

RACING APPEAL PANEL NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF LICENSED JOCKEY JYE McNEIL

Heard at Racing NSW Offices on Saturday 6 April 2019

APPEAL PANEL: Mr R Beasley - Principal Member
Mr C Tuck
Ms J Madsen

APPEARANCES: Mr Marc Van Gestel for Racing NSW
Mr Paul O'Sullivan for Jockey McNeil

REASONS FOR DECISION

1. **PRINCIPAL MEMBER:** On 6 April 2019, the Appellant Jye McNeil rode the horse *Fifty Stars* in the Group 1 Doncaster Handicap at Randwick Racecourse.
2. Following the race, the Stewards conducted a brief inquiry in the absence of the Appellant. The inquiry was concluded on 12 April 2019 via teleconference when evidence was taken from the Appellant.
3. The Appellant was charge with a breach of AR 131, the careless riding rule. The particulars of the charge were as follows.

“Near the 1200 metres you did permit your mount Fifty Stars to shift in when not clear of Siege of Quebec, resulting in Siege of Quebec being taken in across the running of Eckstein, which lost its running at that point and was checked by its rider Sam Clipperton.
4. The appellant pleaded not guilty, but was found to have breached the rule. He was penalised with a ten-meeting suspension by application of the careless riding guidelines.
5. The appellant appealed the finding of breach and penalty. On appeal he was represented by Mr P O'Sullivan, solicitor. The Stewards were represented by Mr Marc Van Gestel, the Chairman of Stewards.

6. At the appeal, the Appeal Book was marked as Exhibit A, and the film of the race as Exhibit B. Mr McNeil also gave oral evidence. The Panel viewed the film of the race multiple times from multiple angles, including overhead.
7. It was submitted by Mr Van Gestel that Mr McNeil clearly breached the rule because -
 - (1) He crossed in front of Siege of Quebec when only one and a quarter lengths clear of that horse.
 - (2) That action influenced that horse's line, causing it to take the rightful running of Eckstein, which had to be checked.

Mr Van Gestel submitted the carelessness should be granted as medium, as Mr McNeil did not look and was only one and a quarter lengths clear of Siege of Quebec when he crossed it. It was also noted that it was a Group 1 race.
8. Mr O'Sullivan submitted that there was no breach of the rule because the ride of Mr McNeil had no impact on Siege of Quebec, and his actions did not influence that horse's line. He submitted that that horse was taking a position behind Le Romain, uninfluenced by the Appellant's ride Fifty Stars. Further the horse Violate, just behind and to the outside of Siege of Quebec, may have brushed that horse and forced it in.
9. The Panel has no doubt that Mr McNeil crossed Siege of Quebec when not two lengths clear of that horse, but probably only a length and a quarter to a length and a half. Where we have doubt though is whether that had any influence on that horse's line. It is equally possible, in our view, that Siege of Quebec was ridden in to take a position behind Le Romain, uninfluenced by Fifty Stars.
10. The outcome of the appeal really comes down to the burden of proof. We are not comfortably satisfied that the Appellant's actions had any influence on Siege of Quebec, and for that reasons we would uphold the appeal on breach.
11. The orders of the Panel are as follows:
 - (1) Appeal upheld.
 - (2) Finding of breach of AR131 set aside.

(3) Penalty of ten meeting suspension set aside.

(4) Appeal deposit to be refunded.
