

5 August 2024

DECISION

GREYHOUND RACING VICTORIA

and

CALVEN RUSSELL

Date of hearing: 16 July 2024

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Panel: Judge Marilyn Harbison (Deputy Chairperson), Ms Judy Bourke and Ms Danielle Hikri.

Appearances: Ms Amara Hughes instructed by Ms Yana Podolskaya appeared on behalf of the Stewards.
Mr Calven Russell represented himself.

Charges and particulars: **Charge No. 1 of 2 (Brief 1)**

Greyhounds Australasia Rule 141(1) reads as follows:

Rule 141 Greyhound to be free of prohibited substances

(1) The owner, trainer or other person in charge of a greyhound:

(a) nominated to compete in an Event;

(b) presented for a satisfactory trial or such other trial as provided for by the Rules; or

(c) presented for any test or examination for the purpose of a stand-down period being varied or revoked,

must present the greyhound free of any prohibited substance.

Particulars of Charge

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhounds Australasia Rules.

2. You were, at all relevant times, the trainer of the greyhound "Sydney Showgirl".
3. "Sydney Showgirl" was nominated to compete in Race 7, THE EMERALD NOMS CLOSE 11AM FRIDAY, Grade 5, conducted by the Healesville Greyhound Racing Association at Healesville on 28 February 2023 (**the Event**).
4. On 28 February 2023, you presented "Sydney Showgirl" at the Event not free of any prohibited substance, given that:
 - (a) A post-race sample of urine was taken from "Sydney Showgirl" at the Event (**the Sample**);
 - (b) Guaifenesin was detected in the Sample.

Charge No. 2 of 2

Greyhounds Australasia Rule 151(1) reads as follows:

Rule 151 Treatment records to be kept

- (1) *The person in charge of a greyhound must keep and retain written records detailing all vaccinations, antiparasitics and treatments administered to the greyhound:*
 - (a) *from the time the greyhound enters their care until the greyhound leaves their care; and*
 - (b) *for a minimum of two years*
- (2) *If requested by a Controlling Body, a Steward, or an authorised person, the record/s of treatment referred to in subrule (1) of this rule must be produced for inspection.*
- (3) *Each record of treatment kept in accordance with this rule must be made by midnight on the day on which the treatment was given, and, as a minimum requirement, include the following information:*
 - (a) *the name of the greyhound;*
 - (b) *the date and time of administration of the treatment;*
 - (c) *the name of the treatment (brand name or active constituent);*
 - (d) *the route of administration;*
 - (e) *the amount given; and*
 - (f) *the name and signature of the person or persons administering and/or authorising the treatment.*

For the purpose of subrule (3), "day" means the 24-hour period from 12.00am to 11.59pm on any calendar day.

(4) An offence is committed if any person in charge of a greyhound at the relevant time fails to comply with any of subrules (1) to (3) of this rule.

(5) A person who commits an offence under subrule (4) of this rule may be penalised.

(6) For the purposes of this rule “treatment” includes:

(a) all Controlled Drugs (Schedule 8);

(b) all Prescription Animal Remedies and Prescription Only Medicines (Schedule 4);

(c) any injectable substance not already specified in this rule, notwithstanding the route of administration;

(d) all Pharmacist Only (Schedule 3) and Pharmacy Only (Schedule 2) medicines; and

(e) all veterinary and other medicines containing other scheduled or unscheduled prohibited substances.

Particulars of Charge

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhound Racing Victoria Rules of Racing.
2. On 4 April 2023, you failed to produce treatment records for inspection, upon request from Ms Roslyn Fazulla, a Steward and person authorised by the Controlling Body, for greyhounds for which you were the responsible person at the relevant time.

Charge No. 1 of 1 (Brief 2)

Greyhounds Australasia Rule 141(1) reads as follows:

Rule 141 Greyhound to be free of prohibited substances

(1) The owner, trainer or other person in charge of a greyhound:

(d) nominated to compete in an Event;

(e) presented for a satisfactory trial or such other trial as provided for by the Rules; or

(f) presented for any test or examination for the purpose of a stand-down period being varied or revoked,

must present the greyhound free of any prohibited substance.

