

25 October 2023

DECISION
RACING VICTORIA
and
FRANK MEYER

Dates of hearings: 22 August 2023 and 30 August 2023
Ruling handed down on 13 September 2023
Decision handed down on 25 October 2023

Panel: Judge John Bowman (Chairperson) and Dr Andrew Gould.

Appearances: Ms Yana Podolskaya appeared on behalf of the Stewards.
Mr Kelvin Noonan appeared on behalf of Mr Frank Meyer.

Charges and particulars:

Charge No. 1 of 6

Greyhounds Australasia Rule **165 (c) (iv)** reads as follows:

An offence is committed if a person (including an official):

(c) engages in contemptuous, unseemly, improper, insulting, or offensive conduct or behaviour in any manner or form towards, or in relation to:

(iv) a Steward or any other official of a Controlling Body or a Club

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 42987) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 10th of September 2022, you were subject to conversations and an inquiry concerning the late retrieval of greyhound LITTLE LEO (VIHCF) from the kennels prior to Race 4 at Ballarat.

3. During your interaction with Steward in Charge Max HAYDEN-EVANS your behaviour, demeanour and language was aggressive including pointing your finger towards Stewards, which individually and altogether, was contemptuous, unseemly, improper and insulting towards HAYDEN-EVANS:
4. Mr HAYDEN-EVANS is a steward of the Controlling Body – GRV.
5. GAR 165 (c) (iv) is a Serious Offence.

Charge No. 2 of 6

Greyhounds Australasia Rule **156 (f) (ii)** reads as follows:

An offence is committed if a person (including an official):

(f) has, in relation to a greyhound or greyhound racing, done something, or omitted to do something, which, in the opinion of a Controlling Body or the Stewards:

(ii) constitutes misconduct or is negligent or improper

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 42987) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 10th of October 2022, Investigative Steward Chris Gawne attended at your registered kennel address at 390 Dooley's Road Maryborough for the purpose of a property inspection and inquiry concerning your conduct at Ballarat races on 10th September 2022.
3. During the inspection your behaviour, demeanour and language was aggressive towards Gawne. Your comments about Race Day and Investigative Stewards was derogatory and offensive, which constituted misconduct.
4. The Investigative Stewards who attended your property on 10th October 2022 are Stewards of the Controlling Body – GRV.
5. GAR 156 (f) (ii) is a Serious Offence.

Charge No. 3 of 6

Greyhounds Australasia Rule **164 (b)** reads as follows:

An offence is committed if a person (including an official):

(b) refuses or fails to attend or to give evidence at an inquiry (or at any other disciplinary process, hearing or appeal proceeding) or produce a document or other thing in relation to an investigation, examination, test or inquiry (or other disciplinary process, hearing or appeal proceeding) pursuant to the Rules when directed by a Controlling Body, the Stewards, or another authorised person.

Particulars of the Charge being

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 42987) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 10th of October 2022, Investigative Stewards attended at your registered kennel address at 390 Dooley's Road Maryborough for the purpose of opening an inquiry concerning your conduct at Ballarat races on 10th September 2022.
3. You refused to give evidence in the inquiry as required.
4. GRV Investigative Stewards gave you further opportunities to participate in an inquiry with them on Monday 17 October 2022 which you refused to do so. You then later failed to respond to text messages from Investigative Stewards to hold an inquiry with you over the phone on 18 October 2022.
5. GAR 164 (b) is a Serious Offence.

Charge No. 4 of 6

Greyhounds Australasia Rule **156 (h)** reads as follows:

An offence is committed if a person (including an official):

(h) disobeys or fails to comply with a lawful order of a Controlling Body, the Stewards, or another person authorised by a Controlling Body with official duties in relation to greyhound racing

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 42987) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 21st of October 2022 you were served a lawful order by Investigative Stewards that you “NOT engage in any conduct which would be likely to further breach the Rules of Racing.”
3. On 24th and 26th October 2022 you made a phone call to GRV during which your conduct was improper in that you were abusive and aggressive towards Lexie CLARK an employee of GRV and which resulted in you being charged with a breach of GAR 156(f) (ii).
4. GAR 156 (h) is a Serious Offence.

