

Appeal decision

Date: 5 August 2014

Code of racing: Thoroughbred

Appeal panel: Mr B Miller (chair), Mr P James.

Appearances: Jockey Jim Byrne appeared on his own behalf.
Mr D Aurisch, deputy chairman of stewards, appeared on behalf of the stewards.

Decision being appealed: Suspension of licence to ride in races for a period covered by seven race meetings – AR137(a).

Appeal result: Appeal dismissed.

Extract of proceedings – in the matter of the Brisbane Marriott Hotel F&M Maiden Plate over 1200 metres at Eagle Farm on 16 July 2014. Jockey: Jim Byrne

THE CHAIRMAN: On Wednesday 16 July at Eagle Farm, the appellant, jockey Jim Byrne, was the rider of Secret Process, who had drawn two from the outside, and jockey Larry Cassidy, the rider of What A Lovely Day, had drawn next to him, and the two horses started with Jim Byrne's mount starting much faster than that of Larry Cassidy's.

At the relevant time of the interference to jockey Tim Bell, the rider of Colour Me Pretty, Jim Byrne had on two occasions looked to his right and behind to see that he was clear of Cassidy's mount. In so doing he was complying with and following the Rules of Racing that he must give way and allow racing room to jockeys immediately to his inside and behind him.

Jockey Byrne was adamant through his representations at this appeal that he had been two lengths clear of jockey Cassidy and that Cassidy continued to ride his mount forward vigorously, and that it was the vigorous riding of Cassidy that contributed to or was the sole cause of the incident in which Bell suffered a possible break in stride where he clipped the horse's heels in front.

Against that, the deputy chairman of Stewards, Mr Aurisch, has pointed to the lateral view of the film to identify what distance separated jockey Byrne and jockey Cassidy. His view was that jockey Byrne was not two lengths clear at the relevant time, but that jockey Byrne's horse was travelling much faster than that of Cassidy.

We sympathise with jockey Byrne in his predicament because there seems no doubt that his horse was travelling extremely quickly and much faster than that of Cassidy, and the question to be decided now is whether he was obliged to give more room than what was actually given at the relevant time.

Our view is that jockey Byrne has a duty to take care to ensure that he is not less than two lengths clear when crossing a horse, and, in our view, the stewards' opinion of the race is correct, namely, that jockey Byrne was not sufficiently clear and in doing so he was the cause of or certainly the contributing cause to the incident in question.

In the circumstances, we are not convinced that this appeal has merit and we dismiss the appeal as to conviction.

The penalty imposed was for seven meetings under AR137(a). The penalty was structured in such a way that jockey Byrne has ridden subsequently on a stay of proceedings. It is the view of this tribunal that a penalty of seven meetings is not an unrealistic view or penalty to be imposed and is relevant and our view is that that is an appropriate penalty in all the circumstances.

Accordingly, the appeal as to conviction and penalty is dismissed.

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