

RACING APPEALS TRIBUNAL

NATHAN CHARLES LAZARUS

Appellant

GREYHOUND WELFARE AND INTEGRITY COMMISSION

Respondent

DETERMINATION

In the matter of a Stay Application
31 October 2023

Introduction

1. The Appellant, Nathan Charles Lazarus (**Mr Lazarus**) was, as at 11 October 2023, a licensed trainer and handler and employed as a handler having first been registered on 16 November 2021.
2. By notice of appeal dated 12 October 2023 (**Notice of Appeal**), Mr Lazarus appeals the decision of the Greyhound Welfare and Integrity Commission (**GWIC**) made on 10 October 2023 and notified the following day, to impose on him an interim suspension pursuant to NSW Greyhound Racing Rules (**Rules**), Rule 169(5)(c) pending the finalisation of an inquiry (**Decision**).
3. The Notice of Appeal is accompanied by an application for an order suspending the Decision pursuant to Regulation 14 of the *Racing Appeals Tribunal Regulation* (**Regulation**) (**Application**). The Application is opposed by the GWIC.
4. The parties have consented to the Application being heard on the papers, that is, without the need for a hearing after each had been afforded the opportunity to provide the Tribunal with documentary material upon which they proposed to rely together with written submissions.
5. The facts and circumstances culminating in the Decision and giving rise to the appeal and the Application are relatively uncontroversial and summarised below from the documentary material including the written submissions provided to the Tribunal by the parties.

The Facts

6. On 20 September 2023, NSW Police attended a property known as 6237 Federal Highway, Wollongorang, to conduct a firearms prohibition order search (**Premises**). Mr Lazarus was one of two occupants of the Premises at the time of the search. Police contained and

handcuffed Mr Lazarus in the process of which it is alleged that he assaulted one police officer and resisted arrest.

7. Mr Lazarus was subsequently charged with two offences: one count of “Assault police officer in execution of duty” (s 60(1), *Crimes Act*, 1900) and one count of “Hinder or resist police officer in the execution of duty” (s 60(1AA), *Crimes Act*, 1900).
8. Those charges were listed for mention at Goulburn Local Court on 25 October 2023. Mr Lazarus did not enter a plea and the proceedings have been adjourned to a later date at which time it is expected that Mr Lazarus will enter a plea.
9. On 21 September 2023, GWIC sent Mr Lazarus a letter notifying him that, as a result of the criminal charges brought against him by the Police, it had serious integrity concerns relating to his continued involvement of the greyhound racing industry, in accordance with section 58 of the *Greyhound Racing Act, 2017 (GRA)* it was considering implementing disciplinary action against Mr Lazarus, it had formed the preliminary view that, given the nature and the seriousness of the criminal conduct it was appropriate for the GWIC to consider implementing an interim disqualification under Rule 169(5)(c) and providing Mr Lazarus with an opportunity to respond by 5 PM, 25 September 2023.
10. On 25 September 2023, Mr Lazarus through his solicitor, Mr Cleverley of Hammond Nguyen Turnbull, provided a written response to the 21 September 2023 letter from the GWIC, providing grounds upon which Mr Lazarus objected to any proposed interim suspension, seeking clarification of a number of matters and submitting that he had been denied procedural fairness.
11. By letter dated 27 September 2023, the GWIC provided a response to the submissions made on behalf of Mr Lazarus on 25 September 2023. In its response, the GWIC contended that Rule 169(5)(c) of the Rules granted the GWIC and the Stewards authority to suspend a registration pending the outcome of an inquiry, section 58(1)(b) of the GRA provides that the GWIC may take disciplinary action in respect of a person if it is of the opinion that the person is not fit and proper to be registered, in considering Mr Lazarus’s fitness to hold a registration while subject to criminal proceedings, the GWIC had reference to the decision of the Tribunal in *Wright v GWIC* (11 October 2022), refuting the assertion that Mr Lazarus had been denied procedural fairness and providing a response to the questions raised in the letter under reply.
12. The GWIC further stated that it relied upon “*Constable Mitchell Clark of the NSW Police that your client is a member of The Finks OMCG. The [GWIC] considers the membership of an organised crime group is a criteria that renders your client not to be a fit and proper person to hold a registration.*” This latter statement would appear to be based upon an email from Constable Clark to the GWIC dated 27 September 2023 in which is said, “*LAZARUS is a confirmed FINKS OMCG member.*”
13. By letter dated 3 October 2023, Mr Lazarus through his solicitor, Mr Cleverley provided a response to the GWIC’s letter of 27 September 2023 in which he sought to distinguish *Wright* from Mr Lazarus’s circumstances, submitted that as the Police had imposed no bail conditions on Mr Lazarus he was considered to be of no risk to the public, that Mr Lazarus is a fit and proper person to hold a licence, Mr Lazarus is entitled to the presumption of innocence, he is a person of good character and has not broken any greyhound related laws.

