

16 January 2025

DECISION

GREYHOUND RACING VICTORIA

and

KEN BAILEY

- Date of hearing:** 7 January 2025
- Date of decision:** 7 January 2025
- Panel:** Judge Marilyn Harbison (Deputy Chairperson), Dr Andrew Gould and Mr Des Gleeson.
- Appearances:** Mr Anthony Pearce appeared on behalf of the Stewards.
Mr Ken Bailey represented himself.
- Charges:** Greyhound Australasia Rule ("GAR") 141(1) states:
(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
- GAR 145(3) states:
(3) No person without the permission of the Stewards may administer or cause to be administered any injectable substance to a greyhound at any time during the one clear day prior to 12:00am on the day of an Event that it is nominated to complete in.
- Particulars:** **Charge 1: GAR 141(1)**
1. You are, and were at all relevant times, a trainer licenced by Greyhound Racing Victoria (GRV) and a person bound by the Greyhounds Australasia Rules.

2. You were, at all relevant times, the owner of the greyhound "Long Sleeves".

3. Long Sleeves was nominated to complete in Race 1, SPORTSBET BET WITH MATES, Maiden, conducted by the Sale Greyhound Racing Club at Sale on 7 November 2023 (the Event).

4. On 7 November 2023, you presented Long Sleeves at the Event not free of any prohibited substance, given that:-

(a) A pre-race sample of urine was taken from Long Sleeves at the Event (the Sample);

(b) Dexamethasone was detected in the Sample

Charge 2: GAR 145(3)

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

2. You were, at all relevant times, the owner of the greyhound "Spring Gonzales".

3. Spring Gonzales was nominated for, and competed in, Race 10, FERNANDO MICK AT STUD, Grade 5 (the Event), conducted by The Meadows Greyhound Racing Association at The Meadows on 7 October 2023 (the Meeting).

4. You administered, or causes to be administered, to Spring Gonzales, a Treatment, being an injectable substance Nu-Ex-Cell, on the day prior to the day of the Event in that:

(a) You administered the injectable substance Nu-Ex-Cell, to Spring Gonzales on 6 October 2023 (the Treatment)

5. You administered the Treatment without the permission of the Stewards.

Charge 3: GAR 145(3)

1. You are, and were at all relevant times, a trainer licenced by Greyhound Racing Victoria (GRV) and a person bound by the Greyhounds Australasia Rules.
2. You were, at all relevant times, the owner of the greyhound Spring Gonzales.
3. Spring Gonzales was nominated for, and competed in, Race 10, FERNANDO MICK AT STUD, Grade 5 (the Event), conducted by The Meadows Greyhound Racing Association at The Meadows on 7 October 2023 (the Meeting).
4. You administered, or causes to be administered, to Spring Gonzales, a Treatment, being an injectable substance Linco-Spectin, on the day prior to the day of the Event in that:
 - (a) You administered the injectable substance Linco-Spectin, to Spring Gonzales on 6 October 2023 (the Treatment)
5. You administered the Treatment without the permission of the Stewards.

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

DECISION

1. Mr Ken Bailey is a registered greyhound trainer. He is facing three charges in respect of two greyhounds trained by him. The first is a presentation charge. It is alleged that he presented his greyhound "Long Sleeves" at Sale on 7 November 2023 when the greyhound had dexamethasone present in its system.
2. Mr Bailey has pleaded guilty to this charge.
3. The second is a charge that he administered an injectable substance into his greyhound "Spring Gonzales" on the day prior to a race in which that greyhound participated. The

injectable substance alleged is Nu-Ex-Cell, and the charge relates to a race in which the greyhound was entered on 7 October 2023 at The Meadows.

4. The third is also a charge that he administered an injectable substance into the same greyhound on the same occasion. The difference is that the third charge relates to a different substance. That substance is Linco-Spectin.
5. Mr Bailey had obtained both these substances on prescription from his veterinary surgeon. Charges 2 and 3 arise out of the fact that he injected the substances within one clear day of the race on 7 October 2023. To do so is prohibited under the Rules.
6. Mr Bailey pleaded not guilty to Charges 2 and 3. To support these charges, the Stewards relied on Mr Bailey's entries in his treatment records. These clearly showed the administration by him of these substances by injection on 6 October 2023, the day before the race. The Stewards also relied upon Mr Bailey's responses to the Stewards at the preliminary inquiry held on 27 February 2024. He told the Stewards that he had mistakenly believed that he could administer the substances which he injected within 24 hours of the race (which commenced at 12 noon on 7 October 2024) and so had given the injections in the morning of the day before- thus more than 24 hours before the race started. He had not realised that the Rule was different from that which applies to tablets and oral syringes. This requires that they be given a maximum of 24 hours before the start of the race.
7. The Rule which applies to injections is that they not be given at any time on race day or in the full 24 hours prior to the race – commencing at 12.00am on the day prior to the race, irrespective of the time at which the race is scheduled. It was introduced in 2018 in the aftermath of several significant decisions relating to the injection of cobalt in racehorses.
8. Mr Bailey gave evidence before us. He said that since the time of the preliminary inquiry, he had considered the matter further. He said that he now believed that it was impossible that he could have administered either substance on the day before the race. He said that this was so because he was accustomed to see his veterinary surgeon on a Monday, as it was a three hour drive each way to do this. The race took place on a Saturday. If he had seen the veterinary surgeon on the Monday, and these substances had been prescribed, he would have administered them immediately. He would not have waited until the Friday of that week. This would particularly be the case with the Linco-Spectin, as this is

an antibiotic and would indicate that the dog had an infection. He would not have withheld treatment until the Friday.

9. He also emphasised that he would never have race a dog if he knew that the dog was suffering from an infection
10. He surmised that he must have made a mistake in completing the treatment records. He said that the treatment records were completed online, after having been initially entered by him on a white board at his kennels. He was accustomed to transferring this information to an excel spreadsheet and then cutting and pasting the information into the online treatment record.
11. The difficulty which Mr Bailey faces is that he told us that he has no actual recollection of administering either of the injections which are the subject of Charges 2 and 3.
12. In addition, the treatment records compiled by him show clear evidence of administering these injections on the day before the race. He did not present any satisfactory evidence of how these records may have been incorrectly prepared. His responses to questioning at the preliminary inquiry are consistent with the administration taking place on the day before the race. Indeed, he appears to have accepted that he did so, adding that he gave the injection on the morning of the race. He did not put forward any other explanation until a short time before this hearing.
13. It is true, as Mr Bailey points out, that it is only because of the entries in the treatment records that this matter came to the Stewards' attention. However, this is a matter relevant to the penalty to be imposed, and not to the question of liability.
14. We accept that the Stewards have the burden of proving each of the charges. We apply the Briginshaw standard – that is, that we must be comfortably satisfied of the facts alleged against Mr Bailey. However, we are not persuaded by the objections raised by Mr Bailey to the evidence. The essential difficulty is that he could not present any evidence to us as to when he actually administered the injections. We rely on the treatment records which he himself prepared and his admissions at the preliminary inquiry. We are comfortably satisfied that each charge is made out.

PENALTY

15. We turn now to the penalty to be imposed for each offence.

16. Mr Bailey has been an owner and trainer for at least 40 years, apart from a period of 12 months when he was the manager of the Sale Greyhound Racing Club. He has held positions of responsibility within greyhound racing and has had a long involvement. He has an excellent reputation within the industry.
17. Mr Bailey is entitled to the benefit of his guilty plea in relation to the first charge.
18. It is not possible to identify the source of the contamination in relation to this charge. Mr Bailey has never had a positive swab in all his years of racing. It appears that the dexamethasone may possibly have originated in contaminated venison. Mr Bailey is accustomed to feeding his dogs with venison sourced from local farmers. Additives may have been introduced into the feed given. Alternatively, he has found out that a trainer with whom he shares kennels was, unknown to him, using knackery meat. Mr Bailey was unable to think of any other way in which dexamethasone would have come into contact with his greyhound.
19. At the preliminary inquiry held on 27 February 2024, Mr Bailey was fully cooperative with the Stewards in relation to their investigation of each of the charges.
20. In relation to Charges 2 and 3, although Mr Bailey has expressed a different view in this hearing, we think it most likely that, as he explained initially to the Stewards, he had mistakenly believed that he could administer the substances which he injected within 24 hours of the race, not realising that it was prohibited from 12.00am on the day before the race.
21. On the first charge, which is the charge of presenting Long Sleeves with dexamethasone in its system, the penalty which we impose is as follows – a fine of \$1500 of which \$500 is suspended for 24 months. We have imposed this sentence taking into account Mr Bailey's impeccable reputation and the lack of any prior offences over such a long period of involvement.
22. Further, Long Sleeves is disqualified from the race.
23. On the second charge, which is the charge of injecting Spring Gonzales with Nu-Ex-Cell, the penalty which we impose is a fine of \$1,000.
24. On the third charge, which is the charge of injecting his greyhound Spring Gonzales with Linco-Spectin, the penalty which we impose is a fine of \$1,000.

25. We have decided that the penalties on Charges 2 and 3 should be served concurrently, as they essentially cover the same subject matter. We do not regard the differences in chemical composition between these substances as requiring cumulation, as both were prescribed by the veterinary surgeon on the same occasion.
26. The Stewards called for a period of actual suspension on these charges. We have decided that this is not warranted. This is because we regard Mr Bailey's action as being a genuine and understandable mistake, without any purpose of affecting the race, and the first significant mistake made during his racing career. We also take into account that it was only through his meticulous record keeping that the offences became known to the Stewards.
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Kathleen Scully
Acting Registrar, Victorian Racing Tribunal