

9 May 2024

DECISION

GREYHOUND RACING VICTORIA

and

BRENT MERTON

Date of hearing: 17 April 2024

Date of decision: 17 April 2024

Panel: Judge Marilyn Harbison (Deputy Chairperson), Mr Des Gleeson and Ms Danielle Hikri.

Appearances: Mr Timothy Brook appeared on behalf of the Stewards.
Mr Brent Merton represented himself.

Charges and particulars: **Charge No. 1 of 6**

Greyhounds Australasia Rule **21 (1) (c)**, reads as follows:

21 Proper care for and welfare of greyhounds

(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;

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 316950) 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, namely, 2425 Northern Hwy, Kilmore VIC 3764, **(Premises)**.

3. Between 18 January 2023 and 26 April 2023, GRIU Investigative Stewards attended the premises and identified a failure 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', which included;
- The cement floor does not have adequate drainage, allowing for liquids to pool and does not permit adequate drainage of fluids. The ground was visibly wet. Pools of liquid believed to be urine were sighted. The floor was not impervious to liquids.
 - There was a build-up of faeces, dirt, and grime throughout several pens housing greyhounds.
 - The odour of urine and ammonia was overpowering.
 - Poor ventilation - There was only a single door offering ventilation. There was poor air flow and a lack of natural light.
 - Bedding - Greyhounds were sighted laying in broken beds directly on the cement floor. Bedding had visible signs of dirt and grime build-up. They were not clean and dry.
 - Screens - most pens did not have privacy screens at least 1 meter high between each greyhound's sleeping area.
 - Yards did not have adequate weatherproof area. Greyhounds housing did not afford greyhounds adequate protection from the elements.
 - Yard housing units had fully open sides, exposing greyhounds to the elements.
 - Yards had considerable amounts of faeces.
 - The majority of yards had insufficient shading.
 - Insufficient clean freshwater for approximately 50% of the greyhounds housed in the outside yards. Water receptacles were empty.
 - Yard bedding - Greyhounds were sighted laying directly on the ground, in dirt and mud. Greyhounds within the outside yards did not have clean, soft raised bedding.
 - Greyhounds were housed in outdoor yards which were insufficient in size.

Charge No. 2 of 6

Greyhounds Australasia Rule **21 (3)** reads as follows:

21 Proper care for and welfare of greyhounds

(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

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 316950) 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, namely, 2425 Northern Hwy, Kilmore VIC 3764, **(Premises)**.
3. Between 18 January 2023 and 26 April 2023, GRIU Investigative Stewards attended the premises and established that you caused or permitted on the premises any condition that is likely to be dangerous to the health, welfare or safety of greyhounds, which included:
 - No evidence of environmental enrichment provided to the greyhounds.
 - Areas around kennels and elsewhere on the premises strewn with household rubbish and equipment.
 - Many of the enclosures had deep holes and exposed metal.
 - The cement floor did not have adequate drainage, allowing for liquids to pool and does not permit adequate drainage of fluids. The ground was visibility wet. Pools of liquid believed to be urine sighted. The floor was not impervious to liquids.
 - There was a build-up of faces, dirt, and grime throughout several pens housing greyhounds.
 - The odour of urine and ammonia was overpowering.
 - Poor ventilation - There was only a single door offering ventilation. There was poor air flow and a lack of natural light.
 - Bedding - Greyhounds were sighted laying in broken beds directly on the cement floor. Bedding had visible signs of dirt and grime build-up. They were not clean and dry.
 - Screens - most pens did not have privacy screens at least 1 meter high between each greyhound's sleeping area.
 - Yards did not have adequate weatherproof area. Greyhounds housing did not afford greyhounds adequate protection from the elements.
 - Yard housing units had fully open sides, exposing greyhounds to the elements.

- Yards had considerable amounts of faeces.
- The majority of yards had insufficient shading.
- Insufficient clean freshwater for approximately 50% of the greyhounds housed in the outside yards. Water receptacles were empty.
- Yard bedding - Greyhounds were sighted laying directly on the ground, in dirt and mud. Greyhounds within the outside yards did not have clean, soft raised bedding.
- Greyhounds were housed in outdoor yards which were insufficient in size.

Charge No. 3 of 6

Greyhounds Australasia Rule **21 (1) (a)**, reads as follows:

21 Proper care for and welfare of greyhounds

(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;

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 316950) 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, namely, 2425 Northern Hwy, Kilmore VIC 3764, **(Premises)**.
3. Between 18 January 2023 and 26 April 2023, GRIU Investigative Stewards attended the premises and conducted inspections at your premises where it was found that the greyhounds in your care or custody were not, at all times, provided with proper and sufficient drink, which included:
 - 50% of greyhounds did not have significant fresh clean water.
 - Water containers were empty.
 - Water which was dark green in colour with notable signs of algae and dirt.