14. By email dated 10 October 2023 to Mr Lazarus’s solicitors, the GWIC acknowledged receipt and consideration of the submissions made on behalf of Mr Lazarus on 3 October 2023 and notified that it had determined to impose an interim suspension on Mr Lazarus under Rule 169(5) effective immediately. The GWIC also stated, “[t]he decision-makers have determined that the charges your client is facing together with the allegation by NSW police that he is a member of the Finks OMCG are a sufficient basis to consider your client not to be a fit and proper person to hold a registration.”
15. By letter dated 11 October 2023, the GWIC provided Mr Lazarus with a “Disciplinary Action Decision” dated 10 October 2023, notifying Mr Lazarus of its decision to impose an interim suspension under Rule 169(5) pending the finalisation of its inquiry into allegations against Mr Lazarus. That letter noted that “[a] brief of evidence relating to any charge(s) is currently being prepared. GWIC intends to serve the brief and any proposed final disciplinary action upon you as soon as possible.”
16. On 12 October 2023, Mr Lazarus provided the Tribunal with written submissions in support of the Application (**AS**).
17. On 24 October 2023, the GWIC provided the Tribunal with written submissions in opposition to the Application (**RS**).
18. On 27 October 2023, Mr Lazarus provided the Tribunal with written submissions in reply to the GWIC’s submissions in opposition to the Application (**ARS**).

Principles applicable to a stay

19. Regulation 14 provides, inter alia, that the Tribunal may, on written application by an appellant, order that the decision appealed against is not to be carried into effect, or is to be carried into effect only to the extent specified in the order pending the determination of the appeal. The Regulation is silent as to the test to be applied when determining such applications.
20. The manner in which the Tribunal should exercise its discretion to order a stay has been the subject of prior determinations by the Tribunal and is derived from well-established authorities. Those principles may be conveniently summarised as follows:
 - (a) it is not necessary to make out special or exceptional circumstances for a stay: *Alexander v Cambridge Credit Corp Ltd* (1985) 2 NSWLR 685 at 694-5;
 - (b) an applicant must show that the appeal raises serious issues for determination and that there is a real risk that they will suffer damage or prejudice if a stay is not granted and will not be redressed by a successful appeal: *Kalifair Pty Ltd v Digi-Tech (Australia) Ltd* (2002) 55 NSWLR 737 at [17]-[20];
 - (c) consideration should be given first, as to whether the appeal raises a serious question to be tried, in the sense of arguable grounds, and if so, where the balance of convenience lies: *Alexander v Cambridge Credit Corp Ltd* (1985) 2 NSWLR 685 at 694; *Kalifair Pty Ltd v Digi-Tech (Australia) Ltd* (2002) 55 NSWLR 737 at [18]; *Brown v AEP Belgium SA* [2004] VSC 255; *Vaughan v Dawson* [2008] NSWCA 169 at [17]; *Beecham Group Ltd v Bristol Laboratories Pty Ltd* (1968) 118 CLR 618 and *Australian Broadcasting Corporation v O’Neill* (2006) 227 CLR 57);
 - (d) the applicant must demonstrate a proper basis for a stay which will be fair as between the respective interests of the parties (*Alexander v Cambridge Credit Corp Ltd* (1985) 2

NSWLR 685 at 694; *Adeels Palace Pty Ltd v Moubarak* [2009] NSWCA 130 at [5]; *Bar Association of NSW v Stevens* [2003] NSWCA 95 at [83]);

(e) whether an appeal, if successful, will be rendered nugatory if a stay is not granted (*TCN Channel 9 Pty Ltd v Antoniadis [No. 2]* (1999) 48 NSWLR 381; *Newcrest Mining v Industrial Relations Commission* [2005] NSWCA 91; *Maund v Racing Victoria Limited & Anor* [2015] VSCA 276 at [33]); and

(f) the mere filing of an appeal does not demonstrate an appropriate case or discharge the onus.

