

Non Raceday Inquiry RIU v C D Steele - Decision dated 20 February 2018 - Chair, Mr T Utikere

Rules:

Repondent(s)/Other parties:

Name(s):

Decisions:

BEFORE A JUDICIAL COMMITTEE OF THE

JUDICIAL CONTROL AUTHORITY

UNDER THE RACING ACT 2003

IN THE MATTER of the Rules of Greyhound Racing

BETWEEN RACING INTEGRITY UNIT (RIU)

Informant

AND CD STEELE

Respondent

Judicial Committee: Mr T Utikere (Chairman)

Mr T Castles (Committee Member)

Appearances: Mr Westerlund (for the RIU)

Venue: Makaraka Racecourse, Gisborne

Hearing Date: 18 February 2018

DECISION OF JUDICIAL COMMITTEE DATED 20 FEBRUARY 2018

FACTS

[1] The Respondent has been charged with a breach of Rule 62.1 (g) of the *New Zealand Rules of Greyhound Racing*.

[2] The relevant Rule is as follows:

Rule 62.1 (g): "Any person (including an Official) commits an offence if he/she: assaults, obstructs, impedes, abuses, threatens or insults the Board, any member of the Board, a Club, any member of a Club Committee, any Steward, any member of a Judicial Committee and any member of the Appeals Tribunal or any other Official."

[3] The specific Information alleged:

Information No A8464

On Thursday the 21st December 2017 at the Auckland Greyhound Racing Club meeting held at Manukau Stadium, Corey Daniel Steele a licenced Greyhound owner/trainer verbally threatened Ben Van Kan, a Stipendiary Steward, thereby committing a breach of Rule 62.1 (g) of the Greyhound Racing New Zealand Rules of Racing AND is therefore liable to the penalties which may be imposed pursuant to Rule 63.1.

[4] The relevant Penalty provisions are contained in Rule 63.1 which states:

"Any Person found guilty of an Offence under these Rules shall be liable to:

- a. a fine not exceeding \$10,000 for any one (1) Offence; and/or*
- b. Suspension; and/or*
- c. Disqualification; and/or*
- d. Warning Off."*

[5] At the commencement of the hearing, the Committee was in receipt of the Letter of Authorisation from the General Manager of the RIU and a signed copy of Information A8464, which identified that Mr Steele admitted the charge. Mr Westerlund confirmed, that Mr Steele was aware that the hearing was taking place, but that he did not intend to appear. The Committee was also furnished with a signed statement from Mr Steele to acknowledge that he agreed with the RIU's *Summary of Facts*.

THE CHARGE

[6] The RIU submitted the following agreed *Summary of Facts* to the hearing:

"The respondent Corey Daniel STEELE holds an Owner / Trainer Licence under the Greyhound Racing New Zealand Rules of Racing.

At the Auckland Greyhound Racing Club meeting held at the Manukau Stadium race track on Thursday the 21st December 2017. Stipendiary Steward Ben Van Kan was advised of a verbal altercation in the kennel block between Tracey Steele and Kennel Steward Liz when getting the dogs out prior to race 9.

Stipendiary Steward Van Kan spoke to Mrs Coutts (Head Kennel Steward) as to what she has heard regarding the altercation. During the conversation Corey Steele (Tracey's son) interrupted and mentioned other incidents in the past with his family members. Van Kan told Corey that he was conducting the inquiry and that the matter did not concern him.

*Corey was not happy with the matter then went and spoke with Stipendiary Steward Philippa Kinsey. Van Kan entered the room and saw Corey speaking to Kinsey. He told Corey that he had already dealt with the matter. During this discussion Corey stated to Van Kan "You better back the f*** up before I f***** deck ya". (Redacted content at Committee's direction)*

Philippa Kinsey calmed the situation and Van Kan left the room.

Corey was interviewed on the 7th January 2018 at the Manukau Stadium race track.

He admitted verbally threatening Stipendiary Steward Van Kan and in explanation stated that he had a reaction and is sorry it came to what it did.

Corey has been involved in the greyhound racing industry all is adult life.

*Corey is a licenced Greyhound owner trainer. He derives his income solely from the racing Industry and earns \$*** week . (Redacted content at Committee's direction)*

Corey is 22 years old and has not previously appeared."

[7] Mr Westerlund had nothing further to add to the *Summary*.

DECISION

[8] As the charge was admitted, the Committee deem the charge proved.

PENALTY SUBMISSIONS

[9] Mr Westerlund provided the Committee with the following written Penalty Submissions:

1. INTRODUCTION:

1.1 The respondent Corey Daniel STEELE holds an Owner/Trainer licence under the Greyhound Racing New Zealand Rules of Racing.

