

IN THE RACING APPEALS TRIBUNAL

PAUL WADE
Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION
Respondent

DETERMINATION

Date of hearing 29 January 2025; 7 February 2025 (further submissions)

Date of determination 6 March 2025

Appearances: The Appellant in person

Mr M Tutt for the Respondent

ORDERS

- 1. The appeal is dismissed.**
- 2. The finding of guilt, and the penalty imposed, are confirmed.**
- 3. The appeal deposit is forfeited.**

INTRODUCTION

1. By a Notice of Appeal dated 9 October 2024, Paul Wade (the Appellant) has appealed against a determination of the Greyhound Welfare and Integrity Commission (the Respondent) finding him guilty of an offence contrary to r 156(f)(ii) of the *Greyhound Racing Rules* (the Rules), and imposing a fine of \$1,000.00. \$500.00 of that fine was suspended for a period of 12 months, conditional upon the Appellant not breaching any provision of the Rules within that period.
2. For the purposes of the hearing of the appeal, I was provided with a Tribunal Book (TB) containing all relevant evidence. That evidence included footage of the Appellant's conduct which is said to constitute the relevant offending, and which was played on several occasions in the course of the hearing.

THE RELEVANT PROVISIONS OF THE RULES

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

156 General Offences

An offence is committed if a person (including an official):

...

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

...

(ii) constitutes misconduct, or is negligent or improper.

THE CHARGE AGAINST THE APPELLANT

4. The charge against the Appellant was particularised as follows:¹

That [the Appellant], as a registered Attendant and Owner at all relevant times, did a thing which, in the opinion of the Controlling Body, constitutes an offence where:

1. *On Saturday 29 June 2024, [he] attended the Richmond Greyhound Club.*
2. *Prior to Race 2, [he was] handling the greyhound Lepidoptera;*

¹ TB 37.

3. *Whilst leading the Greyhound from the stir up yard to the boxes, [he] proceeded to strike the greyhound on two occasions and whip it with the lead.*
4. *In doing the above [he] acted improperly.*

5. It is noted that paragraph [3] of that charge was subsequently amended to allege that the Appellant struck the greyhound on one occasion.²

THE PROCEDURAL HISTORY

6. The Appellant pleaded not guilty to the charge. He was found guilty by Stewards, who imposed the penalty previously set out.³
7. The Appellant sought, and was granted, an internal review of that decision.⁴ On 4 October 2024, the internal review confirmed it.⁵
8. On the hearing of the appeal, the Appellant maintained his plea of not guilty⁶ and also took issue with the penalty imposed. A great many of the Appellant's submissions were directed towards errors said to have been made by the Stewards, as well as errors said to have been made in the course of the conduct of the internal review. As this appeal proceeds before me *de novo*, those criticisms are not relevant. My task is to look at the evidence afresh, and to determine the matter without regard to the decisions which were made previously. This was explained to the Appellant during the hearing of the appeal.⁷

THE EVIDENCE

9. The evidence on the appeal was constituted, in large measure, by footage depicting the conduct of the Appellant which gave rise to the charge. That footage was played during the course of the hearing of the appeal⁸ and I viewed it carefully.

² TB 74.

³ TB 79.

⁴ TB 84 – 92.

⁵ TB 93 – 101.

⁶ Transcript 2.32.

⁷ Transcript 2.19; 10.32 – 12.22.

⁸ Commencing at Transcript 3.42.

10. The Respondent submitted,⁹ and I accept, that the footage shows the following:

1. At 01:24 - the Appellant using his right palm to make contact with the greyhound's rump whilst walking between the "stir up" area and the race boxes.
2. At 01:31 - the Appellant using the Greyhound's lead to make a "whipping" or "slapping" movement.
3. At 01:35 - the Appellant using the Greyhound's lead to make a "whipping" or "slapping" movement.
4. At 01:41 - the Appellant using the Greyhound's lead to make a "whipping" or "slapping" movement.
5. At 01:56 - the Appellant using the Greyhound's lead to make a "whipping" or "slapping" movement.
6. At 02:12 - the Appellant using the Greyhound's lead to make a "whipping" or "slapping" movement.
7. At 02:15 - the Appellant using the Greyhound's lead to make a "whipping" or "slapping" movement.
8. At 02:18 - the Appellant using the Greyhound's lead to make a "whipping" or "slapping" movement.
9. At 02:31 - the Appellant using the Greyhound's lead to make a "whipping" or "slapping" movement.
10. At 05:56 - the Appellant using the Greyhound's lead to make a "whipping" or "slapping" movement.

11. Whilst the above constitutes an accurate summary of the conduct which is shown on the footage, the issue on the appeal is how that conduct should be evaluated and interpreted.

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

12. To a large extent, the Appellant did not take issue with what was on the footage. However, he submitted that properly understood, no aspect of his conduct was improper. He made lengthy submissions both orally and in writing, which can be distilled into the following propositions:

- (i) there were at least some occasions on which he did not make any actual connection with the greyhound at all, or on which any contact which was made was fleeting;¹⁰

⁹ Submissions at [20].

¹⁰ Transcript 6.28 – 6.34.

- (ii) he did not “whip” the greyhound on any occasion;¹¹
- (iii) in acting as he did he was simply attempting to gain the greyhound’s attention,¹² and/or trying to control the greyhound to ensure that it “*did not flip over backwards*”, and he did not apply any pressure to the greyhound at any time.¹³

Submissions of the Respondent

13. It was submitted on behalf of the Respondent that on a proper assessment of the footage the Appellant had engaged in a “whipping” motion (with the use of the lead) on 9 occasions,¹⁴ as well as a “striking” action on another.¹⁵ As to the latter, the Respondent sought to draw a distinction between a “strike” and a “pat”¹⁶ (the latter being acceptable). Put simply, the Respondent submitted that the offending was clearly depicted on the footage.

