

**SOUTH AUSTRALIAN  
RACING APPEALS TRIBUNAL**

**RAT: 13/2024**

**DATE OF HEARING: 15 JULY 2024**

**TRIBUNAL: DEPUTY PRESIDENT – MR M KING**

**APPELLANT: LISA RASMUSSEN**

**REPRESENTATIVE: MR PAUL CRAWFORD, SOLICITOR**

**IN ATTENDANCE: MR DEREK KORDICK – GRSA,  
GENERAL MANAGER, RISK AND  
COMPLIANCE**

**MR DES JONAS – GRSA CHIEF  
STEWARD**

IN THE MATTER of an Appeal by **MS LISA RASMUSSEN** against the severity of the penalty resulting from a decision of **GREYHOUND RACING SA LTD INTEGRITY HEARINGS PANEL (IHP)**.

**Ms Rasmussen** was charged with breaches of Greyhounds Australasia Rules 21(2), 21(3) and 165(a).

**DETERMINATION**

Lisa Margaret Rasmussen (the Appellant) at the relevant time was a registered trainer and owner and is subject to the Greyhound Australasia Rules and the GRSA Local Rules.

The Appellant is married to Mr Tony Rasmussen who was at the relevant time also a registered trainer and owner. The Appellant and Mr Rasmussen lived at and trained at a training facility on their property at Gifford Hill.

As a result of drone footage broadcast widely, the Stewards and members of GRSA Integrity and Welfare Department commenced an Inquiry. Following that Inquiry, the Appellant was charged with four counts of breaching the Greyhound Australasia Rules and the GRSA Local Rules. The charges came before the GRSA Integrity Hearings Panel (IHP) for determination.

The conduct which formed the basis of the charges was an episode in which Mr Rasmussen took possession of a greyhound **Special Herbs**. The Appellant was the trainer and owner of **Special Herbs**. In the presence of the Appellant, Mr Rasmussen cruelly and brutally assaulted the greyhound **Special Herbs** in such a way as to cause it much injury and suffering. The Appellant stood by and took no or no sufficient action to protect or care for the safety and welfare of the greyhound **Special Herbs**.

At the hearing before the IHP, one charge was withdrawn and the Appellant pleaded guilty to the remaining three charges, respectively breaches of GAR Rule 21(2), GAR Rule 21 (3) and GAR Rule 165 (a) ( incorrectly referred to as Rule 165(1)).

The IHP heard submissions from the Appellant's legal representative and determined penalties as follows:

Charge 2:

Breach of Rule 21(2) 5 years 3 months disqualification and \$10,000.00 fine.

Charge 3:

Breach of Rule 21(3) 5 years 3 months disqualification and \$5,000.00 fine.

Charge 4:

Breach of Rule 165(a) 5 years 3 months disqualification and \$5,000.00 fine.

The disqualifications were directed to be served cumulatively and to commence on 18 December 2024 being the expiration of the Appellant's current QRIC disqualification. The Appellant was allowed credit for time served (seven months and 22 days).

The Appellant appeals to this Tribunal against the severity of the penalties imposed by the IHP.

At this appeal, the Appellant was again represented by her legal representative.

At the outset, the Appellant properly acknowledged her guilt. She acknowledged that by not acting appropriately when she observed the offending behaviour she breached her duties and obligations as an owner and a trainer of greyhounds. She recognised that she made a grave error of judgment in not taking positive steps to discharge her obligations and duties. She failed to do so and her failure amounted to a breach of the Rules as charged.

She explained again that her failure was driven substantially by the conflicted position in which she found herself, the conflict of loyalty to her husband against her duties as a registered trainer and owner.

The Tribunal recognises that the Appellant has clear insight into her role in what has occurred. She has honestly faced her failing. She has identified that the position of conflict she placed herself in – loyalty to her husband against her duties and obligations as a registered trainer and owner led her to make this error of judgment which in the view of this Tribunal can only be regarded as appalling.

In considering her appeal against penalty the Appellant's openness gives some comfort to the Tribunal that the Appellant's remorse is genuine and that there is virtually no prospect of her reoffending in the future.