Particulars of Charge

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhounds Australasia Rules.
2. You were, at all relevant times, the person in charge of the greyhound "*Gutherson*".
3. "*Gutherson*" was nominated to compete in Race 8, STRAIGHT RACING....GREAT RACING, Grade 5 T3, conducted by the Healesville Greyhound Racing Association at Healesville on 16 December 2022 (**the Event**).
4. On 16 December 2022, you presented "*Gutherson*" at the Event not free of any prohibited substance, given that:
 - (a) A pre-race sample of urine was taken from "*Gutherson*" at the Event (**the Sample**);
 - (b) Procaine was detected in the Sample.

Pleas: Guilty to Charge 1.
Not Guilty to Charges 2 and 3.

DECISION

1. Mr Calvin Russell comes before the Tribunal on three charges, two in one brief and the third in a further brief.
2. The two charges in the first brief relate to the greyhound, Sydney Showgirl which he trained. Charge one is a presentation charge. It is alleged that he presented Sydney Showgirl at Healesville on 28 February 2023 not free of a prohibited substance. A post-race sample of urine was taken, which was later found to contain the substance Guaifenesin.
3. When the Stewards visited his premises on 4 April 2023, he was unable to produce treatment records for his greyhounds. He is also charged with the offence of failing to produce treatment records.
4. Mr Russell has been charged on a separate brief in relation to a separate greyhound named Gutherson. He has pleaded not guilty to that charge.
5. I will refer to this charge as the third charge.

6. In this charge it is alleged that he presented the greyhound Gutherson not free of a prohibited substance at Healesville on 16 December 2022. The substance alleged is procaine. In relation to this charge, it is not alleged that Mr Russell was the trainer of the dog. Instead, the Stewards allege that he was at all relevant times the person in charge of the greyhound. Mr Russell has pleaded not guilty to this charge. We will have to deal with the circumstances surrounding this third charge in order to determine whether the charge is proven.
7. At the time of this offence Mr Russell was a registered trainer. However, from March of 2022 up until the 20 December 2022, the registered trainer of Gutherson was his wife Ms Shelly Ann Warde.
8. On the race day, the handler and person in charge of the kennel for Gutherson was named as Mr Chris Reynolds. The trainer nominated on the race results form was Ms Shelly Ann Warde.
9. As we understand it, Mr Russell is pleading not guilty, as he denies that at the time of the race he was the person in charge of the greyhound. There was no challenge made to the validity of the test results showing the presence of procaine in the dog.
10. Procaine is a prohibited substance under the Rules and falls into the category of therapeutic substances. There are 6 products registered for use in dogs which contain procaine. All are prescription products. Procaine is a local anaesthetic which is not often used for that purpose anymore. It provides pain relief, but it is not often used because it is short lasting. It is often found in knackery meat and it appears that this may have been the source in this case, as Gutherson was regularly fed knackery meat.
11. In alleging that, at the time of the race, Mr Russell was the person in charge of the greyhound within the meaning of the Rule, the Stewards rely upon discussions which took place between Mr Russell and Ms Ward and the Stewards at around the time of the investigation. On 24 January 2023 Ms Roselyn Fazulla, an Investigative Steward with GRV, went to Ms Warde's kennel property to conduct a kennel inspection. At the property she met Mr Russell. She asked him where Ms Warde was. Mr Russell said that she did not reside at the address anymore, but that her greyhounds were still kennelled there, although the dog Gutherson was not present at the time of that inspection.
12. At a later inquiry on Thursday 20 April 2023 both Ms Warde and Mr Russell were called to give evidence before the Stewards. Ms Warde was asked about the arrangements for kennelling and racing of Gutherson. She said that she was not at the race meeting on 16 December 2022. She did not know who Mr Chris Reynolds was. She said that she had left the premises at which the dog was kennelled as she had separated from Mr Russell.

She said that he had control of everything to do with the dogs. She specifically said that he was in charge of the greyhound when it was racing on that day. She said that she would help out every now and again, but that he had most control of the greyhounds.

