

9 May 2024

## **DECISION**

### **GREYHOUND RACING VICTORIA**

**and**

### **ADRIAN SMIT**

- Date of hearing:** 15 March 2024
- Panel:** Judge Marilyn Harbison (Deputy Chairperson) and Dr Andrew Gould.
- Appearances:** Ms Amara Hughes, instructed by Mr Anthony Pearce, appeared on behalf of the Stewards.  
Mr Adrian Smit represented himself.
- Charges:** Greyhounds Australasia Rule (“GAR”) 21(2) states:  
(2) A person must exercise the care and supervision necessary to prevent a greyhound under the person's care or custody from being subjected to unnecessary pain or suffering, or from anything which is likely to lead to unnecessary pain or suffering.
- GAR 21(1)(d) states:  
(1) A person must ensure that any greyhound in the person's care or custody, is at all times provided with:  
(d) veterinary attention when necessary.
- GAR 21(3) states:  
(3) A person shall not cause or permit, on any premises owned or occupied by that person, any condition that is likely to be dangerous to the health, welfare or safety of that greyhound.
- GAR 21(1)(c) states:  
(1) A person must ensure that any greyhound in the person's care or custody, is at all times provided with:  
(c) kennels constructed and of a standard approved by a Controlling Body which are adequate in size and which are kept in a clean and sanitary condition.

GAR 21(1)(a) states:

(1) A person must ensure that any greyhound in the person's care or custody, is at all times provided with:

(a) proper and sufficient food, drink and protective apparel.

GAR 156(h) states:

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.

GAR 34(7)(a) states:

(7) If a trainer or owner proposes to leave a greyhound trained by that person in the control of another trainer or attendant (who must not be a minor) for any period:

(a) the trainer or owner must in writing seek permission from a Controlling Body to leave a greyhound trained or owned by that person in the control of a person nominated by the trainer or owner, and specify the period during which the person seeks permission for the greyhound to be left with that person.

**Particulars:**

**Charge 1: GAR 21(2)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 217047) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. At all relevant times, you had the greyhounds, "What's Her Name" (VDUHP), "Back Jack" (VGKUV), Un-named (VHGRD), "Luna Chick" (VGAJM), Un-named (VGKUX), "My Uncle Bob" (VIJRR) and Un-named (VHGRB) 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) A Stewards inspection of your registered premises on 6 and 7 September 2022 found that the abovementioned greyhounds,

following examination by a veterinarian, were experiencing veterinary and husbandry issues, which included:

- Poor body condition.
- Coats matted with faeces.
- Pressure sores.
- Bleeding tail tip.
- Periodontal disease.
- Severe muscle wastage.

(b) A Stewards inspection of your registered premises on 6 and 7 September 2022 found that the abovementioned greyhounds were subject to conditions that did not comply with the 'Code of Practice for the Keeping of Racing Greyhounds 2018', which included:

- No bedding.
- No drinking water.
- Insufficient exercise and behavioural and environmental enrichment.
- Being housed permanently in a dog transport trailer.

**Charge 2: GAR 21(1)(d)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 217047) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. At all relevant times, you had the greyhounds, "What's Her Name" (VDUHP), "Back Jack" (VGKUV), Un-named (VHGRD), "Luna Chick" (VGAJM), Un-named (VGKUX), "My Uncle Bob" (VIJRR) and Un-named (VHGRB) in your care and custody.

3. A Stewards inspection of your registered premises on 6 and 7 September 2022 found that the abovementioned greyhounds, following examination by a veterinarian, were experiencing veterinary and husbandry issues that required veterinary attention, which included:

- Poor body condition.
- Pressure sores.
- Bleeding tail tip.
- Periodontal disease.
- Severe muscle wastage.

4. You failed to ensure that the abovementioned greyhounds, which were in your care and custody, were provided with veterinary attention when necessary.

**Charge 3: GAR 21(3)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 217047) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Longford, Victoria (registered premises).

3. On 6 and 7 September 2022 inspections conducted on your registered premises established that you caused or permitted conditions at this premises likely to be dangerous to the health, welfare or safety of that greyhound, in that:

(a) 7 Greyhounds were being housed permanently in a dog transport trailer.

(b) Greyhounds located in the trailer were in poor condition, some with body scores of 0.5-1.0.

(c) A deceased greyhound was located behind a refrigerated trailer.

(d) Approximately 20 kennels with a strong odour of urine and ammonia.

(e) Approximately 20 indoor kennels in a poor sanitary condition, with faeces and urine.

(f) Approximately 20 greyhounds housed with insufficient bedding.

(g) No (or insufficient) fresh and clean drinking water for approximately 23 greyhounds.

**Charge 4: GAR 21(1)(c)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 217047) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Longford, Victoria (registered premises).

3. A kennel inspection on 6 September 2022 identified a failure to provide the greyhounds in your care and 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:

- 7 greyhounds housed in kennels of insufficient size namely within a dog transport trailer.
- Approximately 20 kennels had a strong odour of urine and ammonia.
- Approximately 20 indoor kennels in a poor sanitary condition, with faeces and urine.

