

SOUTH AUSTRALIAN RACING APPEALS TRIBUNAL

RAT: 14/2024

DATE OF HEARING: 29 JULY 2024

TRIBUNAL: DEPUTY PRESIDENT – MR M KING

APPELLANT: WADE HIPWELL (BY TELEPHONE)

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

MR DES JONAS – GRSA CHIEF STEWARD

IN THE MATTER of an Appeal by **MR WADE HIPWELL against the severity of the penalty resulting from a decision of **GREYHOUND RACING SA LTD INTEGRITY HEARINGS PANEL**.**

Mr Hipwell was charged with breaches of Greyhounds Australasia Rules 141 (a) and 141 (3).

DETERMINATION

Mr Wade Hipwell (“the Appellant”) is a registered owner and trainer of greyhounds and is subject to the Greyhounds Australasia Rules and the GRSA Local Rules.

On 3 August 2023 the Appellant nominated a greyhound **ZIPPING ELKIE** in Race 2, the Sky Racing Maiden Stake CTA Division 1 at the race meeting at the Adelaide Greyhound Racing Club at Angle Park. Following the race, the Stewards took a post-race urine sample from **ZIPPING ELKIE** and referred it for laboratory analysis. The result of the analysis was that the sample contained amphetamine, 4-hydroxy amphetamine, methamphetamine, and 4-hydroxy methamphetamine. On receipt of the analysis, the Stewards commenced an Inquiry. The matter came before the Integrity Hearings Panel (“IHP”).

At the IHP Hearing on 9 February 2024 the Appellant was charged with a breach of GAR Rules 141(1)(a) and 141(3) as follows:

"Wade Mark Hipwell, you, being a registered person under the Rules of Greyhound Racing for Greyhound Racing SA Limited, are charged – That on Thursday 3rd August 2023, at Angle Park in South Australia, you, being the trainer of the greyhound Zipping Elkie that was nominated to compete in an Event namely Race 2, Sky Racing Maiden Stake CTA Division 1 (Grade M 530) presented that greyhound not free of a prohibited substance namely AMPHETAMINE, 4-HYDROXY AMPHETAMINE, METHAMPHETAMINE and 4-HYDROXY METHAMPHETAMINE."

The Appellant was provided with particulars of the charge.

The Appellant pleaded guilty to the charge before the IHP, but on the basis that he had no knowledge that the greyhound was not free of the substance and had no knowledge of how the greyhound came to ingest the substance.

Both in his prior interview with the Stewards and before the IHP the Appellant was open and candid. He was able to offer no explanation for the drug levels detected. He spoke of the detailed review he had made of all aspects of the greyhound's management over the week prior to the race, including reviewing the CCTV footage from his kennels, to search for an explanation. While he expressed concerns about contamination at the track, he was able to offer no cogent evidence of a probable source of contamination.

The IHP heard submissions and imposed what was, in effect, the minimum penalty available under the Penalty Guidelines, namely:

- Disqualification for 2 years reduced by 25% on account of the guilty plea to 18 months; and
- Fine of \$3,000.00.

Taking into account the Appellant's personal circumstances, the IHP suspended six months of the 18 months disqualification and \$2,000.00 of the \$3,000.00 fine on condition that the Appellant not reoffend for a period of two years.

The Appellant appeals to this Tribunal against that sentence.

On Appeal, he submitted to this Tribunal that a period of suspension should be substituted for the period of disqualification. He pointed to the secondary effects of disqualification on his and his family's life – inability to attend social occasions at properties of family members and friends (as greyhounds were housed at the properties), and inability to maintain social friendships through attendance at race meetings with his children.

In addition, as a result of his inability to train, and due to his deteriorating financial position, the Appellant had been forced to sell much of his training related equipment.

The Tribunal recognises the hardship which can arise from disqualification. It is a harsh penalty.

But the Penalty Guidelines designate disqualification as the appropriate penalty for a breach of the presenting rule (GAR rule 141) (1) (a)) for category 1 substances (including amphetamines and methamphetamines) for a reason. Understandably, the regulating authorities are determined to make every effort to keep amphetamine out of the industry. General deterrence is critical to this, if for no other reason than amphetamines are widely recognised to be potentially performance enhancing.

For the IHP to impose a suspension in place of disqualification, would have required it to depart from the Penalty Guidelines. GRSA Local Rule 94 (2) (A) authorises the IHP to depart from the Penalty Guidelines if it finds special circumstances exist. Although this Tribunal is not fettered by the same constraint, the Appellant's submission invited the Tribunal to consider whether special circumstances did exist in this case.

The Appellant put forward a range of factors (including the effects of the disqualification as outlined above) which could have indirectly being seen as potentially supporting a finding that special circumstances exist.

But these factors, even combined, do not persuade the Tribunal that special circumstances ought to have been or should be found to exist.

However, consideration of these factors leads this Tribunal to the view that a suspension of one half of the period of disqualification rather than one third would be appropriate.

A further factor for consideration in fixing penalty arose. After being notified of the likelihood of a charge being laid, and understanding the penalty likely to be imposed, the Appellant moved towards divesting himself of his ownership of greyhounds and closed down his training operation. By the time he pleaded guilty at the IHP Hearing on 9 February 2024, the Appellant had no ownership or possession of greyhounds and had terminated his training operation. In the transcript of his submission at the IHP Hearing he made that clear.

The Appellant effectively commenced a period of de facto disqualification from, at the latest, 9 February 2024 although the actual penalty of disqualification was not imposed and did not commence until 28 June 2024.

While it is not practical to “back date” the Appellant’s penalty to 9 February 2024, in fairness to the Appellant credit should be allowed for the time of “de facto disqualification” served. This would require adjustment of the period of disqualification by deducting the “time served” which was four months and 19 days (9 February 24 to 28 June 2024) and this Tribunal will so order.

The decision of this Tribunal is that the Appellant’s appeal is allowed in part, in that the penalty imposed by the IHP is varied to the following:

1. Disqualification of 13 months and 11 days commencing 28 June 2024, of which the final nine months is suspended on condition that the Appellant not reoffend for a period of two years from 28 June 2024.
2. A fine of \$3,000.00 of which \$1,000.00 is payable now and the payment of the remaining \$2,000.00 is suspended on condition that the Appellant not reoffend for a period of two years from 28 June 2024.

There is an order for refund of the applicable portion of the bond.

M King
Deputy President SARAT

8 August 2024