The Appellant's appeals that the penalty was harsh and excessive. She submits that the cumulative effect of the periods of disqualifications and the fines amount to an effective life sentence. She submits that the impact of the penalties would be such as to preclude her from ever re-entering the industry, even in the limited role as an owner (noting that while she remains married to her husband who has been disqualified for life she could never have a greyhound at premises at which he resided or visited).

On her behalf her advocate put three principal submissions. I shall address each of those submissions, although for convenience of these reasons not in the same order as they were put.

One submission put was that the severity of the penalty imposed was beyond that which the conduct to which she had pleaded guilty called for.

She expressed concern that, in being penalised at the conclusion of the joint Inquiry into the conduct of both herself and her husband, the IHP may have failed to sufficiently distinguish her conduct from that of her husband, which may have in turn led to a penalty which was in effect a punishment of her beyond the bounds of what principles of deterrence demanded. Contributing to that concern was her submission that the IHP may have been reacting to the outpouring of public concern at the broadcast of the horrifying acts of abuse perpetrated by her husband and that may have influenced or coloured the IHP's view of her conduct, leaving to an overreaction. It was submitted that as an individual she was bearing the brunt of that overreaction.

In that regard, she drew this Tribunal's attention to the decision of the Racing Appeals Tribunal of New South Wales in the matter of Hoare (23/11/22) at paragraph 72:

"72. The civil disciplinary penalty regime requires the Tribunal to look to the future and in doing so impose a protective order, not punishment, to ensure that the public interest of Greyhound Racing is protected by sufficient deterrence. It is only deterrence necessary for that object to be met and nothing more."

Whilst it may be true that the above elements were present in the community and the greyhound industry at the time of the IHP determination, this Tribunal can see no indication that the IHP's decision was inappropriately influenced by them. The IHP recognised that the Appellant was to be penalised for her conduct on one occasion alone. On that occasion she stood by while her husband performed acts of violence and cruelty to the greyhound **Special Herbs**. Paralysed by her conflict of interest, the Appellant took no steps, or no sufficient steps, to protect the greyhound against the cruelty. As a result, the greyhound must have suffered significant harm.

The duties and obligations of a registered trainer and owner required her to act and, in failing to take adequate steps, she failed the greyhound, the greyhound industry and herself. However, in assessing penalty the IHP also clearly recognised that there was no parity between her conduct and that of her husband (whom the IHP saw as the primary offender). Whilst understanding the reason why the Appellant failed to act, the IHP nevertheless found that the Appellant's conduct was of the most serious of its type (meaning the type which gives rise to the offences to which the Appellant pleaded guilty).

At paragraph 26 of its reasons, the IHP stated:

"26. The IHP finds that the failure of Ms Rasmussen to take the necessary positive actions to prevent the ill treatment by Mr Rasmussen, is also of the most serious offending of its type, however, the panel have taken into consideration the implicit personal domestic difficulties that Ms Rasmussen was living under, and accordingly, have tempered the penalty to reflect that dynamic."

In arriving at penalty, the IHP had little by way of guidance from comparative penalties in this or other jurisdictions to assist. Penalties available were either at the minor end of the range or at the “life disqualification” end, neither of which were appropriate to these circumstances.

The IHP identified that for two of the three offences the Penalty Guidelines fixed minimum penalties:

GAR rule 21(2)                      Charge (2)      - three years disqualification.

GAR rule 165(1)                    Charge (4)      - nine months disqualification

and the maximum fine of \$20,000.00 per offence applied to all 3 offences.

Against that backdrop, the IHP fixed penalty apparently from a starting point of approximately 7 years disqualification per offence and then allowed credit of an appropriate proportion to reflect the Appellant’s pleas of guilty, thus arriving at a penalty for each offence of disqualification of 5 years and 3 months together with fines of \$10,000.00 (for the GAR Rule 21 (2) offence) and \$5,000.00 for each of the other two offences.

Despite earnest submissions on behalf of the Appellant and her obvious remorse, the Tribunal is not convinced that a penalty at or around the minimum fixed by the Penalty Guidelines would be appropriate in this case. The conduct in this offending is too serious to allow a penalty at the minimum level. The penalty chosen by the IHP reflected the need for general deterrence but with balance to reflect the admirable antecedents of the Appellant. In the Tribunal’s view the periods of disqualification and fine chosen by the IHP appropriately reflected that balance and the Tribunal is not persuaded to alter those parts of the IHP’s decision making.

