

RACING NEW SOUTH WALES APPEAL PANEL

IN THE MATTER OF THE APPEAL OF JOCKEY TYE ANGLAND

Appeal Panel: **Mr R Beasley SC – Principal Member**
Mr P Losh
Mrs S Skeggs

Appearances: **Racing NSW: Mr M Van Gestel, Chairman of Stewards**
Appellant: Mr P O’Sullivan, Solicitor

Date of Hearing: **12 October 2018**

Date of Reasons **12 October 2018**

REASONS FOR DECISION

R C Beasley SC

Introduction

1. On 6 October 2018, the Appellant Tye Angland rode the racehorse Aramayo in the Group 1 Spring Champion Stakes 2000m at Royal Randwick Racecourse. Following a Stewards’ hearing into that race Mr Angland pleaded guilty to careless riding—a breach of AR131(a) of the Australian Rules of Racing.
2. In assessing penalty, the Stewards applied the Penalty Guidelines for careless riding in the following way:

- (a) They assessed the carelessness as ‘medium’, and determined that carelessness had caused a “check” to another horse, resulting in a base penalty of seven meetings.
 - (b) They then applied a 15% mitigation for good record, a 10% mitigation for a guilty plea, and a 25% mitigation as the seven-meeting base penalty would include The Caulfield Cup.
 - (c) They then applied 15% premium because the carelessness had taken place in a Group 1 feature race.
3. The total adjustment was 35%. This would technically bring the penalty down to 4.55 meetings. The Stewards exercised a discretion to reduce the penalty to four meetings rather than increase it to five. Unfortunately, that still means Mr Angland cannot ride a fancied runner in The Caulfield Cup.
4. Mr O’Sullivan, who was granted leave to appear for the Appellant, by reference to the transcript, the film and his client’s sworn evidence today, said that the shift his client made to take a run on the outside of Thinkin’ Big in the race was only a half-horse shift. Further, he said the Appellant’s horse only brushed the horse Tarka, ridden by James McDonald. The submission was made (corroborated by Mr McDonald’s evidence at the inquiry) that Tarka took fright and shifted in to the horse Visao. All parties agree that Visao was checked.
5. Mr O’Sullivan submitted that based on all the evidence, the carelessness here should be graded as “low” and not “medium”. Further, he says that as a matter of logic, if a medium-

grade carelessness results in a four-meeting suspension, a lower grading should result in a three-meeting suspension at most. That would enable the appellant to ride in The Caulfield Cup.

6. Mr Van Gestel, the Chairman of Stewards, has a different view. He says that Mr Angland made a decision to shift out on his horse at about the 200m mark and in doing so shifted at least a full horse length. He did so suddenly. Mr Van Gestel submits that the appellant's horse did not merely brush Tarka, but bumped into it. The incident then ultimately led to Visao being checked. Mr Van Gestel submits that the actions of Mr Angland fall squarely within the medium range of carelessness.

Panel Decision

7. The Panel has not been able to reach a unanimous view on carelessness. I take the view that the carelessness was properly graded as "medium". The shift was close enough to a length, and it was sudden. On the balance of probabilities, I think that the contact, by observation of the film, was more than a brush. Visao was then checked. There is an element of speculation to suggest that the horse Tarka was spooked rather than bumped off its line. I would maintain the finding of medium carelessness and dismiss the appeal against the severity of penalty.
8. Mr Losh's and Ms Skeggs' views are that the carelessness should be graded as "low". They accept that there was contact between the appellant's horse and Tarka, but also accept the evidence of Mr McDonald and the appellant that only a brush was involved. They consider that the Appellant was in a very difficult position. Had he not attempted to obtain a run, he would have been criticised for that. They consider Mr Angland engaged in competitive

riding expected of jockeys, but got it slightly wrong when shifting out too quickly. A relatively minor error of judgement was involved, although it did result ultimately in a clear check to Visao. They take the view that the consequences of the shift were worse than the shift itself. They, therefore, take the view that the carelessness was low.

Penalty

9. In relation to penalty, however, the Panel is in agreement. Ms Skeggs and Mr Losh would apply the Guidelines for careless riding. That results in a 3.9 meeting suspension. They do not consider it appropriate to reduce that suspension to three meetings.

10. We all agree that there is no lack of logic in a medium grading of the circumstances here, and a low grading resulting in the same penalty. On a medium grading the Stewards and I would exercise a discretion to lower the penalty to four meetings. On a lower grading the proper penalty is still a four-meeting suspension as the calculation from the guidelines results in 3.9. That precludes Mr Angland from riding in The Caulfield Cup. That is unfortunate, as the breach of the rule here came from an attempt to appropriately engage in competitive riding, which went slightly wrong as a matter of judgement.

11. Given the Panel agrees on a penalty of a four-meeting suspension, which was the suspension imposed, the orders are as follows:
 1. Appeal against severity of penalty dismissed.
 2. Penalty of four-meeting suspension confirmed.
 3. Appeal deposit forfeited.