21. In determining whether there is a “serious question to be tried” a tribunal is to consider whether an applicant has “made out a prima facie case, in the sense that if the evidence remains as it is, there is a probability that at the trial of the action [the applicant] will be held entitled to relief...How strong the probability needs to be depends, no doubt, upon the nature of the rights he asserts, and the practical consequences likely to flow from the order he seeks” (*Beecham Group Ltd v Bristol Laboratories Pty Ltd* (1968) 118 CLR 618 at [4]).
22. Similarly, in *Australian Broadcasting Corporation v O’Neill* (2006) 227 CLR 57, the High Court, commenting on *Beecham*, noted that by using the phrase “prima facie case”, the Court “did not mean that [an applicant] must show that it is more probable than not that at the trial [he] will succeed; it is sufficient that the [applicant] show a sufficient likelihood of success to justify in the circumstances the preservation of the status quo pending the trial (per Gummow and Hayne JJ at pp 81-82).

Mr Lazarus’s Submissions in Chief

23. In his AS, Mr Lazarus submitted, in summary, that he has an arguable case to have the suspension lifted because:
 - (a) he has not engaged in any form of misconduct and he has never been in trouble with the Police;
 - (b) the criminal law charges are to be defended; he comes before the law as a person of good character with no serious offences in his ordinary or greyhound racing career;
 - (c) there is no necessary nexus between the alleged offending and his participation with the greyhound racing industry;
 - (d) there is no basis in the GRA or the Rules to support the suspension;
 - (e) he has been denied procedural fairness; and
 - (f) the suspension is manifestly excessive and unfair.
24. Mr Lazarus further submitted that the following subjective considerations favour the exercise of the Tribunal’s discretion on the Application:
 - (a) his work as a handler is his sole source of regular income from which he earns approximately \$1,000 a week. He has no immediate alternate source of income or employment but is limited in the jobs that he can undertake due to physical injuries sustained whilst on a training exercise with the Australian Army which resulted in him being medically discharged. Mr Lazarus has almost no savings and has been advised by his employer that, absent a stay, his employment will be terminated;

- (b) he has no criminal record and under the law he is a person of “good character”;
- (c) he has a strong regard and affection for the greyhounds for which he cares and caring for them has helped him overcome the challenges of being medically discharged from the army;
- (d) he has an excellent disciplinary record with the GWIC;
- (e) he is an essential part of the training premises, which now has about 20 in competition, and about 50 dogs in total.

25. As to the balance of convenience, Mr Lazarus submitted, in summary, that:

- (a) in the absence of a stay, he will suffer a disproportionate and considerable financial loss and be forced to look for alternate work with an injury; and
- (b) the appeal may be rendered nugatory if a stay is not granted.

GWIC’s Submissions

26. In its RS, the GWIC submitted, in summary, that:

- (a) Mr Lazarus faces multiple criminal charges which go directly to his fitness to be registered as a participant in the greyhound racing industry. Section 58(1)(b) of the GRA permits the GWIC to take action against a participant if it is of the opinion that a person is not a fit and proper person to be registered. It is framed in very similar terms to section 47(1) of the GRA, the general provision that relates to how the GWIC should exercise its registration functions;
- (b) Mr Lazarus does not readily meet the requirements of the GWIC “Fit and Proper Person Framework” which provides guidance in relation to the GWIC’s administration of the test required under section 47(1) of the GRA. Relevantly, it provides that if an applicant for registration has charges pending for a serious indictable offence, they will be asked for further information and the application may be refused;
- (c) if Mr Lazarus was to apply for registration today, his application would almost certainly be refused;
- (d) Mr Lazarus’s continued participation in the sport of greyhound racing has the capacity to bring the industry into disrepute and to erode public confidence in the greyhound racing industry. Public confidence is one of the three principal objectives of the GWIC under section 11 of the GRA;
- (e) whilst the GWIC acknowledges Mr Lazarus’s right to defend the criminal charges against him and his presumption of innocence, the test to be applied is what is the harm that might be caused to the industry by Mr Lazarus’s continued participation in greyhound racing regardless of the eventual outcome of the charges he is currently facing;

- (f) the reason for the GWIC’s decision to impose a suspension was that Mr Lazarus faces serious, multiple, criminal charges, as advised in the Notice of Disciplinary Action, dated 11 October 2023;
- (g) the GWIC afforded Mr Lazarus procedural fairness in the taking of the disciplinary action as required by section 58(3) of the GRA. In any event, an appeal to the Tribunal is a re-hearing and any defects in procedure can be rectified on appeal;
- (h) as to the balance of convenience, the GWIC accepts that any period of suspension may cause financial distress to Mr Lazarus. The Tribunal has often remarked that financial distress may be a natural outcome of disciplinary action but is not a reason to decline to impose a penalty when it is appropriate to do so.