CONSIDERATION

14. Whether the charge against the Appellant is established is dependent, almost entirely, on what is made of the footage. Having viewed it, I am satisfied that the charge is made out for the following reasons.

15. First, I am satisfied that the Appellant did strike the greyhound in the manner alleged. That action is clearly depicted on the footage. Whilst it is no part of the Respondent’s case that the Appellant was attempting to harm the greyhound, it remains the case that the force he applied when he struck the greyhound is inconsistent with simply trying to control the greyhound or get its attention.

16. Secondly, I am satisfied that the Appellant repeatedly “whipped” the greyhound, in the sense of making contact with the greyhound with the use of the lead. I am

¹¹ Transcript 7.19; 8.5.

¹² Transcript 7.3 – 7.9.

¹³ Transcript 7.45 – 7.48.

¹⁴ Transcript 16.10.

¹⁵ Transcript 16.1 – 16.44.

¹⁶ Transcript 17,11 – 17.17.

satisfied that contact was made on each of the 9 occasions alleged. Bearing in mind the Appellant's explanation, it must have been apparent to him that his actions were not controlling the greyhound, and were not getting its attention. Notwithstanding that, his conduct persisted.

17. Thirdly, the fact that the Appellant's actions were repetitive in the sense described above is indicative of the impropriety of his conduct. I am satisfied that his actions went substantially beyond engaging in some form of permissible control, or attempted control, of the greyhound. His conduct was improper, in the sense of not being in accordance with accepted standards. Repeated "whipping" of a greyhound, even if it is not particularly forceful, and even if it is not accompanied by any intention to harm the greyhound, clearly falls into that category.

18. For these reasons I am satisfied that the offence is made out.

THE ISSUE OF PENALTY

Submissions of the Appellant

19. The Appellant submitted that he was a person of limited financial means, for whom any fine would be a significant imposition. He relied upon his history as an industry participant, his poor state of health, and the fact that he had never come under notice for any animal welfare issues.¹⁷

Submissions of the Respondent

20. The Respondent submitted that it was particularly significant that the Appellant acted as he did in full view of members of the public at a race meeting.¹⁸ It was submitted that in those circumstances, such conduct had the clear capacity to erode public confidence in the greyhound racing industry, and was generally contrary to promotion of animal welfare.¹⁹ The Respondent accepted that there was no basis upon which to find that in acting as he did, the Appellant was

¹⁷ Transcript 30.35 – 31.40

¹⁸ Transcript 25.38.

¹⁹ Transcript 26.13.

intending to *harm* the greyhound.²⁰ Nevertheless, it was submitted that repeatedly whipping a greyhound in the manner in which the Appellant did is improper and unacceptable, regardless of what intention might lie behind it.²¹

21. The Respondent accepted that the Appellant was of limited financial means,²² and that he was presently confronted by significant health issues.²³ However, it was submitted that the penalty imposed was at the lower end of the scale, and that a wholly suspended sentence would fail to have proper regard to both the objective seriousness of the offending, and the need to protect the integrity of, and promote, the greyhound racing industry.²⁴ It was accepted that personal deterrence had little or no role to play in the assessment of penalty.²⁵

CONSIDERATION

22. In my view, there are two particular matters which bear upon the assessment of penalty. The first, is that the Appellant's conduct towards the greyhound was not isolated. It was repetitive, and continued over some minutes. The second, is that the Appellant's conduct took place in full view of members of the public who were present at the meeting. Both of those matters are of particular significance given that the objects of the *Greyhound Racing Act 2017* (NSW) include:

- (i) the protection of the industry;²⁶ and
- (ii) the protection and promotion of the welfare of greyhounds.²⁷

23. The conduct of the Appellant antithetical to achieving those objects. It is equally antithetical to meeting the statutory objectives of the Respondent to:

²⁰ Transcript 26.22.

²¹ Transcript 26.27.

²² Transcript 27.25.

²³ Transcript 27.36.

²⁴ Transcript 32.29 – 32.32.

²⁵ Transcript 28.38.

²⁶ Section 3A(b).

²⁷ Section 3A(f).

- (i) promote and protect the welfare of greyhounds;²⁸ and
- (ii) maintain public confidence in the greyhound racing industry.²⁹

24. For all of those reasons, I regard the offending as being of significant objective seriousness. Industry participants must expect that conduct of this kind will be met with zero tolerance.

25. The Appellant chose to defend the charge which, of course, is his right. But it means that he is not entitled to a discount to reflect a plea of guilty. I accept that he is of limited financial means, that he is currently suffering from serious health problems, and that he has never come under notice in respect of any issue of animal welfare. However, even when full weight is given to all of those matters, a wholly suspended fine would, in my view, fail to properly reflect the objective seriousness of the offending, and the need for general deterrence.

26. For all of these reasons, the penalty is appropriate. It is properly reflective of all of the circumstances of the case.

27. For these reasons the appeal must be dismissed.

ORDERS

28. I make the following orders:

1. The appeal is dismissed.
2. The finding of guilt, and the penalty imposed, are confirmed.
3. The appeal deposit is forfeited.

THE HONOURABLE G J BELLEW SC

6 March 2025

²⁸ Section 11(a).

²⁹ Section 11(c).