

RACING NEW SOUTH WALES APPEAL PANEL

IN THE MATTER OF THE APPEAL OF JOCKEY MICHAEL TRAVERS

Appeal Panel: **Mr R Beasley SC – Principal Member**
Mr J Murphy
Mrs J Foley

Appearances: **Racing NSW: Mr M Van Gestel, Chairman of Stewards**
Appellant: Himself

Date of Hearing: **15 August 2019**

Date of Reasons **15 August 2019**

REASONS FOR DECISION

R C Beasley SC

Introduction

1. The Appellant, licensed jockey Michael Travers, rode the horse *Miss Harlem* in Race 6 at Wagga Wagga on Sunday 11 August 2019. Following the race, an Inquiry took place into the Appellant's ride. He was charged with a breach of AR 131(a), which is the careless riding rule.
2. The particulars of the offence were as follows: "*that you, licensed jockey Michael Travers, as the rider of Miss Harlem in Race 6, the Class 1 Handicap run over 1200m at the Murrumbidgee Turf Club meeting on Sunday 11 August 2019 did near the 1000m*

mark allow your mount to shift in when insufficiently clear of Redfu ridden by Bryan Murphy which had to be steadied."

3. Mr Travers pleaded not guilty, but was found to have breached the rule. His carelessness was graded as 'medium' under the Penalty Guidelines. Curiously, the consequences were assessed as "*checked, lost rightful running,*" resulting in an 8-meeting suspension. Arguably, this is not consistent with the particulars of the charge. Penalising a jockey by using different terms to that used in the charge, or in the Penalty Guidelines, is not to be encouraged.
4. On appeal today, Mr Van Gestel, representing the Stewards, submitted that the Panel should read "steadied" in the charge as "checked and lost rightful running."
5. The film of the race was shown to the Panel many times and marked as Exhibit B. The appeal papers were marked as Exhibit A, and included a transcript of the Stewards' Inquiry.
6. Mr Van Gestel took us to some relevant parts of the transcript, as did Mr Travers, who represented himself. We were asked to note the following matters from the transcript. First, transcript page 1, line 25, where Mr Murphy said in his evidence to the Stewards that *Redfu* was "a handful in every way."

7. In his evidence to the Panel, Mr Travers emphasised this, and tendered Stewards' reports which he submitted were proof of the erratic nature of *Redfu* in various races (Exhibit 1). We were also asked to consider Mr Murphy's answer at the top of page 2, at about line 48, where he said he didn't have to check his mount. Mr Van Gestel, however, took the Panel to an answer by Mr Murphy at p2 at line 66 where he said that "*Mick probably just shaved me a little bit but, look, I was actually turning out to make sure I didn't go in and cause any grief myself.*"
8. Also drawn to the Panel's attention was Mr Murphy's evidence that the margin between his horse and Mr Travers' mount when the crossing took place was "a length, a length and a half going forwards," with the Chairman saying it wouldn't be quite a length and a half, probably closer to a length and a quarter, an estimate Mr Murphy agreed with.
9. The Panel agrees with Mr Van Gestel that when the horses crossed, the margin between them was probably about a length and a quarter, or a fraction more, but less than a length and a half.
10. There was some discussion about the so-called 'two lengths rule'. That is not a rule in the sense of being a Rule of Racing, but it is a convention. It is a very important convention, because it supports the paramountcy of safety which is behind AR 131, and the penalty provisions. It has long been recognised as indicating a margin of safety. When a rider crosses his horse in front of another when less than two lengths clear, the risk of clipping heels is introduced.

11. Mr Travers made a lot of *Redfu's* bad manners in previous races, but the Panel is not convinced that they are as relevant as he thinks. Where we do agree with him, however, is that at the time he crossed *Redfu*, the jockey of that horse was already starting to shift out from the fence.

12. The Panel is (unanimously) not comfortably satisfied that *Redfu* was in fact 'checked'. In other words, we think that the particulars of the charge - 'steadied' - were closer to accurately describing the consequences of the incident. *Redfu* was moving out due to a decision of its jockey when Mr Travers' horse crossed it. At most it was steadied. We consider unanimously that the consequences should have been assessed as '1' in the Guidelines. That is, as a 'hamper', rather than as 'checked or lost rightful running'.

13. Where the Panel members have a disagreement is as to the grade of carelessness. Mrs Foley considers the carelessness was correctly graded as 'medium'. This is largely because she considers the Appellant was only a length and a quarter clear when crossing *Redfu*. She also emphasises the paramountcy of safety behind the rule.

14. Although the difference here between 'low' and 'medium' carelessness is slight, Mr Murphy and I assess the carelessness as 'low'. We do so because Mr Travers had a sustained look before crossing *Redfu*, and because that horse had begun to shift out due to its own jockey's actions as the crossing takes place. We also consider the margin was probably a fraction more than a length and a quarter.

15. The Panel therefore unanimously upholds the finding of breach of AR 131(a), and assesses consequences as ‘hampered’. By majority, the Appellant’s carelessness is graded as ‘low’. Applying the Guidelines then, we set aside the 8 meetings suspension, and substitute a reprimand.

16. The orders of the Panel (unanimously as to orders 1, 2, 3 and 5, and by majority as to 4) are as follows:

1. Appeal against the finding of breach of AR 131(a) dismissed.
2. Finding of breach of AR 131(a) upheld.
3. Appeal against severity of penalty upheld.
4. In lieu of an 8-meeting suspension, the Appellant is reprimanded.
5. Appeal deposit to be refunded.