Charge No. 5 of 6

Greyhounds Australasia Rule **156 (f) (ii)** reads as follows:

An offence is committed if a person (including an official):

(f) has, in relation to a greyhound or greyhound racing, done something, or omitted to do something, which, in the opinion of a controlling body or the stewards:

(ii) constitutes misconduct or is negligent or improper

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 42987) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 24th of October 2022 you made a phone call to GRV Stewards phone line concerning your greyhound GO GO LILIAN (VIHCL).
3. The call was received by GRV employee Lexie CLARK.
4. On 26th October 2022 you made a phone call to GRV Stewards concerning one of your greyhound’s being scratched.
5. The call was received by GRV employee Lexie CLARK.

6. During both phone calls with CLARK you displayed misconduct in that your behaviour, demeanour and language was aggressive towards CLARK and you used profanities being; 'fuck' and 'fucking' throughout the call.
7. Your conduct caused CLARK to feel intimidated and scared.
8. GAR 156 (f) (ii) is a Serious Offence.

Charge No. 6 of 6

Greyhounds Australasia Rule **156 (f) (ii)** reads as follows:

An offence is committed if a person (including an official):

(f) has, in relation to a greyhound or greyhound racing, done something, or omitted to do something, which, in the opinion of a controlling body or the stewards:

(ii) constitutes misconduct or is negligent or improper

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 42987) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 26th of October 2022 you engaged in a phone call with the GRV Integrity Unit – Investigations Manager, Simon MCLEAN.
3. The call was initiated by GRV employee Simon MCLEAN.
4. During the phone call with MCLEAN you were abusive and aggressive in your tone and manner and also used inappropriate language including the following, "I'm 72 bloody years-old, and I know for a fact you've doctored my hearing tape....." and "You are not fit to be working in GRV - fucking racing. You're a low life scum."
5. Your conduct towards MCLEAN constitutes misconduct.
6. GAR 156 (f) (ii) is a Serious Offence.

Pleas: Guilty to all charges.

DECISION

Mr Frank Meyer, you have pleaded “Guilty” to six charges. They could be summarised as follows:

Charge 1

A breach of GAR 165(c)(iv), this being improper conduct towards Steward Mr Max Hughes-Evans at Ballarat races on 10 September 2022. This conduct was constituted by you adopting a very confrontational and aggressive attitude towards him, including shouting and finger pointing. Ultimately you were escorted from the track.

Charge 2

This Charge pursuant to GAR 156(f)(ii) involves your conduct towards Stewards who attended at your registered kennel address on 10 October 2022. They had so attended in order to conduct an inquiry into your behaviour as outlined in Charge 1. During their visit you were aggressive and abusive and essentially refused to co-operate with them.

Charge 3

This is a Charge pursuant to GAR 164(b) – failure to attend an inquiry. You were asked to attend an inquiry on 17 October 2022. You declined so to do.

Charge 4

This Charge is pursuant to GAR 156(f)(ii). You disobeyed a lawful order of the Stewards that you not contact them by phone or engage in further misconduct. On two occasions you spoke on the phone to a GRV employee, Ms Lexie Clark and were abusive and aggressive towards her.

Charge 5

On 24 October 2022, a dog trained by you received a penalty for failing to pursue due to injury, this occurring at Ballarat. You rang the Stewards and again spoke to Ms Clark. You were irrational and threatening, continually using bad language. Subsequently, on 25 October 2022 you were issued with an immediate suspension and told that future contact could only be via email.

Despite this, on 26 October 2022 you again rang and spoke to Ms Clark, initially being threatening. As a result of the above conduct, you were charged pursuant to GAR 156(f)(ii).

Charge 6

On 26 October 2022, you were particularly abusive and aggressive in a telephone call to Investigations Manager, Mr Simon McLean. You used a considerable amount of bad language. This was also a breach of GAR 156(f)(ii).

