

IN THE RACING APPEALS TRIBUNAL

ANTHONY GARY TURNER
Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION
Respondent

REASONS FOR DETERMINATION

Date of hearing	28 January 2025
Date of determination	31 January 2025
Appearances	The Appellant in person Dr A Groves for the Respondent

ORDERS

- 1. The order made by the Tribunal on 13 June 2025 is vacated.**
- 2. The appeal is dismissed.**
- 3. The finding of guilt against the Appellant of an offence contrary to r 156(f)(ii) of the *Greyhound Racing Rules* is confirmed.**
- 4. The disqualification of 12 months is confirmed, and is to commence on 7 February 2025.**
- 5. The appeal deposit is forfeited.**

INTRODUCTION

1. By a Notice of Appeal filed with the Appeals Secretary on 27 May 2024,¹ Anthony Gary Turner (the Appellant) has appealed against a determination of the Greyhound Welfare and Integrity Commission (the Respondent) made on 21 May 2024, finding him guilty of an offence contrary to r 156(f)(ii) of the *Greyhound Racing Rules* (the Rules) and imposing a disqualification of 12 months. The Appellant had entered a plea of not guilty when the matter was before the Stewards, and he maintained that plea at the hearing of the appeal before me.²

2. Rule 156(f)(ii) of the Rules is in the following terms:

156 *An offence is committed if a person:*

...

(f) *has, in relation to a greyhound or greyhound racing, done something, or omitted to do something, which, in the opinion of the Controlling Body or the Stewards:*

...

(ii) *constitutes misconduct or. Is negligent or improper.*

3. The charge against the Appellant is particularised as follows:

That the Appellant, as a registered Owner Trainer with the Commission, at all relevant times, became involved in a verbal altercation with another participant at the Maitland Greyhound Club on 22 April 2024, and during this altercation, physically struck the other participant several times in the head with their fists, in breach of Rule 156(f)(ii).

4. On 13 June 2024, I made an order pursuant to cl 14(1)(a) of the *Racing Appeals Tribunal Regulation 2015* (NSW) that the Respondent's decision not be carried into effect until further order (the stay determination). The primary reason for making that order was that there was, at that time, a police investigation being conducted into the events giving rise to the charge brought against the Appellant. I have now been informed that this investigation has been completed, and that a determination has been made that no charge(s) will be brought against any party.

¹ TB 6 and following.

² Transcript 3.36.

In those circumstances, the appeal can proceed. For that purpose I have been provided with a Tribunal Book (TB) containing documentary material.

5. At various points throughout the appeal process, including in his grounds of appeal,³ the Appellant sought to rely on the fact that no action was taken by the Respondent against the other principal participant in the incident, Craig Last (*Last*). I must make it clear at the outset that the responsibility of this Tribunal is not, in any sense, investigative. The responsibility of this Tribunal is to hear and determine those appeals which come before it. It follows that the fact that no action was taken against Last arising out of the incident is entirely irrelevant to my determination, and I have not taken it into account.

THE CASE AGAINST THE APPELLANT

6. On 22 April 2024, the Appellant attended the Maitland racing track with his mother. A verbal interaction took place (in the Appellant's absence) between Last and the Appellant's mother between whom, it appears, there has been ongoing animosity for some time. When the Appellant was informed by his mother about what had taken place, he engaged in a verbal interaction with Last of his own, which escalated to a physical one. Although there are conflicting accounts as to what actually occurred, the Appellant made a number of clear and unequivocal admissions in relation to his conduct which are discussed below.

THE EVIDENCE

7. Broadly speaking, the evidence before me consists of:
 - (i) transcripts of interviews conducted between Stewards and a number of other persons, including the Appellant and Last; and
 - (ii) oral testimony given by witnesses at the hearing of the appeal.

³ Ground 3 at TB 8.

8. As to the first of those matters, and before considering the evidence in detail, it is appropriate to repeat, and briefly expand upon, two matters to which I referred in the course of the stay determination. I should emphasise that the purpose of doing so is purely to assist those who have the responsibility of conducting investigations on behalf of the Respondent.
9. First, on two separate occasions in the course of the present investigation, witnesses were interviewed by Stewards in each other's presence.⁴ Put simply, that is antithetical to proper investigative practice. Witnesses must provide their recollection, and must give their evidence, based upon their own *independent* knowledge of relevant events, unaffected by the views, observations, recollections or evidence of others.⁵ Interviewing witnesses together has the capacity to erode the integrity of the investigative process.⁶ The obvious vice inherent in such a practice is that it may provide a witness with the opportunity to modify or change the evidence that they might give about an incident in light of what others might say.⁷ These general principles assume particular significance in cases such as the present where the evidence of witnesses centres upon their recollection of observing a specific event. Whilst it has not become an issue in the present case (largely because of the Appellant's admissions) there is an obvious risk that evidence obtained as a consequence of witnesses being interviewed in the presence of one another will be found to be of little or no weight. For all of these reasons, witnesses must always be interviewed individually.
10. Secondly, it is important to carefully formulate the questions which are put in the course of any interview which is conducted. In the present case, in the "joint interview" of Mr Watson and Mr Barrass, Mr Watson gave his recollection of events,⁸ following which this question was put:⁹

