due to poor housing conditions and malnutrition, which should have been addressed sooner than 22 September 2021. In my opinion, there has been a failure to provide reasonable care to greyhound number 1-3, 8 and 9 (as identified in Appendix B Table 1) located at Mr Basile’s Heathcote kennels, by inadequate feeding and husbandry practices. This led to compromising the welfare of these greyhounds and resulted in unnecessary pain and suffering. Greyhounds 1 and 2 gained greater than 10% of their body weight in the subsequent 16 days after leaving the property simply by the provision of adequate nutrition.

The overall conditions of the kennel facilities were both detrimental and dangerous to the mental and physical health and welfare of all greyhounds on the property, posing risks for an initial injury and offering unwelcome exacerbating factors for complications to arise”.

CHARGES 6 – 7

On 22 September 2021, Mr Basile elected to surrender a total of seven greyhounds. Although assistance was offered if he elected to surrender further greyhounds to help him in his personal circumstances, Mr Basile declined this offer.

The greyhounds “Pumper”, “Ray Galo” and an unnamed greyhound were transferred to a registered trainer on 23 September 2021 on the promise of paying her a sum of money for their care and attention. This was to be only a temporary arrangement. Mr Basile failed to pay the relevant sum of money, leaving the registered trainer with too many greyhounds and stress upon her resources. Mr Basile did not provide any updates at all to the registered trainer. As a result, the relevant greyhounds had to be relocated.

A similar situation eventuated with the greyhound's "Autumn Lynx" and "Lady Barbados", with Mr Basile requesting the assistance of a registered trainer to take temporary care of these greyhounds. However, subsequently he did not contact or provide updates regarding them. Other arrangements for their care had to be made.

In relation to Noble Prize, on 23 September 2021 Mr Basile requested the assistance of a registered trainer to take care of this greyhound on a temporary basis and agreed to a pay sum of money. Mr Basile did not pay this trainer after the first two weeks. Mr Basile did not provide any updates or information after the transfer as to what should happen with this greyhound. Other arrangements had to be made as to the care of Noble Prize.

CHARGE 8

On 25 November 2021, Investigative Stewards gave Mr Basile a lawful direction to contact the two trainers caring for his greyhounds within 48 hours and to make arrangements for the relevant greyhounds to be removed from their care. Mr Basile never contacted either trainer as directed by the stewards.

CHARGE 9

On 25 November 2021, a Notice of Inquiry was emailed to Mr Basile's email address notifying him of his obligations to attend an inquiry with Investigative Stewards at the Bendigo Greyhound Racing Club on 25 November 2021. Subsequently, Mr Basile asked Stewards for two further adjournments, to which they agreed.

On 27, 28 and 29 November 2021, Investigative Stewards called and left messages for Mr Basile concerning a suitable date and time for the inquiry. After Mr Basile failed to make contact with the Stewards, they issued a formal Notice of Inquiry. This was emailed and texted to Mr Basile to inform him of his obligation to attend an inquiry at the Meadows Greyhound Racing Club on 2 December 2021. Mr Basile failed to attend the scheduled inquiry. Investigative Stewards then phoned and sent a text message to him, but there was no response.

In all the circumstances, we are comfortably satisfied that each and every charge has been proven on the basis of the evidence contained in the Stewards' Brief.

We will now hear the question of penalty.

PENALTY

Animal welfare is of paramount importance to the greyhound racing industry in terms of the safety and welfare of the greyhounds and the ongoing viability of the industry itself. Participants in the industry who breach animal welfare Rules can expect condign penalties. Additionally, the Stewards have a hard enough task without participants breaching appropriate orders, including to appear at inquiries.

In the circumstances of this case, principles of general and specific deterrence have a part to play in arriving at an appropriate penalty. Mr Basile cannot seek the reduction of his penalty that he may have obtained if he had pleaded guilty.

Having heard submissions from Mr Pearce on behalf the Stewards, we make the following determinations as to penalty.

Charge 1: \$1,000 fine.

Charge 2: six months disqualification, to be served concurrently with the penalty imposed on Charge 4.

Charge 3: three months disqualification, to be served concurrently with the penalty imposed on Charge 4.

Charge 4: four years disqualification.

Charge 5: six months disqualification, to be served concurrently with the penalty imposed on Charge 4.

Charge 6: six months disqualification, to be served cumulatively on the penalty imposed on Charge 4.

Charge 7: six months disqualification, to be served concurrently with the penalty imposed on Charge 6.

Charge 8: three months disqualification, to be served cumulatively on the penalty imposed on Charge 4.

Charge 9: six months disqualification, to be served cumulatively on the penalty imposed on Charge 4.

This makes the total penalty one of five years and three months disqualification and a fine of \$1,000.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal