

Appeal decision

Date: 6 November 2013

Code of racing: Thoroughbred

Appeal panel: Judge W Carter (chair).

Appearances: Jockey Ric McMahon appeared on his own behalf.
Mr M Knibbs, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Imposition of \$200 fine on jockey Ric McMahon – AR137(c).

Appeal result: Appeal upheld.

Extract of proceedings – in the matter of the T & J Whitehouse Class 6 Plate over 1010 metres at Doomben on 19 October 2013. Jockey: Ric McMahon

THE CHAIRMAN: This is an appeal by jockey Ric McMahon against a decision of stewards at Doomben on 19 October 2013. Jockey McMahon was riding a horse Kidnappers, which won the race convincingly but only after the horse itself had suffered some level of interference earlier. Any observer of the film would conclude that it was not only a meritorious performance by the horse but also by the jockey concerned.

The stewards' concern, however, focuses on the fact that as the winning horse ridden by jockey McMahon approached the winning post, it is alleged that he made a celebratory gesture prior to his mount passing the winning post, and in that respect he was in breach of Australian Rule 137(c).

The jockey's submission is that it was not a celebratory gesture as that term might be generally understood in a racing context, but rather as he approached the winning post his left arm moved towards the left ear of the horse in question, and he indicated that he was doing no more than patting the horse as it were as an act of kindness and in response to what he himself thought was a significant performance on the part of the horse.

The rule in question is obviously designed to ensure that jockeys insist on acting safely in the course of any race. In this particular race, the horse was significantly clear of the horse running second, and there was no risk of any action on the part of the jockey interfering with any other horse.

It needs to be said that jockeys are required by the rules to ride their horse not only safely but also to avoid any conduct which might be described as careless or reckless or improper or incompetent. Those are issues which are dealt with in the same rule under Sub-paragraph (a).

I have had the opportunity of viewing the race, and it seems to me that it is not entirely clear from the film as to the exact nature and extent of the action taken by jockey McMahon. I am prepared to act on the basis that, as he describes it, he was doing no more than patting the horse on its performance, and the film would indicate that what he said is supported.

In all of the circumstances of this case, I am not satisfied that there was any breach of the rule by the jockey, and in the circumstances of this case, and given the submissions by the jockey, I would allow the appeal and I would quash the conviction and the penalty.

I need to add however that the Racing Disciplinary Board is well aware of the fact that jockeys in certain circumstances and in other circumstances act in a way which is clearly celebratory and which at the same time might fairly be described as unsafe riding, not only putting himself or herself and the horse at risk, but also putting other horses and jockeys at risk as well, and indeed the Racing Disciplinary Board would view with disfavour any riding by any jockey which could properly be described as celebratory. I am not satisfied that this is such a case and for that reason I allow the appeal.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at www.qcat.qld.gov.au