⁴ Interview of Sophia Brace-Thompson at Stephanie Richards on 22 April 2024 commencing at TB 59 ; Interview of Robert Watson and Terrence Barrass on 3 May 2024 commencing at TB 76.

⁵ See *Legal Profession Complaints Committee v Caine* [2010] WASAT 178 at [143].

⁶ *Day v Perisher Blue* (2005) 62 NSWLR 731 at 746.

⁷ *Legal Services Commissioner v Hansen* [2008] LPT 7 at [26].

⁸ Q and A 2 – 8 at TB 77 – 78.

⁹ Q 9 at TB 78.

So it'd be your evidence, if I can get it clear in my mind, you did see Mr Last put his hands on Mr Turner?

11. Whilst there is certainly nothing impermissible about the questioner clarifying in his or her own mind something that has been said by the person being interviewed, the use of a leading question in those terms is entirely inappropriate. Questions must always be open-ended.

12. I trust that, going forward, these observations will assist those who are responsible for investigating breaches of the Rules.

THE EVIDENCE

The interview with the Appellant

13. The Appellant was interviewed by Stewards on 22 April 2024, and a transcript of that interview forms part of the evidence before me.¹⁰ The Appellant told Stewards that his mother had informed him that Last had been “*having a go*” at her and then said the following:¹¹

*'ll be honest. I said, “I’ve fucking had enough of this.” So, I walked over to where he was – his van. I said, “Mate.” I said, “Stop it. Leave my mum alone. Stop intimidating her. I’ve had enough. Now, fucking stop.” And, he goes, “What? What?” And, I said, “Stop.” And, he goes, “What?” I said, “Mate, I’m just telling you stop. And, that’s it.” And, he comes up and he goes, “Nothing – you’re nothing, but a big mouth fucking cunt like your mother.” I said, “Am I really?” He goes, “Yeah. You are.” I said, “Well, you’re nothing, but a fucking dick head.” So, he’s come up to me aggressively. He had a dog in his right hand – a black dog. Still remember that quite well. He’s come into shoulder me in the chest which he did. So, I pushed him away. He slipped on the greasy grass and rolled down the hill towards the car. And, he still had the dog in his hand and it yelped as – as well. Then, he’s got up. And, he was more aggressive. I stood – stood there. I didn’t approach him. He’s gone and handed the lead to his step-son which was in the back of the – like, he was sitting on his arse down at the back of the van. He said, “Hold this lead while I fuck this cunt up.” I said – and, he come up. **He put his hands up. I put my hands up. He’s come in. He swung a right punch. And, I’ve ducked. I’ve hit him in the ribs. I’ve hit him with a left. I hit him with a right in the face. And, he went down on one hand.** And then, he went down. And then, he’s got back up, put his hands up. Put my hands up. **He’s realised – well, he doesn’t want no more of it.** He’s – then, he’s bolted – left there and went straight to where the kennel block is obviously looking*

¹⁰ Commencing at TB 63.

¹¹ Q and A 13 at TB 65.

for stewards or whatever. And, he's yelled out to me as he's going over there – saying to me, "That's it. You've done your licence now, cunt. You're fucking gone, cunt." Like, just running and saying that. And, I stood there. And, that was it. He's ran to there. And, I remember him running into the kennel block. They come out. They're going up the path (emphasis added).

14. The bolded passages of what the Appellant said are obviously significant. They amount to clear and unequivocal admissions of the commission of the offence.

The interview with Last

15. Last was interviewed by Stewards and a transcript of that interview also forms part of the evidence.¹² The essence of his account of the incident was as follows:¹³

*Just before Race 12, my son and I were walking two dogs in the car park to empty them out before we put them in the van. Marilyn Turner, I – I don't know what was said, and then I looked at her and said, "Why don't you just take a photo?" And, then her son come running through the car park and, grabbed me and then I turned around to him and said, "What are you doing mate"? And, then he said, "I'm sick of you hassling my mum." And, I said, "Mate, I don't even start it". I said, "Your mum's got a big mouth". And, then he swore at me and said, "Well fucking you have too". And I said, "Look, I'm not the one that starts the shit mate". **So, then he pushed me and then threw a punch at me and connected into the side of my head and I fell over my dog. And then my son already had his dog back in the van. And, then come and grab my dog. And as I've got back up, he's hit me a couple more times and I've blocked me – blocked and protected myself.** And, then I said, "Mate, I hope you can kiss your license goodbye". Walked away. There's a couple of other people that seen it (emphasis added).*

16. Last attended the hearing of the appeal and was questioned by the Appellant.¹⁴ Nothing he said in answer to those questions affected the account he had given to the Stewards. However, in the course of putting questions to Last, *the Appellant* said the following:¹⁵

And the coward punch you just mentioned, that's what I did. To be honest, this is just a thing what I'm saying, a coward punch, yeah, it's not real nice. It should be, you know, outlawed and it is.

¹² Commencing at TB 53.

¹³ Q and A 2 at TB 54.

¹⁴ Transcript 9 – 14.

¹⁵ Transcript 13.45 and following.

17. That was, again, a clear and unequivocal admission by the Appellant that he committed the offence.

The interview with Mr McGroder

18. Mr McGroder is Last's son. A transcript of his interview with Stewards also forms part of the evidence.¹⁶ His account of the incident was in the following terms:¹⁷

Mr Turner approached Craig, he said something, can't remember exactly what it was, Mr Turner said something. Approached Craig, pushed him, he fell over the dog, so my then, sort of, main focus was trying to get his dog and my dog in – into the van so I sort of missed a bit of it. He threw a punch, I'm not sure if it did land. Craig was mainly sort of dodging and trying to keep him at bay, not throwing any punches. Then he sort of left and now we're here.

19. Mr McGroder attended the hearing of the appeal and was asked questions by the Appellant.¹⁸ Nothing he said in answer to those questions is of any particular significance.

The interview with Ms Brace-Thompson and Ms Richards

20. Ms Brace-Thompson and Ms Richards were interviewed by Stewards on 22 April 2024 and a transcript of that interview also forms part of the evidence.¹⁹ Ms Brace-Thompson said she heard "yelling".²⁰ Ms Richards heard what she described as a "little bit of commotion"²¹ but did not observe any punching.²² Ms Richards gave evidence at the hearing²³ of the appeal, and essentially confirmed what she had told the Stewards. This evidence is of limited probative value.

¹⁶ Commencing at TB 57.

¹⁷ Q and A 2 at TB 58.

¹⁸ Transcript 7 – 9.

¹⁹ TB 59 – 62.

²⁰ Q and A 7 at TB 60.

²¹ Q and A 15 at TB 61.

²² Q and A 16 at TB 61.

²³ Transcript 15 – 20.

The interview with Mr Watson and Mr Barrass

21. Mr Watson and Mr Barrass were interviewed by Stewards and a transcript of that interview also forms part of the evidence.²⁴ Mr Watson told Stewards that he had seen an “*altercation*” in which Last “*went down*”.²⁵ Mr Barrass said that he saw “*exactly the same thing*”.²⁶ That evidence is generally consistent with the Appellant’s admissions.

SUBMISSIONS OF THE PARTIES AS TO THE COMMISSION OF THE OFFENCE

Submissions of the Appellant

22. Leaving aside his complaint as to the absence of any action being taken against Mr Last, the Appellant submitted that he was defending himself, and defending what he described as his “*mother’s integrity*”.²⁷ The Appellant also relied on the proposition that he was provoked by the fact that Last had abused his mother.²⁸

Submissions of the Respondent

23. The Respondent relied on the Appellant’s admissions to the Stewards as proof of the offending.²⁹ As far as the asserted provocation is concerned, the Respondent submitted that this could not amount to a defence, although it was accepted that, if established, it may amount to a factor in mitigation of penalty.³⁰

CONSIDERATION

24. Provocation is not a defence to the charge brought against the Appellant. In those circumstances, one only has to look at what the Appellant himself said about the incident to be satisfied that the offence is made out. In particular, the Appellant:

- (i) told the Stewards that he had hit Last “*in the ribs*” and “*with a right to the face*” (the latter being sufficient to knock Last down);

²⁴ TB 76 – 82.

²⁵ Q and A 2 – 9 at TB 77 – 78.

²⁶ Q and A 13 at TB 78.