- Approximately 20 greyhounds housed with insufficient bedding.
- Workbenches in the meal preparation area were covered in dirt, meat products, blood and grime.
- Approximately 20 greyhounds laying on worn and dirty blankets and bedding that was in poor condition.

**Charge 5: GAR 21(1)(a)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 217047) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Longford, Victoria (registered premises).
3. On 6 September 2022 an inspection was conducted at your premises where it was found that approximately 23 greyhounds in your care or custody were not provided with proper and sufficient drink.

**Charge 6: GAR 156(h)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 217047) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 21 of September 2022, you were issued with a Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 28 September 2022, your kennels located in Longford, Victoria complied with the 'Code of Practice for the Keeping of Racing Greyhounds', in particular, all aspects of:
  - (a) Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
  - (b) Section 6.7.2, Minimum housing requirements.

(c) Section 6.7.7, Construction of indoor kennel facilities.

3. This Lawful Order was explained to you verbally at the property and then later emailed to your GRV registered email address.

4. You failed to comply with the Lawful Order of the Stewards and did not provide evidence as requested. Items not complied with included:

(a) The kennels in all the outdoor yards did not have sufficient and adequate bedding.

(b) Half of the yards in the north east area still did not have shading.

(c) The outdoor yards to the north of the house still did not have shading.

(d) The greyhounds in the outdoor yards to the north and the north east did not have kennels that were compliant in size.

**Charge 7: GAR 34(7)(a)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 217047) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Longford, Victoria (registered premises).

3. You did fail to seek permission in writing from the Controlling Body (GRV) to leave your greyhounds in control of another trainer or attendant for a specified period of time.

4. You also failed to notify the Controlling Body (GRV) that you would be out of the Country and holidaying in Bali for two (2) weeks.

5. GRV Investigative Stewards attended your registered property on 30 November 2022 where they found you had left

Australia and were on holidays in Bali for a period of two (2) weeks without notifying them of this.

**Charge 8: GAR 21(1)(c)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 217047) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Longford, Victoria (registered premises).

3. A kennel inspection on 30 September 2022 identified a failure to provide the greyhounds in your care and 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:

- Greyhounds housed with insufficient or no bedding.
- Greyhounds were housed in kennels of insufficient size for the number of greyhounds using them, including seven greyhounds being kept in an outdoor yard with a small kennel (approx. 1.5m x 2m) with no bedding.

**Charge 9: GAR 21(1)(a)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 217047) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Longford, Victoria (registered premises).



3. On 30 November 2022 an inspection was conducted at your premises where it was found that two greyhounds in your care or custody were not provided with proper and sufficient drink.

**Pleas:** Guilty to Charges 1 – 5, 7 and 9.

Charges 6 and 8 withdrawn by the Stewards.

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## **DECISION**

1. Mr Adrian Smit has been a greyhound trainer for 10 years. He lives in Longford, a short distance from Sale. He is an owner and trainer and has, at any one time, between 100 and 130 greyhounds at his property.
2. On 6 September 2022, his property was inspected by Stewards. The inspection was extensive and ended up taking two days, 6 and 7 September 2022. The Stewards had become concerned about the manner in which he kept his greyhounds, having regard to a complaint which they had received.
3. When they arrived, they inspected a dog transport trailer and ascertained that seven greyhounds were living inside that trailer and that several of them were in poor condition. In addition, there was a dead dog found behind the trailer.
4. The dogs which we have described so far, with the exception of one female, were not owned by Mr Smit, but were instead owned by a friend of his, Mr Brian Toner, who he had allowed to live at the property. That friend had brought his greyhounds with him. There was no room in Mr Smit's kennels for those dogs and so they were kept in the trailer. They were kept in that way for a period of several months prior to the inspection.
5. Mr Smit was not charged as the owner or trainer of any of the greyhounds which belonged to Mr Toner. Instead, he has been charged as a person who had the care and control of those greyhounds. At the time of the inspection, Mr Toner was in hospital and unable to care for the greyhounds himself. Mr Toner had not advised Mr Smit of this directly. Instead, he had asked one of the workers at Mr Smit's property to take care of those greyhounds whilst he was unable to do so. In effect, Mr Smit acted towards those greyhounds as a person having the care and control of them because of the absence of Mr Toner.
6. At the time of the inspection on 6 and 7 September 2022, the Stewards also noticed that several of Mr Smit's own greyhounds were being housed in an inappropriate manner. There were many different kennels on the property. There were also toileting yards and

indoor and outdoor pens. There was overcrowding of dogs in the pens and a general lack of shelter, water, and bedding. In particular, the Stewards found eight of Mr Smit's own greyhounds were located in small external toileting yards with no water, bedding or shelter.