Charge No. 4 of 6

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

156 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. 316950) 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, namely, 2425 Northern Hwy, Kilmore VIC 3764, **(Premises)**.
3. On 19th of January 2023, you were issued with Lawful Orders by a Steward by way of Directions Notices which directed you, to ensure by 9th of April 2023 your kennels located at 2425 Northern Hwy, Kilmore VIC 3764 complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', 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 6.7.6, Construction of housing pens and yards
 - d. Section 6.7.7, Construction of indoor kennel facilities.
4. Following several extensions of time to comply with the orders, you failed to ensure your kennels complied with the Code of Practice as directed. Items not complied with included:
 - The cement floor did not have adequate drainage, allowing for liquids to pool and did not permit adequate drainage of fluids. The floor was not impervious to liquids.
 - There was a build-up of faeces, dirt, and grime throughout several pens housing greyhounds.
 - Poor ventilation - There was only a single door offering ventilation. There was poor air flow and a lack of natural light.
 - Bedding - Greyhounds were sighted laying in broken beds directly on the cement floor. Bedding had visible signs of dirt and grime build-up. They were not clean and dry.

- Screens - most pens did not have privacy screens at least 1 meter high between each greyhound's sleeping area.
- Yards did not have adequate weatherproof area. Greyhounds housing did not afford greyhounds adequate protection from the elements.
- Yard housing units had fully open sides, exposing greyhounds to the elements.
- The majority of yards had insufficient shading.
- Yard bedding - Greyhounds were sighted laying directing on the ground, in dirt and mud. Greyhounds within the outside yards did not have clean, soft raised bedding.
- Greyhounds were housed in outdoor yards which were insignificant in size.

5. You failed to comply with the Lawful Order of a Steward in relation to greyhound racing.

Charge No. 5 of 6

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

156 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. 316950) 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, namely, 2425 Northern Hwy, Kilmore VIC 3764, **(Premises)**.
3. On 9th of March 2023, you were issued with Lawful Orders by a Steward by way of Directions Notices which directed you, to ensure by 9th of April 2023 your kennels located at 2425 Northern Hwy, Kilmore VIC 3764 complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:
 - e. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
 - f. Section 6.7.2, Minimum housing requirements.

- g. Section 6.7.6, Construction of housing pens and yards
 - h. Section 6.7.7, Construction of indoor kennel facilities.
4. Following several extensions of time to comply with the orders, you failed to ensure your kennels complied with the Code of Practice as directed. Items not complied with included:
- The cement floor did not have adequate drainage, allowing for liquids to pool and did not permit adequate drainage of fluids. The floor was not impervious to liquids.
 - There was a build-up of feces, dirt, and grime throughout several pens housing greyhounds.
 - Poor ventilation - There was only a single door offering ventilation. There was poor air flow and a lack of natural light.
 - Bedding - Greyhounds were sighted laying in broken beds directly on the cement floor. Bedding had visible signs of dirt and grime build-up. They were not clean and dry.
 - Screens - most pens did not have privacy screens at least 1 meter high between each greyhound's sleeping area.
 - Yards did not have adequate weatherproof area. Greyhounds housing did not afford greyhounds adequate protection from the elements.
 - Yard housing units had fully open sides, exposing greyhounds to the elements.
 - The majority of yards had insufficient shading.
 - Yard bedding - Greyhounds were sighted laying directly on the ground, in dirt and mud. Greyhounds within the outside yards did not have clean, soft raised bedding.
 - Greyhounds were housed in outdoor yards which were insignificant in size.
5. You failed to comply with the Lawful Order of a Steward in relation to greyhound racing.