Mr Lazarus’s Submissions in Reply

27. In his ARS, Mr Lazarus submitted, in summary, that:

- (a) the Decision states that the GWC is “investigating allegation of misconduct” citing Rule 169(5)(c). There is no finding in the Decision that Mr Lazarus is not a fit and proper person. They are two distinct issues;
- (b) he has been charged with two offences, not three. The “Court Attendance Notice” refers to one count of “Assault police officer in execution of duty” (s 60(1), *Crimes Act*, 1900) and one count of “Hinder or resist police officer in the execution of duty” (s 60(1AA), *Crimes Act*, 1900). Mr Lazarus is contesting the charges, has not entered a plea and is obtaining advice. The matter was mentioned in the Local Court on 25 October 2023 and has been adjourned to a later date at which time Mr Lazarus will be expected to enter a plea;
- (c) he has not been charged with a serious indictable offence. The “Court Attendance Notice” describes the first of the charges, “Assault police officer in execution of duty” as “Law Part Code 21705-T2”. Such an offence, whilst indictable, can be determined summarily by the Local Court and, when doing so, the maximum penalty that a Local Court can impose under section 268 of the *Criminal Procedure Act*, 1986 is 2 years imprisonment or the maximum term of imprisonment provided by law for the offence, whichever is the shorter term. As he has no prior criminal record, it is unlikely that on either a finding or a plea of guilty Mr Lazarus will receive a custodial sentence. There is no compulsory, prescriptive or mandatory provision in any Act, Regulation or Rule or other legal instrument that compels the GWIC or the Tribunal to not exercise its discretion for a stay;
- (d) the facing of charges does not amount to misconduct within the greyhound regime (see Rule 156). Even if it did, the Tribunal should be cautious to make conclusions about the effect of unproven allegations. The GRA does not override a person’s presumption of innocence and the GWIC is in no way compelled to exercise its functions in the manner that it has. Further, the GWIC has not disputed that there are a large number of persons facing and who have faced charges and been incarcerated who continue to participate in the industry. No reasons have been provided for the discrepancy of treatment between Mr Lazarus and other participants who have actual criminal records;

- (e) there is no evidential basis or warrant for the contention by the GWIC that being charged with the offences, which Mr Lazarus denies, has the capacity to bring the industry into disrepute;
- (f) no reasonable opportunity was afforded to Mr Lazarus to address allegations of misconduct because the GWIC cited one reason for the proposed interim suspension and when the Decision arrived, it was different;
- (g) there is no evidence that Mr Lazarus is a member of a motorcycle group or, if he was, that the group is outlawed. There is nothing in the GRA, the Rules or Regulations that supports such a finding and if that is now the basis, it did not appear in the Decision; and
- (h) otherwise repeats and relies on the AS.

Consideration

28. In the consideration that follows, the Tribunal has had regard to all of the submissions made by the parties and summarised in these reasons. However, the Tribunal proposes to refer only to such of those submissions which are necessary to explain its reasoning.
29. Contrary to the submission of the GWIC, the issue for the determination by the Tribunal on the Application is not whether the imposition of the interim suspension was appropriate. That is a matter for final hearing. Nor do these proceedings concern the issue as to whether Mr Lazarus is a fit and proper person to hold a licence entitling him to participate in the greyhound racing industry. That is an issue that may or may not arise after the GWIC has conducted its present inquiry. The question is whether the Decision should be stayed pending the hearing of the appeal having regard to the principles summarised in paragraphs 20 to 22 of these reasons.
30. Accordingly, the Application gives rise to two essential issues. First, whether the appeal raises a serious question to be tried, in the sense of arguable grounds, and secondly, whether the balance of convenience favours the granting of the relief.

As to whether there is an arguable case

31. Whilst no grounds of appeal have been filed as yet, Mr Lazarus's submissions seem to revolve around four broad contentions, namely that:
- (a) there is no juridical basis in the GRA or the Rules to support the interim suspension;
 - (b) there is no necessary nexus between the alleged offending and his participation with the greyhound racing industry;
 - (c) he has been denied procedural fairness; and
 - (d) the suspension is manifestly excessive and unfair.

The Tribunal proposes to address each of these grounds in turn.

The juridical basis to support the interim suspension

32. Section 11 of the GRA provides:

The principal objectives of the Commission are as follows—

- (a) to promote and protect the welfare of greyhounds,
- (b) to safeguard the integrity of greyhound racing and betting,
- (c) to maintain public confidence in the greyhound racing industry.

33. Section 47 of the GRA provides:

- (1) The Commission is to exercise its registration functions under this Division so as to ensure that any person registered by the Commission is a person who, in the opinion of the Commission, is a fit and proper person to be registered (having regard in particular to the need to protect the public interest as it relates to the greyhound racing industry).
- (2) Without limiting subsection (1), a person is not to be registered if the person has a conviction and the Commission is of the opinion that the circumstances of the offence concerned are such as to render the person unfit to be registered.
- (3) This section does not limit any provisions of the greyhound racing rules relating to the exercise of the registration functions of the Commission.
- (4) In this section—
conviction has the same meaning as in the *Criminal Records Act 1991* but does not include a conviction that is spent under that Act.

34. Section 58 of the GRA provides:

- (1) The Commission may take disciplinary action under this Division against or in respect of a relevant person if the Commission is of the opinion that the person—
 - (a) has contravened a provision of this Act, the regulations, the code of practice or the greyhound racing rules, or
 - (b) is not a fit and proper person to be registered (having regard in particular to the need to protect the public interest as it relates to the greyhound racing industry).
- (2) Disciplinary action may be taken against or in respect of a relevant person even though the person is no longer registered or has not been convicted of an offence in respect of the contravention.
- (3) The Commission is not to take any disciplinary action against or in respect of a relevant person under this Division without first giving the person notice in writing of the proposed action and a reasonable opportunity to be heard and to make submissions about the matter.
- (4) Subsection (3) does not apply in respect of the taking of disciplinary action if the Commission is satisfied that the action must be taken as a matter of urgency because the contravention or failure concerned poses a significant threat—
 - (a) to public health or safety, or
 - (b) to the financial integrity of the greyhound racing industry as a whole in New South Wales.

35. Section 59(1) of the GRA relevantly provides that:

Any of the following actions may be taken by the Commission against or in respect of a relevant person—

- (a) suspending or cancelling of any of the following—
 - (i) the person's registration,

36. Rule 169(5) provides:

Pending the decision or outcome of an inquiry or other disciplinary process, a Controlling Body or the Stewards may direct that:

- (a) if the inquiry or other disciplinary process directly or indirectly involves or is connected with a greyhound, that the greyhound is not permitted to compete in or be nominated for any Event; and
- (b) if the inquiry or other disciplinary process directly or indirectly involves or is connected with an owner or trainer, that no greyhound owned by the owner or trained by the trainer is permitted to compete in or be nominated for an Event; and
- (c) a registration, licence, or other type of authority or permission be suspended.

37. Having regard to these provisions, it is clear that the GWIC:

- (a) is to ensure that that any person registered by the GWIC is a person who, in the opinion of the Commission, is a fit and proper person to be registered;
- (b) may take disciplinary action against or in respect of a relevant person if the GWIC is of the opinion that the person is not a fit and proper person to be registered, so long as the person against whom disciplinary action is taken has been given appropriate written notice; and
- (c) pending the decision or outcome of an inquiry or other disciplinary process, the GWIC may direct that a registration, licence, or other type of authority or permission be suspended.

38. The Tribunal is accordingly satisfied that the GWIC had a juridical basis for acting in the manner in which it did in this case. The alleged absence of a juridical basis accordingly provides no prima facie basis or reasonably arguable ground for challenging the Decision such as to justify the exercise of the Tribunal's discretion to order a stay.