7. One kennel described as the "red kennel block" contained workbenches, which were very dirty and unhygienic. Several outdoor pens were very dirty with faeces and did not appear to have been cleaned.
8. Due to what had been found on the first day of the inspection, the Stewards issued a Directions Notice to Mr Smit. This required him immediately to provide fresh clean drinking water to all greyhounds on the property and make himself available for a full property inspection on 7 September 2022. There was compliance with this order, but not with a further order made on 21 September 2022 was not complied with.
9. When the Stewards returned on 30 September 2022, there had been some attempt made to comply with the second Directions Notice, but they still observed outdoor kennels without bedding or access to sufficient shade.
10. The Stewards made a further kennel inspection on 30 November 2022. This was again as a response to information given to the Stewards. The matters observed by the Stewards on that day are the subject matter of Charges 7 and 9. In their brief, they referred to dirty yards, yards without access to clean water or to adequate shade. One dog had injuries consistent with a dog attack and there was no evidence that it had received any veterinary attention.
11. On that occasion, Mr Smit was not present, as he was overseas in Bali for a fortnight. He had not left any registered person in charge of the property or the greyhounds in his absence.
12. The state in which the dogs belonging to Mr Toner were found by the Stewards was shocking. A report from Dr Madonna Butler, a veterinarian who visited the premises on both 6 and 7 December 2022, is relevant. She said "In my opinion, the husbandry practices and overall conditions provided for greyhounds one to six and eight in a transport trailer for several months was detrimental and dangerous to the mental and physical health and welfare of these greyhounds. These conditions posed a great risk for potential injury or illness, pain and suffering, and poor welfare outcomes for any greyhound treated in such a manner".

13. Dr Buiters described the level of care as grossly inadequate and expressed the view that the dogs had been exposed to unnecessary pain and suffering due to prolonged neglect. In her opinion, this was likely to have contributed to the death of the greyhound.
14. Mr. Smit told us that he was very reluctant to allow his friend to move into his property or to allow his dogs to be kept there. He said that he did so only out of sympathy for his friend, who had been homeless and then had significant illness requiring hospitalisation. Mr Smit pointed out that he was actively trying to have Mr Toner's greyhounds accepted into a Greyhound Adoption Program ("GAP"), even before the Stewards visit. He said that he had left his own worker to check the dogs and felt that he had done all that he could to try to ease the situation.
15. During the course of the hearing, it became apparent that Mr Smit had quite reasonable explanations for many of the infringements noticed by the Stewards. He had the care of the greyhounds which were the subject of Charges 1 and 2 for only two days. The owner had fallen ill and been taken to hospital. As soon as he found out, Mr Smit tried to have the dogs put into the care of GAP and arranged for them to be fed and watered.
16. Mr Smit had not removed the carcass of the dog that had died as he was awaiting instructions from Greyhound Racing Victoria ("GRV").
17. In relation to the charges relating to the kennelling conditions of his own dogs, Mr Smit told us that he was experiencing difficulties in getting adequate bedding because of a shortage of straw in the Sale area. He had experimented with using woollen bedding from his farm, but had been told not to use animal products. The Stewards inspected the kennels before his morning round of checking and filling water bowls.
18. Mr Smit's own kennels smelt because waste from dogs defecation and urination was temporarily piled near to the kennels, not inside them. One kennel had no water as it housed dogs which had just been relocated there to await immediate transport to owners. Mr Smit had obtained veterinary attention for his own dog which was attacked and had been regularly treating its wounds.
19. We were persuaded from his evidence that Mr Smit was essentially an honest and responsible trainer and that he had done his best in difficult circumstances. The veracity of this evidence is reflected in the fact that the Stewards applied, at the end of the hearing, to withdraw Charges 6 and 8 and to significantly amend the particulars of the charges that remained.
20. In sentencing Mr Smit, we are very much aware of the importance of general and specific deterrence. However, we accept, and the Stewards concede, that due weight must be

given to his plea of guilty, his co-operation with the Stewards, and the particular circumstances in which he found himself at the time of the Stewards' inspection.

21. We do note that the level of health of Mr Smit's own greyhounds was not a concern, although he clearly also failed to provide adequate housing conditions in some respects for those greyhounds. It is very important that in our sentence we signal to other greyhound owners and trainers or persons who may not come into that category, but who have the care and control of greyhounds, that lack of attention to the welfare of dogs will be treated very seriously indeed.
22. Taking into account all of the evidence that we have heard, we impose the following penalties:
  - Charge 1: 18 months disqualification with 12 months suspended for 12 months.
  - Charge 2: 6 months disqualification which is wholly suspended for 12 months. This penalty is to be served concurrently with the penalty imposed on Charge 1.
  - Charge 3: 12 months disqualification which is wholly suspended for 12 months. This penalty is to be served concurrently with the penalty imposed on Charge 1.
  - Charge 4: 6 months disqualification. This penalty is to be served concurrently with the penalty imposed on Charge 3.
  - Charge 5: \$1,000 fine with \$500 suspended for 12 months.
  - Charge 7: \$1,000 fine with \$500 suspended for 12 months.
  - Charge 9: \$1,000 fine with \$500 suspended for 12 months.
23. Thus, the total penalty is two years disqualification, with 18 months of that period suspended for 12 months, an effective sum of \$1,500 with the balance suspended for 12 months. The six month disqualification is to commence immediately.

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Kathleen Scully  
Assistant Registrar, Victorian Racing Tribunal