²⁷ Transcript 21.30 – 21.35.

²⁸ Transcript 22.35 – 22.42.

²⁹ Submissions at [19] – [21]; TB 3 – 4.

³⁰ Transcript 22.18.

- (ii) said in the course of the hearing of the appeal that he had executed a “*coward punch*” and that this was “*exactly what happened*”.³¹

25. Those admissions, without more, establish the commission of the offence. Clearly, conduct of the kind to which the Appellant admitted is improper, and/or constitutes misconduct within the meaning of r 156(f)(ii). For these reasons, the Appellant’s guilt is established. To the extent that the Appellant relied on self-defence, there is some evidence that Last put his hands on the Appellant. However on any view, the Appellant’s response was far in excess of what was reasonable.

THE QUESTION OF PENALTY

Submissions of the Appellant

26. The Appellant relied on the provocation referred to above³² in mitigation of penalty. He also relied on a previous decision of the Tribunal in *Gilbert v Greyhound Welfare and Integrity Commission*³³ in support of the proposition that the penalty was excessive. Finally, the Appellant relied on his disciplinary history in the industry as a mitigating factor.

Submissions of the Respondent

27. The Respondent submitted that the penalty imposed was appropriate,³⁴ particularly having regard to the principal objectives set out in s 11 of the *Greyhound Racing Act 2017* which include maintaining public confidence in the greyhound racing industry. Whilst acknowledging the Appellant’s history in the industry, the Respondent submitted that there remained a need for any penalty to act as a general deterrent.³⁵ Finally, the Respondent submitted that a series of distinctions were to be drawn between the facts of the present case, and those in *Gilbert*, which rendered the present offending of far greater objective seriousness.

³¹ Transcript 23.16.

³² At [22].

³³ A determination of 16 September 2024.

³⁴ Submissions at [29].

³⁵ Submissions at [35].

CONSIDERATION

28. In *Gilbert* I said the following:³⁶

Physical and/or verbal interactions between participants undoubtedly have the capacity to affect the integrity of, and erode public confidence in, the greyhound racing industry. For that reason, offences involving misconduct of that kind must, at least at a level of generality, be viewed as objectively serious.

29. Part of the reason that offending of this nature is to be viewed as objectively serious, is that all participants have an obligation to ensure that they conduct themselves in a manner which is consistent with maintaining public confidence in the greyhound racing industry. The Appellant failed to so conduct himself on this occasion. On his own admission, his actions exhibited a significant level of violence, the second punch to Last's face carrying sufficient force to cause him (i.e. Last) to lose his footing. In these circumstances, the objective seriousness of the offending is significant, and general deterrence is an important factor to be taken into account on penalty.

30. Whilst provocation may be a factor which mitigates penalty, I am not satisfied that it does so in this case. The provocation relied upon by the Appellant is said to have arisen from something said by Last to his (i.e. the Appellant's) mother. However, even on the Appellant's account, what he was told by his mother (in terms of what Last had apparently said to her) was more than nebulous. The Appellant's reaction was completely out of proportion to anything that had occurred, to the point where he must be regarded, on his own account, as the instigator of the physical incident that followed.

31. The decision in *Gilbert* is of little assistance to the Appellant, largely because the circumstances of the offending in that case³⁷ are immediately distinguishable from the Appellant's conduct in a number of important respects. Most

³⁶ At [26].

³⁷ At [26] – [36].

fundamentally, the assault in *Gilbert* was found to fall at the lowest possible end of the scale, something that could not be said about the Appellant's conduct.

32. The Appellant's history as an industry participant dates back more than 25 years and on the evidence before me³⁸ it is blemish-free. That is a fact which the Appellant is entitled to have taken into account in his favour, and I have done so. Objectively, it supports a conclusion that the Appellant is generally a person who upholds the standards expected of an industry participant, and that his conduct on this occasion was an aberration. It follows that personal deterrence is not a consideration on penalty. However, even when full weight is given to all of those circumstances, the objective seriousness of the offending is such that I consider that a 12 month disqualification remains appropriate.

ORDERS

33. For the reasons given I make the following orders:

1. The order made by the Tribunal on 13 June 2025 is vacated.
2. The appeal is dismissed.
3. The finding of guilt against the Appellant of an offence contrary to r 156(f)(ii) of the *Greyhound Racing Rules* is confirmed.
4. The disqualification of 12 months is confirmed, and is to commence on 7 February 2025.
5. The appeal deposit is forfeited.

THE HONOURABLE G J BELLEW SC

31 January 2025

³⁸ TB 83 – 84.