FINDINGS

You were served with a Notification of Suspension on 25 October 2022 and a Notice of Suspension on 28 October 2022. That has been operative since that date.

Further, in a hearing before this Tribunal on 23 November 2022 you were suspended until 1 April 2023. That was for charges not related to the present offences and which had occurred in February of 2022. In addition to financial penalties, you were suspended as above. We are not of the view that these matters constitute prior offences for the purposes of the present case, as the offending occurred prior to that with which we are now dealing.

However, the period of suspension imposed was operative during the period when you had already been suspended by the Stewards, as set out above, and had been so suspended in relation to your behaviour, the subject of the present cases. Thus, we are of the view that we can take into account the fact that, between 23 November 2022 and 1 April 2023 you were in fact serving a period of suspension for matters not related to the present case.

We would also refer to the recent Ruling handed down in the matter of the GRV Stewards v Calven Russell. The situation in relation to “penalty time served” would appear to be that you have already served by way of a penalty of suspension for the present charges the period from 25 October 2022 to 23 November 2022 and the period of 2 April 2023 to date.

You were suspended for reasons not associated with the present case from 23 November 2022 until 1 April 2023. We do not take that into account.

We are also of the view that the periods of suspension from 25 October 2022 and from 2 April 2023 to this date constitute periods that can be taken into account, as they are periods of suspension imposed in relation to the present case. In general terms, we would refer to the Ruling in Russell and the concept of “Renzella time”.

Thus, our final view is that, as stated, we take the periods of suspension from 25 October 2022 until 23 November 2022 and from 2 April 2023 to date into account when arriving at a penalty for the present case. That is so whether the penalty now imposed is one of suspension or disqualification. We appreciate that the effects of these penalties are not identical, those of

disqualification being more onerous. However, in the circumstances of the present case we are of the view that “time served” should be taken into account, particularly bearing in mind that it is your stated intention not to return to any direct involvement in the industry by way of ownership or training, whatever the outcome may be.

In short, we are of the opinion that the periods of suspension from 25 October 2022 until 23 November 2022 and from 2 April 2023 to date should be taken into account and the effective date of commencement of any period of suspension or disqualification should reflect this.

Turning to your situation, you are aged 75 years. You are not in good health. You have been a licensed public trainer for some decades and have been involved and interested in the industry for approximately fifty years. Whilst you have been penalised for previous offences of offensive conduct and inappropriate language, you do not have a record of substantial prior convictions of any great magnitude.

We also take into account your guilty pleas in relation to the offences now under consideration.

In our opinion, and taking into account all of the circumstances and the magnitude of the offending, the present case involves serious offending. The imposition of a period of disqualification is warranted. The offences strike at the heart of the administration of the industry and the work performed by the Stewards and the industry staff. Their work is difficult enough without having to endure repeated aggression and abuse, at the track, when visiting kennels, or when carrying out their day-to-day duties.

We have arrived at the following conclusion. We repeat that the commencement date for periods of disqualification are from 25 October 2022 to 23 November 2022 and from 2 April 2023 to date and continuing. Those periods are cumulative.

On Charge 1, you are disqualified for 3 months. Behaviour such as that at the track and towards a Steward is not to be tolerated.

On Charge 2, you are disqualified for 4 months. When Stewards have gone to the trouble of visiting you at your kennels, they should not be treated in such a fashion, involving abuse and lack of co-operation.

On Charge 3, you are disqualified for 6 months. Failure to attend an inquiry shows contempt for the Stewards involved, as well for the administration processes of the industry. It also causes considerable inconvenience.

On Charge 4, you are disqualified for 6 months. Wilful disobedience in relation to telephone contacts and lawful orders shows a contempt for the Stewards and the industry.

On Charge 5, you are disqualified for 6 months. The observation concerning Charge 4 are again relevant.

On Charge 6, you are disqualified for 3 months. As previously stated in relation to Charge 1, aggression and bad language over the telephone to a Steward is not to be tolerated.

Thus, you are disqualified for a total period of 28 months. That period of disqualification is to commence as at 25 October 2022 until 23 November 2022 and from 2 April 2023 to date and continuing.

Mark Howard
Registrar, Victorian Racing Tribunal

14 September 2023

RULING**RACING VICTORIA****and****FRANK MEYER**

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3. During your interaction with Steward in Charge Max HAYDEN-EVANS your behaviour, demeanour and language was aggressive including pointing your finger towards Stewards, which individually and altogether, was contemptuous, unseemly, improper and insulting towards HAYDEN-EVANS:
4. Mr HAYDEN-EVANS is a steward of the Controlling Body – GRV.
5. GAR 165 (c) (iv) is a Serious Offence.

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4. GAR 156 (h) is a Serious Offence.

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5. Your conduct towards MCLEAN constitutes misconduct.
6. GAR 156 (f) (ii) is a Serious Offence.

Pleas: Guilty to all charges.

RULING

A question of law has arisen in relation to the issue of penalty in this matter, in which the evidence has concluded. Mr Meyer has pleaded guilty to six charges, which could be summarised as being improper conduct towards Stewards; failing to attend a Stewards' inquiry; disobeying an order of the Stewards; and misconduct (three charges).

A plea hearing has commenced. Ms Yana Podolskaya appeared on behalf of Greyhound Racing Victoria ("GRV"). Mr Kelvin Noonan of Noonans Lawyers appeared on behalf of Mr Meyer. A potentially contentious point has arisen. In my opinion it involves a question of law. Pursuant to section 50X of the *Racing Act 1958*, questions of law can only be decided by the Chairperson or a Deputy Chairperson. Accordingly, whilst Dr Gould and myself conducted the hearing of this matter, only I can decide the question of law. However, Dr Gould has been of invaluable assistance during the conduct of the case.

The question of law is this. When a person is suspended or disqualified by the Stewards after the occurrence of an alleged offence, but prior to any penalty being imposed by this Tribunal, should the time "already served" be taken into account when that penalty is so imposed?

The matter has the potential for further complication if, as occurred here, virtually immediate suspension was imposed by the Stewards and has been in place for some months, but the penalty to be imposed by this Tribunal clearly includes the option of disqualification, as opposed to suspension.

If this were a matter of criminal law, the situation would be comparatively clear. I refer to the decision in *RV v Renzella* [1997] 2 VR 88. The Court of Appeal effectively determined that a sentencing court has inherent jurisdiction to take pre-sentence detention into account when sentencing an offender and that, if the court exercises that power, the pre-sentence detention should be so taken into account at the first opportunity.

Of course, in the present situation we are not dealing with a criminal situation, but nevertheless the decision in *Renzella* is of some assistance as to the general approach to be adopted.

I am of the view that this Tribunal at least has the option of taking into account "time served". That the Tribunal has such a discretion does seem to me to be apparent. Indeed, in her written submissions, Ms Podolskaya referred to GAR 176 and stated, quite accurately, that the discretion which lay with the Controlling Body or the Stewards now lies with the Tribunal. It then becomes a question as to how that discretion is exercised.

The situation is complicated by the existence of two relevant types of penalties – suspension or disqualification. I leave to one side fines. In *Renzella* effectively there was only one category of punishment or penalty being considered – detention in custody.

In the present case, the “time served” to date has been by reason of suspension. However, the penalty option of disqualification is still on the table. If it is found that disqualification is the appropriate penalty, and noting that this carries with it greater restrictions than does suspension, how does the period of suspension already served fit in with the concept of “time served” and the *Renzella* approach?

Logic would seem to suggest that there should be some allowance made for it. Ms Podolskaya in her oral submissions made references to a period of credit and correctly described the situation as “most uncommon”.

The bottom line seems to me to be this. As indicated above, I am of the opinion that, in a situation such as this, as a matter of fairness “time served” is something which should be taken into account. In general terms, the “*Renzella* time” approach should be adopted.

How it operates in this particular case, where potentially there are two different categories of penalty involved, is another matter and may require further discussion.

Mark Howard
Registrar, Victorian Racing Tribunal