

NZGRA Request for Review J McInerney v RIU - Written Decision dated 31 July 2018 - Chair, Prof G Hall

Rules:

Repondent(s)/Other parties:

Name(s):

Decisions:

BEFORE A JUDICIAL COMMITTEE OF

THE JCA IN CHRISTCHURCH

IN THE MATTER of the Rules of New Zealand Greyhound Racing Association (Incorporated)

BETWEEN

JOHN MCINERNEY, Licensed Trainer

Applicant

AND RACING INTEGRITY UNIT (RIU)

Respondent

Judicial Committee: Prof G Hall, Chairman

Mr S Ching, Member

Appearing: Mr Jonathan McInerney for the Applicant

Mr R Quirk, Stipendiary Steward, for the Respondent

Date of oral decision: 26 July 2018

Date of written decision: 31 July 2018

WRITTEN DECISION OF JUDICIAL COMMITTEE

[1] On 17 July 2018 the Christchurch Greyhound Racing Club held a race meeting at Addington Raceway. The Chairman of Stewards at the meeting was Mr J McLaughlin.

[2] The dog in question, ZARA NIXON, is trained by Licensed Public Trainer, Mr John McInerney of Christchurch. ZARA NIXON competed in Race 12, the KAIKANUI HOTEL DASH, for C1 greyhounds over 295 metres, and was stood down for 12 months and required to complete a satisfactory trial for failing to pursue the lure. This is an alleged breach of r 55.1.b of the GRNZ Rules of Racing.

[3] ZARA NIXON was subjected to a charge of marring on 6 October 2017 at Addington and a charge of failing to pursue the lure on 8 December 2017, also at Addington.

[4] The relevant rule that the dog was suspended under reads as follows:

55.1 Where a Greyhound:

(b) Fails to pursue the lure in a race; the Stewards may impose the following periods of suspension:

(e) in the case of a third offence, 12 months and until the completion of a satisfactory trial.

[5] On the day in question ZARA NIXON was referred to the veterinarian post-race and cleared of any injury. Mr McLaughlin then consulted with the kennel representative, Mr Jonathan McInerney, regarding the conduct of ZARA NIXON. After hearing from Mr McInerney, Mr McLaughlin charged the greyhound with failing to pursue the lure as per r 55.1.b

[6] ZARA NIXON has had 11 starts for 2 wins, 4 seconds and 1 third. Seven of these starts were at Addington.

[7] Mr McInerney's ground for review is that he disagreed with both the finding and the decision.

Applicant's submissions

[8] Mr Jonathan McInerney commenced the applicant's case by stating ZARA NIXON had missed away, which was out of character as the dog was usually a good beginner.

[9] The dog had jumped mid field and had driven through on the rail and, once clear of the 5 dog, had gone to the lead.

[10] Mr McInerney believed the dog had become unbalanced on the bend as it had entered it with a lot of speed. He believed the whole body of the dog was turned out due to the speed of the dog. He demonstrated on the video that in his view, the same was true of the 2 dog.

[11] Mr McInerney stated that once balanced up the dog had run a true line and had never failed to chase the lure.

[12] Mr McInerney believed there had been brief contact with the 6 dog (EPIC BOOM), a slight touch at best, but this had unbalanced ZARA NIXON.

[13] Mr McInerney pointed out that ZARA NIXON wears blinkers and it was the first time the dog had raced in these under lights.

[14] Mr McInerney disputed that ZARA NIXON had turned his head. When questioned by this Committee, he later said there was some movement of the dog's head but this was due to the speed at which the dog had taken the corner. The dog was inexperienced, was wearing blinkers for the first time under lights, and had realised at that time that there was a corner.

Respondent's submissions

[15] Mr Quirk stated it was evident that on the home turn ZARA NIXON had turned his head away from the lure and was looking at the outside dog, EPIC BOOM (the 6 dog). He submitted that the lure was directly in front of the greyhound and ZARA NIXON was acutely aware of where it was on the track.

[16] Mr Quirk submitted that ZARA NIXON made a conscious decision to divert his attention away from the lure and was not chasing. ZARA NIXON then refocused his attention to the lure until the finish line.

[17] Mr Quirk referred to the definition of "Fails to Pursue the Lure" in the Rules as: "the action of the Greyhound voluntarily turning the head without making contact with another Greyhound, or voluntarily easing up, or stopping during a race while free of interference."

[18] Mr Quirk also referred to the online Cambridge Dictionary definition of turn as: "To change the direction in which you are facing or moving".

[19] Mr Quirk emphasised that racing greyhounds were essentially bred for one purpose only and that was to chase or pursue a lure. It was in their physical and mental make-up to do this and they were programmed to do so from an early stage of their lives. Greyhounds which failed to pursue the lure with due commitment throughout the entirety of the race effectively negated the only "protection mechanism" the wagering public had over their investment.