13. When he was examined by the Stewards on the same day, Mr Russell said that, although there were greyhounds (including Gutherson) in Ms Warde's name, he did 95% of the training of those greyhounds and she "did help randomly, but not very often".
14. He said that it was pretty amicable back then but since then it's gone sort of mostly our separate ways now and since February/March I don't think she helps at all now'.
15. Mr Russell told the Stewards that Ms Warde had vacated the premises in August or September, some two to three months before the race. He said that it suited him for the dog to still be in her name because they would get extra travelling money when there were dogs in different names. He described her attending the property randomly to feed the dogs. He said that this would have happened a couple of times, maybe once a month 'to help me out'. When he was specifically asked by the Chairman at the inquiry whether he was the person in charge of the greyhound in December he responded:

"Yeah-well not Yeah. Its in her name but yeah I was probably doing most of the running around with him and yeah I didn't trial him too much but I think he raced at Healesville most of his career anyway so yeah".
16. Mr Russell agreed that he was the one feeding the greyhound. He agreed that on the day of the race he transferred the greyhound to Mr Chris Reynolds whom he described as helping him on that day. He did not suggest to the Stewards at any time during the interview that he was not in charge of the greyhound on the day of the race, and all of his answers were consistent with him taking responsibility for the feeding and overall welfare of the dog, as well as organising race days.
17. Mr Russell was asked at the hearing before us whether he wished to give evidence regarding these allegations, but he said that he had nothing to say regarding this charge.
18. The evidence clearly establishes that, as at the time of the race, Mr Russell was the person in charge of Gutherson. We thus find this charge proven.
19. We turn now to the circumstances surrounding the two charges regarding Sydney Showgirl.
20. Mr Russell pleaded guilty to the first charge on that brief.

21. By his plea of guilty, Mr Russell accepts that the greyhound Sydney Showgirl was presented by him for the race on 28 February 2023 at a time when it had guaifenesin in its system.
22. Guaifenesin is prohibited under the Rules. It is a muscle relaxant commonly used in cough medicine. It appears to be clear that the substance made its way into the kennels through the use of knackery meat. Frequently GRV has warned participants of the danger of using knackery meat. Mr Russell used only knackery meat for his greyhounds. He does so because it is far cheaper than using human grade meat products. He used kangaroo meat from the knackery rather than cows' meat in an attempt to avoid the problem which has arisen in this case.
23. Mr Russell pleaded not guilty to the second charge on this brief – the charge of not keeping treatment records. He gave evidence that he used a whiteboard and texter in his kennels as his form of keeping treatment records. He said that all treatments administered to his dogs were shown on that whiteboard.
24. Plainly this form of record keeping does not comply with the Rules. We find this charge proven.
25. We turn now to the sentence for each of these three charges.
26. In relation to the two presentation offences, it is clear that Mr Russell well knew of the dangers of feeding knackery meat to his dogs, and yet he continued to take the risk that by doing so he could be feeding contaminated meat. Further, he has a prior presentation offence and so must have known the risks that he was running.
27. In relation to the treatment records offence, he has two prior record keeping offences for which he received small fines. The reason for the requirement to keep treatment records is in order to have a permanent record of substances injected by greyhounds, to assist the Stewards to enforce a drug free environment in this industry. Given Mr Russell's prior history, a significant fine is warranted for this offence.
28. Taking into account all of the matters put before us, our decision as to the appropriate sentence for each of these three charges is as follows.
29. On the presentation charge relating to Sydney Showgirl, we find the charge proved and impose a \$1,500 fine.
30. On the treatment records charge we find the charge proved and impose a \$500 fine.

31. On the presentation charge relating to Gutherson, we find the charge proved and impose a \$2,000 fine
 32. The greyhound Sydney showgirl is disqualified from Race 7 at Healesville on 28 February 2023 and the finishing order is amending accordingly.
 33. The greyhound Gutherson is disqualified from Race 8 at Healesville on 16 December 2022 and the finishing order is amending accordingly.
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Mark Howard
Registrar, Victorian Racing Tribunal