Charge No. 6 of 6

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

156 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. 316950) 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, namely, 2425 Northern Hwy, Kilmore VIC 3764, **(Premises)**.
3. On 19th of April 2023, you were issued with Lawful Orders by a Steward by way of Directions Notices which directed you, to ensure by 26th of April 2023 your kennels located at 2425 Northern Hwy, Kilmore VIC 3764 complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:
 - i. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
 - j. Section 6.7.2, Minimum housing requirements.
 - k. Section 6.7.6, Construction of housing pens and yards
 - l. Section 6.7.7, Construction of indoor kennel facilities.
4. Following several extensions of time to comply with the orders, you failed to ensure your kennels complied with the Code of Practice as directed. Items not complied with included:
 - The cement floor did not have adequate drainage, allowing for liquids to pool and did not permit adequate drainage of fluids. The floor was not impervious to liquids.
 - There was a build-up of faeces, dirt, and grime throughout several pens housing greyhounds.
 - Poor ventilation - There was only a single door offering ventilation. There was poor air flow and a lack of natural light.
 - Bedding - Greyhounds were sighted laying in broken beds directly on the cement floor. Bedding had visible signs of dirt and grime build-up. They were not clean and dry.
 - Screens - most pens did not have privacy screens at least 1 meter high between each greyhound's sleeping area.
 - Yards did not have adequate weatherproof area. Greyhounds housing did not afford greyhounds adequate protection from the elements.
 - Yard housing units had fully open sides, exposing greyhounds to the elements.
 - The majority of yards had insufficient shading.

- Yard bedding - Greyhounds were sighted laying directly on the ground, in dirt and mud. Greyhounds within the outside yards did not have clean, soft raised bedding.
 - Greyhounds were housed in outdoor yards which were insignificant in size.
5. You failed to comply with the Lawful Order of a Steward in relation to greyhound racing.

Plea: Guilty to all charges.

DECISION

1. Mr Brent Merton has been an owner and trainer for 6 years. He owns kennels in Kilmore, where he trains between 20 and 30 greyhounds at any one time. He has a mixture of indoor and outdoor kennels.
2. The state of his kennels came to the attention of GRV in early 2023 and three separate inspections took place at those premises in January, March and April of that year.
3. On each occasion, the Stewards found significant breaches of the Rules and Code of Practice requiring trainers to provide proper care and welfare to greyhounds. There were three particular aspects which were first noted by the Stewards in January of 2023 and which had still not been rectified at the time of the last visit of Stewards on 26 April 2023.
4. The Stewards noticed generally poor facilities in all of the kennels on this property. There was very poor bedding in the indoor kennels and the kennels themselves were unclean, with considerable amounts of uncollected faeces. There were no privacy screens between each greyhound's sleeping area. The kennels were not secure. One indoor kennel complex was so dark that at least one of the dogs could not be seen at first glance on inspection. The evidence was that the dogs lived in this state of darkness during the day and the night. The concrete floors had blocked drains, allowing water to pool inside the kennels.
5. The outdoor kennels were in a similar condition and did not have any adequate weatherproof areas. Some greyhounds had no protection at all from the elements. Those areas of shelter which existed were very small and there was vegetation around the property and against the outdoor pens, which facilitated the entry of vermin into the kennels. Thorny blackberries protruded into the kennels. The floors of the outside kennels were constructed of dirt and were strewn with refuse.
6. The meal preparation area of the kennels was very dirty and the Stewards could hear rats scurrying around that area.

7. In brief, the complaints against Mr Merton in the first charge are that his kennels were not adequate in size or clean and sanitary.
8. The second aspect is that he permitted the kennels to be in such a condition that they were dangerous to the health, welfare and safety of the greyhounds. This is the subject matter of charge two. The basis of this charge is that, taking the housing conditions of the dogs as a whole, the dogs were provided with such a low quality of life, both physically and mentally, that the mental and physical health of the dogs was at risk. This charge requires a subjective assessment to be made of the impact on the greyhounds under Mr Merton's care of the combined deficiencies alleged in Charge 1. It is a more serious charge than Charge 1, and is indeed the most serious charge that Mr Merton faces today.
9. The third aspect was that Mr Merton did not provide sufficient fresh drinking water to the dogs. Many of the drinking bowls were empty. Those which were not contained dirty or green water. This was the subject matter of Charge 3.
10. The Stewards issued a direction on three separate occasions relating to these matters, requiring Mr Merton to rectify them. Mr Merton did not comply with these orders. His disobedience with the order made on 19 January 2023 is the subject matter of Charge 4. His disobedience with the order on 9 March 2023 is the subject matter of Charge 5. His disobedience with the order made on 19 April 2023 is the subject matter of Charge 6.
11. When Mr Merton was asked for his reasons for keeping his dogs in such a condition, he said that he was trying to clean them up. He thought that the state of the kennels was not an issue, but accepted the Stewards criticisms. Generally, his response was that he did not have the money to provide proper conditions or proper food for his greyhounds. He said that, as soon as he had money, he would be putting the kennels into proper condition again.
12. GRV submitted a report from Dr Edward Alvares, a veterinary surgeon employed at GRV, who visited Mr Merton's premises on 26 April 2023. He detailed the condition of the premises as at the time of that visit. He described the property as being derelict, with rubbish strewn around the property. He identified several of Mr Merton's dogs with poor body condition. He said that generally the racing greyhounds were in ideal body condition score and appeared to be cared for and had better body coats than the other greyhounds on the property, although they were also housed in very poor conditions. It appeared that Mr Merton had been feeding the racing greyhounds appropriately, but neglecting to provide sufficient feed to the retired greyhounds, although Mr Merton denied at the hearing that this was the case. Dr Alvares said that, in his opinion, there had been a failure to provide the most basic care to the greyhounds in Mr Merton's care by reason of inadequate husbandry practices and by denying those greyhounds adequate nutrition.
13. We were also provided with a report from Dr Madonna Buiters, the Acting Chief Veterinarian of GRV. She provided details of notices to the industry published by GRV as