A second submission was put that this was a case in which special circumstances existed. As such it was submitted that GRSA Local Rule 94 (2A) enabled the "Authority" to depart from the penalty guidelines.

A consideration of whether special circumstances exist in this case would only have arisen if the IHP was considering a penalty outside the Penalty Guidelines e.g. below the minimum penalty stipulated in the Penalty Guidelines. As the IHP imposed a penalty greater than the minimum, it did not need to formally consider whether special circumstances existed, although, as is clear from its reasons, the factors which might have amounted to special circumstances were taken into account in reaching its decision as to penalty.

The third major submission of the Appellant was that, as the 3 offences arose out of one set of conduct, the IHP ought to have directed that the 3 penalties be served concurrently. The Appellant referred to the Racing Appeals Tribunal of New South Wales decision in the matter of Barras (24 July 2023) at paragraph 43.

“43.      GWIC determined that those matters be served concurrently. There is no suggestion to the contrary. The facts and circumstances arise out of one set of conduct and therefore the Tribunal is of the opinion, absent any arguments to the contrary, consistent with the determination below, that these penalties should be served concurrently from 29 June 2023.”

In the Appellant’s case there was one act or episode which gave rise to the three charges. The Tribunal is persuaded that, in this circumstance, as to the penalties of disqualification, an order that the periods of disqualification be served concurrently is appropriate. To that extent the determination of the IHP is varied.

As to the fines imposed by the IHP, the Appellant's representative made submissions as to the dramatic effect these offences have had on the Appellant's financial position (including contributing to the sale of her home, and loss of her vocation). The Tribunal's attention was drawn to GAR 93(8) regarding the factors relevant to imposition of a fine. Taking those submissions into account, the Tribunal considers a suspension of a part of the fines imposed will accommodate the need for deterrence and the intent of GAR 93(8).

The decision of the Tribunal is that the appeal of the Appellant is upheld to the extent that the orders of the IHP are varied and the following penalties are imposed in place thereof.

### CHART

No.	Offence	Penalty (Disqualification)	Penalty (Fine)
2.	Failed to exercise care and supervision of a greyhound to prevent pain or suffering (Rule 21(2), <i>Greyhounds Australasia Rules</i> )	5 years 3 months (allowing for a 25% reduction on penalty)	\$10,000
3.	Cause or permit on premises a condition dangerous to health, welfare or safety of a greyhound (Rule 21(3), <i>Greyhounds Australasia Rules</i> )	5 years 3 months (allowing for a 25% reduction on penalty)	\$5,000 (wholly suspended on the condition the Appellant not re-offends GRA Rules Section 2 - dealing with animal welfare - within a period of 5 years from the date upon which the Appellant is next granted a licence, or registered as an owner of a registered greyhound)
4.	Conduct detrimental to the interest, welfare, image, control or promotion of greyhound racing (Rule 165(a), <i>Greyhounds Australasia Rules</i> )	5 years 3 months (allowing for a 25% reduction on penalty)	\$5,000 (wholly suspended on the condition the Appellant not re-offends GRA Rules Section 6 – dealing with “conduct detrimental” - within a period of 5 years from the date upon which the Appellant is next granted a licence, or registered as an owner of a registered greyhound)

	<b><u>TOTAL</u></b>	<p>5 years 3 months <u>less</u> 7 months 22 days [the period from 26 July 2023 to 19 March 2024 when QRIC (disqualification) penalty commenced.]</p> <p>Net effect - 4 years 7 months 8 days disqualification commencing at midnight on 18 December 2024.</p> <p>All periods of disqualification are to be served concurrently.</p>	<p>\$10,000 (payable now)</p> <p>2 x \$5,000 (wholly suspended on the condition the Appellant not re-offends the GRA Rules nominated within a period of 5 years from the date upon which the Appellant is next granted a licence, or registered as an owner of a registered greyhound)</p>
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In addition, there will be an order for a refund of the applicable portion of the bond.

**M King**  
**Deputy President SARAT**

**Dated – 31 July 2024**