There is no necessary nexus between the alleged offending and participation with the greyhound racing industry

39. The "Court Attendance Notice" discloses that:

- (a) Mr Lazarus is facing two charges: one count of "Assault police officer in execution of duty" (s 60(1), *Crimes Act*, 1900) and one count of "Hinder or resist police officer in the execution of duty" (s 60(1AA), *Crimes Act*, 1900). He is contesting the charges, has not entered a plea and is obtaining advice; and
- (b) the first of the charges, "Assault police officer in execution of duty" is described as "Law Part Code 21705-T2". Such an offence, whilst ordinarily indictable, can be determined summarily by the Local Court and, when doing so, the maximum penalty that a Local Court can impose under section 268 of the *Criminal Procedure Act*, 1986 is 2 years imprisonment or the maximum term of imprisonment provided by law for the offence, whichever is the shorter term.

40. The charge under s 60(1AA) carries a maximum penalty of 12 months imprisonment or 20 penalty units.

41. Mr Lazarus's guilt or innocence, in respect of which he is entitled to the presumption of innocence, is not an issue for the Tribunal. As the Tribunal made plain in *Wright v GWIC* (at [24] and [25]), the Tribunal is tasked with assessing matters relating to the greyhound racing industry in the context of the GRA and, in particular, those relating to or impacting the maintaining of public confidence in the greyhound racing industry.
42. The ultimate issue is whether public confidence in the greyhound industry will likely be harmed if a person such as Mr Lazarus, who has been charged with these offences is permitted to participate in the industry pending the determination of an investigation by the GWIC as to his fitness to hold a licence. That is a matter for final hearing upon which the Tribunal expresses no view.
43. The Tribunal accepts that neither of the alleged offences with which Mr Lazarus has been charged comprise "general offences" under Rule 156 in respect of which there would ordinarily be a nexus between the allegedly impugned conduct and participation in the racing industry to which the penalties under Rule 174 may apply.
44. However, given the nature of the proceedings, in which the Tribunal is tasked with assessing matters relating to the greyhound racing industry in the context of the GRA and, in particular, those relating to or impacting the maintaining of public confidence in the greyhound racing industry, the Tribunal is of the view that no nexus is necessary between the alleged criminal offending and Mr Lazarus's participation in the industry.
45. The Tribunal is accordingly not persuaded that Mr Lazarus's contention provides a prima facie basis or reasonably arguable ground for challenging the Decision such as to justify the exercise of the Tribunal's discretion to order a stay.

Denial of Procedural Fairness

46. The facts summarised at paragraphs [9] - [13] of these reasons establish, prima facie, that Mr Lazarus was not only provided with a reasonable opportunity to be heard prior to the making of the Decision (cf section 58(3) of the GRA) but that he made successive written submissions about the matter.
47. In any event, the *de novo* nature of an appeal to the Tribunal (see s 16 of the *Racing Appeals Tribunal Act*, 1983) will cure any procedural defects.
48. In these circumstances, the Tribunal is not persuaded that the contention of a denial of procedural fairness provides a prima facie basis or reasonably arguable ground for challenging the Decision such as to justify the exercise of the Tribunal's discretion to order a stay.

The suspension is manifestly excessive and unfair

49. Mr Lazarus contends that the allegations of misconduct made against him are "without any established basis" and thus "manifestly excessive".
50. The evident basis upon which the interim suspension has been imposed is the concern raised by the GWIC in communications with Mr Lazarus and which are the subject of an ongoing investigation as to whether, given the charges, he is a fit and proper person to hold a licence. There appears to be an additional concern raised by the GWIC, which Mr Lazarus denies, as

to whether he is a member of “The Finks”, an allegedly outlawed motorcycle gang and whether this may render him a fit and proper person to hold a licence to participate in the greyhound industry.