to minimum standards of care and requirements for the keeping of greyhounds. She also outlined the failure of Mr Merton to comply with three notices which had been given to him in relation to improving those standards of care. Her report mirrored the observations in the report from Dr Alvares. She did not visit the premises herself. We also were provided with significant number of photographs taken at the time of inspection of the kennels.

14. As a result of his failure to comply with the notices, thirteen of Mr Merton's greyhounds were removed from his care by the Stewards. He was provided with quality kibble, raised bedding and protective apparel for each greyhound left in his care.
15. We pause here to record that it was Mr Merton himself who alerted GRV to the state of his kennels and to his inability to care properly for or feed the greyhounds in his care. He had been struggling financially for quite some time. He had no outside employment. He was bringing up two daughters as a widower, and looking after his elderly mother. He had sold his home, but was gradually spending all the proceeds of sale and had been reduced to selling chattels to survive. He did not know where to turn and had contacted GRV as a last resort, having run out of all other options.
16. We consider the conditions under which Mr Merton kept his greyhounds to have been truly shocking. The photos are graphic. It is of the utmost importance to the reputation of the industry that dogs are cared for well. Lack of finances is no excuse for neglect. It is not acceptable for a person to keep greyhounds if they cannot afford to do so. Mr Merton agreed at the hearing that he had taken on too many greyhounds, hoping to finance the keeping of the greyhounds through his involvement in the industry.
17. Mr Merton has pleaded guilty to each one of these charges. He has been a trainer since 2018 and an owner since 2017. In this relatively short time he has been dealt with by the Stewards on twenty four occasions for minor breaches of the Rules. None of the matters have been as serious as the charges before us, and none involve welfare breaches, but we are concerned that this history may show a lack of respect for the Rules of Racing. In this context, we note that over the course of this time he has suffered from severe mental health issues brought on by his failure to provide for his family and his dogs. The Stewards are sympathetic to his plight. We note Mr Merton's assurance to the Stewards that on this occasion his disobedience of the directions was a result of financial hardship, not out of a spirit of defiance. He was simply overwhelmed by the difficulties which he faced. We trust that this acceptance of responsibility continues into the future in his dealings with the Stewards. He has now taken on a full-time job as a truckdriver and is in the process of putting his life back into order.
18. Taking into account all of the matters which have been submitted to us, the penalties which we impose are as follows:

On Charge 1, that Mr Merton failed to provide proper care and welfare to his greyhounds by reason of not providing adequate kennels or clean sanitary facilities, the penalty which we impose is a 6 month disqualification.

On Charge 2, that Mr Merton failed to provide proper care and welfare to his greyhounds in that he permitted a condition likely to be dangerous to the health welfare and safety the animals to persist the penalty which we impose is a 12 month disqualification.

On Charge 3, that Mr Merton failed to provide proper care and welfare to his greyhounds by reason of not providing sufficient food drink and protective apparel, the penalty we impose is a 1 month disqualification.

On Charges 4, 5 and 6, which are charges of disobeying an order of the Stewards, the penalties we impose are as follows:

As to Charge 4 the penalty is – 6 months disqualification.

As to Charge 5 the penalty is – 6 months disqualification.

As to Charge 6 the penalty is – 6 months disqualification.

19. The Stewards argued for a longer penalty on the second charge. However, in setting the appropriate penalty we have had regard to the parlous position that Mr Merton found himself in, and his openness and honesty with the Stewards in trying to work towards a solution.
20. The Stewards also argued that charges 1, 2 and 3 should be served cumulatively. We disagree. Each of the charges before us arises from the same essential facts – the inability of Mr Merton to care for his greyhounds due to his family situation. Once in that situation, there was effectively no way that he could have complied with any notice to rectify the deficiencies, no matter how many notices were served on him. We therefore order that all of the penalties be served concurrently. This means an effective sentence of 12 months disqualification. That period of disqualification commences today.

Mark Howard
Registrar, Victorian Racing Tribunal