

RACING APPEAL PANEL OF NSW

APPEAL OF JOSHUA PARR

Appearances: Mr Phillip Dingwall (Deputy Chairman of Stewards), for Racing NSW

Mr Paul O’Sullivan (solicitor), for Mr Parr

Panel: Mr R Beasley SC, Presiding Member; Mr T Marney; Ms S Skeggs

REASONS FOR DECISION (2 NOVEMBER 2018)

1. On 24 October 2018, licenced jockey Josh Parr rode the horse Napoleon Solo in Race 1 at the meeting at Warwick Farm.
2. During a Stewards’ Inquiry after the race, Mr Parr was charged with a breach of AR 137(a) for careless riding. The particulars were as follows:

“The particulars of the careless riding being that you improved your position, near the 300m, between Taj and Flying Legend, where there was doubtful room and in doing so, made contact with Flying Legend, which became badly unbalanced, lost its rightful running when carried out, thereby making heavy contact with Aurman Zou, which was hampered and carried wider.”

3. Mr Parr pleaded not guilty, but was found by Stewards to have breached the rule. Applying the penalty guidelines for careless riding, for a grading of low carelessness causing a loss of rightful running, he was penalised with a 4-meeting suspension.
4. Today on appeal, Mr Phillip Dingwall, Deputy Chairman of Stewards, represented the Stewards. Mr Paul O’Sullivan represented Mr Parr with leave.

Mr Dingwall said the Stewards’ case was straight forward. The appellant had taken a run when there was simply insufficient room between Taj and Flying legend. This

resulted in interference to Flying Legend, who was knocked off its line and lost its rightful running. He said Mr Parr had breached his duty of care when proceeding between the horses, as there must be sufficient room to do so safely, and there was not. He said there needed to be a gap between the forequarters of Mr Parr's horse and the hindquarters of the other horses. Mr Parr should have ridden more patiently, waiting for a gap to open up and allow sufficient room.

5. Looking at the same film of the race, Mr O'Sullivan and Mr Parr (who gave evidence) disagreed. Based on Mr Parr's evidence, Mr O'Sullivan submitted that:
 1. There was sufficient room for the run. Flying Legend shifted out on the turn, and presented the run.
 2. The contact occurred because after the run presented, and Mr Parr committed his mount to it, Taj shifted out.
6. Mr Parr confirmed in his evidence that the issue of safety is paramount to him, but he was obliged to take the run, and has taken similar runs many times over the course of his 15-year career.
7. There is a saying "hard cases make bad law". This is a very difficult case. The Panel does not wish to either encourage unsafe riding, or discourage jockeys riding to win when they can by taking appropriate gaps.
8. The issue of carelessness is of course easy to describe. A jockey should only take a run between horses when there is sufficient room for that manoeuvre to be undertaken safely. There is nothing wrong – in fact we think it is a good practice – for Stewards to remind jockeys who have taken or might contemplate taking a tight run, that horses might move or roll about during the manoeuvre. The tighter the run, the more risk, and the more likely a jockey might fall foul of AR 137(a).
9. The run taken by Mr Parr was tight. Having watched the film many times however, we think there was just enough room to make it reasonable for him to commence a run between Taj and Flying Legend when he did. Thereafter Taj shifted out a little, causing the problem between Napoleon Solo and Flying Legend.

10. It is a very close thing, but we are not comfortably satisfied on all the evidence that Mr Parr has engaged in careless riding in breach of the rule. Accordingly, we allow the appeal.

1. Appeal against finding of breach of AR 137(a) allowed.
2. Finding of breach of AR 137(a) set aside.
3. Penalty of a 4-meeting suspension set aside.
4. Appeal deposit to be refunded.