51. The issue for the Tribunal in the appeal is whether the public confidence in the greyhound industry will likely be harmed if a person such as Mr Lazarus, who has been charged with the relevant offences is permitted to participate in the industry pending the determination of an investigation by the GWIC.
52. Section 59(1) of the GRA and Rule 169(5) permit the GWIC to suspend a registration pending the decision or outcome of an inquiry or other disciplinary process. There does not appear to be any alternative sanctions available nor has Mr Lazarus submitted that there are any alternatives to a suspension. That said, the Tribunal accepts that the GWIC has a broad discretion as to whether it imposes an interim suspension and that it has no obligation to do so in any given case.
53. In *Wright v GWIC*, the Tribunal concluded that the multiple serious drugs and firearms offences faced by the appellant in that case which carried maximum terms of imprisonment of 25 years on the drugs charges alone were sufficiently serious that the protection of the public confidence in the industry justified the suspension of the appellant pending the GWIC’s finalisation of its inquiry into his fitness to be registered as a participant in the greyhound racing industry.
54. The charges pending against Mr Lazarus are not as serious as those faced by Mr Wright. However, those charges carry maximum terms of imprisonment of 2 years (*Crimes Act*, s 60(1), “Law Part Code 21705-T2” and s 268 of the *Criminal Procedure Act*, 1986) and 12 months (*Crimes Act*, s 60(1AA)). The alleged assault of a police officer, especially given their vulnerability, and resisting a police officer in the execution of their duties, are serious offences albeit in the present case it appears that the prosecution has elected to have the charges determined summarily by the Local Court.
55. An interim suspension is, in the opinion of the Tribunal, not manifestly excessive in the circumstances. It serves one of the primary objectives of the GWIC to maintain public confidence in the greyhound racing industry pending the outcome of an ongoing inquiry (GRA, s 11).
56. The Tribunal is accordingly not persuaded that the suspension is prima facie manifestly excessive in the circumstances. It does not provide a reasonably arguable ground for challenging the Decision such as to justify the exercise of the Tribunal’s discretion to order a stay.

As to the balance of convenience

57. Given the conclusion that the Tribunal has reached that Mr Lazarus has not shown a prima facie basis or reasonably arguable grounds for challenging the Decision such as to justify the exercise of the Tribunal’s discretion to order a stay, it is not strictly necessary for the Tribunal to address the balance of convenience. However, as the parties have made submissions on the issue, the Tribunal proposes, as a matter of completeness to briefly address it.
58. In considering the balance of convenience the Tribunal is acutely aware that the GWIC is required by legislative enactment to maintain public confidence in the greyhound racing

industry and, consistent with the Tribunal's determination in *Wright v GWIC*, a person such as Mr Lazarus facing serious offences can impact the public confidence in the industry if permitted to participate pending the outcome of an inquiry.

59. Against that, the Tribunal notes that Mr Lazarus may suffer emotional and financial hardship, including loss of employment as a handler if the Decision is not stayed. That is a necessary and unfortunate consequence and not a matter upon which the Tribunal places any or any significant weight.
60. Whilst Mr Lazarus contends that the appeal may be rendered nugatory if a stay is not granted, that contention is not developed in the AS or the ARS. It is not, for example, a case where proceeds from a judgment may be removed from the jurisdiction or, the more usual case in appeals before the Tribunal, of the likelihood that a sanction in the nature of a suspension or disqualification having been served or substantially served prior to the hearing of an appeal thus rendering any appeal nugatory.
61. Accordingly, and whilst it does not strictly arise for consideration, the Tribunal determines that the balance of convenience would not, in the current circumstances, have favoured the exercise of the Tribunal's discretion to order a stay because the impact on the public confidence of persons charged with serious criminal offences outweighs, on balance, Mr Lazarus's subjective circumstances. Further, in the present circumstances, any prejudice to Mr Lazarus can best be addressed by a hearing taking place as soon as possible in accordance with the requirements of Regulation 12.

Determination and Orders

62. The application by Mr Lazarus for an order pursuant to Regulation 14 is dismissed.
63. The parties are to confer with a view to agreeing short minutes of order to expedite the hearing of the appeal. Those orders are to be provided to the Tribunal by no later than 4 pm, 3 November 2023.
64. If orders cannot be agreed by this time, the parties are to provide to the Tribunal, by 4 pm, 3 November 2023, short minutes of order for which they each contend together with written submissions limited to one page. The Tribunal will, if it is sufficiently informed on the basis of the submissions to do so, proceed to consider the competing short minutes in chambers. If not, or if otherwise requested by the parties to do so, a directions hearing will be convened by Zoom.
65. In making these orders, the Tribunal is conscious that the interim suspension under Rule 169(5) has been imposed by the GWIC pending the finalisation of its inquiry as to whether Mr Lazarus is a fit and proper person to remain registered. In its letter of 10 October 2023, the GWIC noted that “[a] brief of evidence relating to any charge(s) is currently being prepared. GWIC intends to serve the brief and any proposed final disciplinary action upon you as soon as possible.” It is the Tribunal's expectation that the GWIC will proceed with all due expedition to conclude its inquiry especially given the imposition of the interim suspension.