1.2 He has been involved in the Greyhound racing industry all his adult life.

1.3 He has been assisting his parents, Wayne and Tracey Steele, with their Greyhounds at the races.

1.4 Mr STEELE is 22 years of age with a date of birth of 4.12.1995.

1.5 It is submitted that a fine of \$400 is sort. (sic)

2. OFFENDING:

2.1 Mr STEELE has admitted the breach against Rule 62.1(g) under the Greyhound Racing New Zealand Rules of Racing.

2.2 The details of Mr STEELE's offending are contained in the Summary of Facts which is agreed.

3. PENALTY PROVISIONS:

3.1 The penalties which may be imposed are fully detailed in the Charge Rule Penalty Provisions document.

4. SENTENCING PRINCIPLES:

4.1 The four principles of sentencing can be summarised briefly:

-Penalties are designed to punish the offender for his/her wrong doing. They are not meant to be retributive in the sense the punishment is disproportionate to the offence but the offender must be met with a punishment.

-In a racing context it is extremely important that a penalty has the effect of deterring others from committing similar offences.

-A penalty should also reflect the disapproval of the JCA for the type of offending in question.

-The need to rehabilitate the offender should be taken into account.

4.2 All four principles apply in this matter.

5. PRECEDENTS:

5.1 In support of this penalty I will refer to three previous decisions by the J.C.A which may be of some assistance.

5.1.1 RIU v WEIR (19.04.17) – In this case a GRNZ trainer used offensive language to a Steward - \$400 fine.

5.1.2 RIU v HODGSON (4.03.15) –In this case a GRNZ trainer used offensive language to a Steward - \$400 fine.

5.1.3 R.I.U v LANE (27.03.15) -In this case a GRNZ trainer used offensive language towards a Steward - \$300 fine.

6. MITIGATING FACTORS:

6.1 That he has admitted the breach at the first opportunity.

6.2 That he has been fully co-operative throughout the process.

6.3 That he has voluntarily enrolled in 'The Salvation Army' counselling programme.

6.4 That he has accepted responsibility for using threatening language and has apologised for his actions.

6.5 That he has no previous charges before the Committee.

7. AGGRAVATING FEATURES:

7.1 That Mr STEELE has been involved in the Greyhound racing industry for some time and knows the importance of conducting himself in a professional manner and maintaining integrity in racing.

7.2 That the Stipendiary Steward concerned was only going about his race day duties and did not deserve the verbal threat.

8. CONCLUSION:

8.1 The RIU therefore seek a \$400 fine.

[10] In addition to the written submissions, Mr Westerlund described the offender as a result of the respondent having a "bad day". He also identified that while Mr Steele had been warned previously by the RIU for his behaviour, this was his first breach of the rule.

[11] With regard to the *RIU v WEIR* case, the RIU accepted that the final penalty was a \$500 fine, not the \$400 fine referred to in their written submissions.

[12] Mr Steele had also advised that he had engaged the services of Ms Donna Young, the registered Drug and Alcohol Clinician contracted to the RIU. Mr Westerlund agreed that this was a mitigating consideration. A written Report from Ms Young detailing Mr Steele's progress was also provided to the Committee.

[13] Mr Westerlund confirmed that Mr Steele's only income was derived from his greyhound responsibilities, and that the RIU were not seeking any costs in relation to this matter.

REASONS FOR PENALTY

[14] We have considered all of the submissions placed before us. Mr Steele's behaviour was unacceptable towards an official simply undertaking his duties. Not only did Mr Steele's choice of language fail him in his obligations, but his actions are compounded by the threat that he also issued to Mr Van Kan.

[15] We accept that Mr Steele had behaved inappropriately in the heat of the moment and that with the benefit of reflection he has reached the conclusion that his behaviour was unacceptable.

[16] The *JCA Penalty Guidelines* do not identify a starting point for a breach of this rule. Instead the starting point is identified with regard to the specific context of the breach. We have reviewed the previous decisions that the RIU have referred us to and all three have identified starting points within the context of the charges that those Respondents were facing. We observe that there are no direct, nor distinct, parallels to this case and when we consider the nature of this breach and the specific behaviour that Mr Steele directed towards a stipendiary steward, we have adopted a \$500 fine as our starting point.

[17] We are in receipt of a Report from Registered Clinician Ms Young. We do not intend to divulge the contents of that report, but it is fair to say that it is clear to us that Mr Steele has realised the situation should not have happened at all, and his remorse for his actions

is now evident. We consider that his proactive willingness in wanting to access the clinician's services in an attempt to address some anger management issues is a mitigating feature.

[18] While Mr Steele may have been warned by the RIU previously, this forms no part of our considerations as warnings are an internal RIU mechanism. For the purposes of this charge, Mr Steele's clear record along with his early admission of the breach are further mitigating features. We have also had regard to the Respondent's earning capacity, for which information had been placed before us.

PENALTY

[19] Mr Steele is fined \$300.

COSTS

[20] In line with the RIU's submissions there will be no order for costs in their favour. There will also be no order for JCA costs as this matter was heard on a raceday.

Tangi Utikere Tom Castles

CHAIRMAN COMMITTEE MEMBER

Penalty: