

## **RACING NEW SOUTH WALES APPEAL PANEL**

### **IN THE MATTER OF THE APPEAL OF NASH RAWILLER**

Appeal Panel: **Mr R Beasley SC – Principal Member**

**Mr C Tuck**

**Mr K Langby**

Appearances: **Racing NSW: Mr T Moxon**

**Appellant: In person**

Date of Hearing: **20 February 2020**

Date of Reasons: **20 February 2020**

### **REASONS FOR DECISION**

1. This Appeal is by licensed Jockey Nash Rawiller, against the finding that he engaged in careless riding in breach of AR131(a) of The Australian Rules of Racing. The charge and the finding of breach resulted from the appellant's ride on the horse *Marnix* in the Inglis Millennium 2yo's race run at Warwick Farm racecourse over 1100m on 12 February 2020.
2. The particulars of the charge are as follows:

“...making the home turn you did permit your mount Marnix to shift out, crowding the running of Charming Pat, and, further, again near the 300m you permitted Marnix to shift out crowding the running of Charming Pat again, and resulting in that horse having to be steadied by its rider...”
3. At the inquiry after the race, the appellant pleaded not guilty to the charge. He was however found in breach of the rule. His carelessness was assessed as medium grade. The consequences were assessed as “hampered/crowded”. This resulted in a base penalty under the template of a 4-meeting suspension.

Applying a 25 percent discount given upcoming feature races, and a 15 percent premium given this offence occurred in a feature race of \$2million, the penalty remained at 4 meetings.

4. The appellant has appealed to the Panel. At the appeal hearing, the Stewards were represented by Mr T Moxon. Mr Rawiller represented himself. Film of the race was admitted into evidence, as well as the appeal book containing transcript of the race inquiry.
5. At the commencement of the appeal, Mr Rawiller indicated he wished to change his plea to guilty. He also accepted that the consequences of his conduct were hampered/crowded to Charming Pat. He expressed some desire to submit his carelessness should be graded as low, not medium. However, the Panel accepts Mr Moxon's submissions that the film clearly demonstrates a medium grade of carelessness here. Mr Rawiller shifts his mount out twice, riding with full vigour, and does crowd Charming Pat on both occasions, with no attempt by him to straighten Marnix, or not cause the interference.
6. The main thrust of Mr Rawiller's submissions to the Panel was that in hindsight, he should have pleaded guilty to breach of the careless riding rule at the race inquiry. Indeed, he said so on the day, immediately after the charge was upheld. There may have been some confusion in his mind about the use of the word "steadied" by the Chairman of Stewards as to the consequence of his conduct to Charming Pat. No doubt also not everyone is thinking clearly in the hurried aftermath of a race.
7. Mr Rawiller also points to the fact that because a penalty has been imposed on him for a different offence in another race on 12 February, his careless riding suspension does not commence until 25 February, the day his other penalty expires. He is not able to ride until 1 March. This rules him out of consecutive Saturday feature race days. Of course, as Mr Moxon pointed out, these separate breaches of different rules in different races make it inappropriate for penalties to be served concurrently.

8. What the Panel really must consider here is whether any further discount should be afforded to the penalty imposed on the appellant because of changing his plea to guilty today. In respect to some appeals, particularly complex fact appeals for very serious breaches of the rules, there may be utility in a change of plea to guilty at appeal, such that applying a discount for plea is warranted.
9. For careless riding offences however, in the main the factors for applying a discount on penalty for a change of plea on appeal are not as strong. With an experienced rider too, there is less reason to discount for late plea than there would be for, say, an apprentice who might have made an error of judgment at an inquiry that they then seek to remedy. Ultimately, in this case, we agree with the grading of medium carelessness, and would apply the penalty template in the same manner as the Stewards. The appeal is therefore dismissed.

10. The Panels orders are:

1. Appeal dismissed.
2. Penalty of a 4-meeting suspension confirmed. Such suspension commences on 25 February, and expires on Sunday 1 March 2020, on which day the appellant may ride.
3. Appeal deposit forfeited.