[20] Mr Quirk described the race. ZARA NIXON was the third or fourth dog to jump away from the boxes. The dog received interference from the 6 dog which was angling in and they touched for a stride. ZARA NIXON had continued to chase after this and put $\frac{1}{2}$ a length on that dog. Some 4 strides after this, when free of interference, ZARA NIXON turned his head outwards.

[21] Mr Quirk believed the dog had lost concentration for a stride and had eased fractionally at that time. He demonstrated on the videos that even allowing for the fact that the dogs to ZARA NIXON's inside had less distance to travel, ZARA NIXON had gone from $\frac{3}{4}$ of a length in front to equal with the 8 dog and $\frac{1}{2}$ a length behind the 6 dog.

[22] Mr Quirk disputed that ZARA NIXON was not balanced. He believed the dog had had plenty of time to balance and had simply diverted his attention from the lure for a stride. There was plenty of distance between ZARA NIXON and the 6 dog at this time. ZARA NIXON had also run out a fraction.

[23] Had ZARA NIXON not run into the back of the 8 dog, he believed ZARA NIXON would have finished in a better position, as the dog had chased after he had refocused on the lure.

[24] Mr Quirk believed the action of ZARA NIXON had changed when the dog turned his head. This had cost the dog a little momentum, perhaps for 2 or 3 strides. The dog had regained this when he put his head down and chased.

[25] ZARA NIXON, in his view, should have won the race, as the dog was pulling away from the 6 dog before ZARA NIXON turned his head away from the lure. He believed turning his head had cost ZARA NIXON the race.

[26] Mr Quirk concluded his submission by stating that greyhound racing carries with it the weight of public money and the Stewards had to be seen to be appropriately protecting this. They were charged with the responsibility of enhancing public confidence and integrity within greyhound racing by imposing the right penalties/stand downs on greyhounds when required to do so. He was of the view that the Chairman of Stewards was correct to form the opinion that ZARA NIXON had failed to pursue the lure by turning his head outwards while free of interference. The greyhound was not chasing the lure at this point of the race.

Summing up

[27] Mr McInerney said it was a tight corner and the 1, 2, and 4 dogs had also come out.

[28] The incident was due to the racing style of the greyhound and the speed with which he had entered the corner. There had been buffeting for 2 or 3 strides and ZARA NIXON was not balanced. Once he was balanced, he had run straight.

[29] Mr McInerney agreed there had been a loss of momentum but this was when ZARA NIXON had come into contact with the 6 dog, and any loss was due ZARA NIXON balancing himself up.

[30] Mr Quirk reiterated that ZARA NIXON had run past the 6 dog and was ½ a length in front of the 6 dog when he turned his head.

[31] Mr Quirk emphasised that the Stewards were not saying the ZARA NIXON was having a 'play' or was attempting to fight the other greyhounds. The dog's head was turned for 1 stride. It was at a completely different angle to the body of the dog. The Stewards believed that ZARA NIXON had failed to pursue with due commitment by turning his head outwards on the home turn and had diverted his attention away from the lure.

Decision

[32] We have studied the videos carefully. Only one angle is helpful. We are satisfied that for 1 stride on the home bend ZARA NIXON's head is turned outwards and away from the lure. It is momentary but nevertheless it is turned. We do not accept Mr McInerney's submission that the head is not turned. And we note that after questioning from this Committee, he was prepared to accept there was some movement but he submitted that this was due to the speed with which ZARA NIXON was taking the corner.

[33] ZARA NIXON was ½ a length ahead of the 6 dog at the time the head was turned outwards. The dog's action changed briefly, and the dog lost a little momentum before his head straightened and was again turned towards the lure.

[34] There is no concern with the dog's racing performance from this point on. The dog unfortunately runs into the back of the 8 dog and that was the end of his chance of winning the race.

[35] We have carefully considered Mr McInerney's submission that ZARA NIXON was still unbalanced as a result of an earlier slight contact with the 6 dog, EPIC BOOM. That was some 4 or 5 strides before the dog turned his head. ZARA NIXON appears from the videos to have balanced himself and there was clear air between the 6 dog and ZARA NIXON when he turned his head. As we have said, we would agree with Mr Quirk's estimate that ZARA NIXON has about a ½ head advantage over the 6 dog at this time.

[36] Significantly, in our view, ZARA NIXON's head was turned outwards for 1 stride. It was at a different angle to the body of the dog. There was also the loss of a degree of momentum.

[37] We thus find that ZARA NIXON while free of interference has voluntarily turned his head and thus has failed to pursue the lure as is required by r 55.1.b.

[38] The review is unsuccessful and the raceday stand down under 55.1.b.e is confirmed.

Dated at Dunedin this 31st day of July 2018.

Geoff Hall, Chairman

Penalty: