

RACING APPEALS TRIBUNAL

RAT 24/16

DATE: THURSDAY, 2 FEBRUARY 2017

TRIBUNAL: PRESIDENT: MR T ANDERSON QC

MS L MICHALANNEY, GRSA STEWARD,
GREYHOUND RACING SA LTD APPEARS FOR
STEWARDS

APPELLANT: MR D TURNER

IN THE MATTER of an Appeal by **DON TURNER** against a decision of
Greyhound Racing SA Ltd Stewards

BREACH OF RULE: GAR 83 (2) The owner, trainer or person in charge
of a greyhound(a) nominated to compete in an Event;-
shall present the greyhound free of any prohibited substance.

PENALTY: 6 months Disqualification

DETERMINATION

Mr Turner has appealed against a disqualification for six months imposed
by the Greyhound Racing SA Stewards following an inquiry on 25
November 2016.

He was charged under GAR 83(2), in that he presented the greyhound
BULL TITAN when the dog was not free from a prohibited substance,
namely COBALT.

BULL TITAN won a race at Gawler on Sunday, 31 July 2016. The sample taken from him tested positive to COBALT. The reading from the A sample was 134 nanograms per millilitre. The threshold is 100 nanograms per millilitre. The reading from the B sample was 113 nanograms per millilitre.

The Stewards did not specify in the particulars what level they were charging Mr Turner with. However, it was apparent from the transcript that they were alleging either 134 or 113, or both. In future it would be helpful if, when the particulars of the charge are given, the actual reading alleged is specified.

Mr Turner has appealed against the severity of his penalty. The evidence taken by the Stewards is not challenged. Mr Turner can offer no explanation for the reading, although he did use a product which contained COBALT - that is Feramo-D. He pleaded guilty to the charge of presenting the dog not free of a prohibited substance.

The Stewards took into account his guilty plea, his clean record, the time he has held a trainer's licence, and his cooperation during the inquiry. The Stewards regarded this as a serious breach.

COBALT can enhance a greyhound's performance by increasing red blood cell production and therefore increasing oxygen levels in the blood. The level of COBALT recorded could have come from the product used by Mr Turner.

Mr Turner has been training since 1984. He is semi-retired and trains as a hobby. It is his only income. He has about 20 greyhounds in work and eight retired dogs. He owns the majorities of the greyhounds in work.

Mr Turner argues that the six-month disqualification is too harsh a penalty. I allowed him to be represented at the hearing by a Mr Cahalan, who had previously been disqualified in a similar circumstance. Mr Turner accepts that the raised level of COBALT could be due to the actual timing of the product containing COBALT, namely the Feramo-D.

The Rule relating to the threshold for COBALT came into operation on 1 September 2015. I have already indicated in relation to two matters, the Isaacs matter and the Cahalan matter, that offences occurring at or about

that time should be looked at differently because of the recency of the Rule at that early stage.

This offending was about 11 months after the introduction of the Rule and recency has no real relevance in this matter.

In these matters it is my view that a disqualification is the appropriate penalty unless there are unusual circumstances. In some cases a fine will also be appropriate in conjunction with the disqualification. The Stewards rightly took into account all of the matters which were relevant to penalty. They did not, however, indicate what their starting point was, and for the future it would be helpful for the Tribunal if that could be nominated. In any event, the result reached of six months was the Stewards' final result.

As was pointed out by Mr Cahalan on behalf of Mr Turner, the reading was not far above the threshold, and I take this into account. Mr Turner in all other respects should be given the credit that he was given by the Stewards. It is my view that the six-month disqualification is probably a little harsh. In my view the correct disqualification should be four months, but that should be accompanied by a fine of \$1000.

Accordingly, I allow the appeal. I reduce the period of disqualification from six months to four months. I impose a fine of \$1000, \$500 of which is payable within 14 days. The balance of \$500 is suspended whilst Mr Turner has agreed to be of good behaviour in relation to similar offending for a period of 12 months.

I order the refund of the bond money.