3 March 2023

**DECISION**

**RACING VICTORIA**

**and**

**SHAUN COOPER**

**Date of hearing:** 22 February 2023

**Panel:** Judge John Bowman (Chairperson).

**Appearances:** Ms Jolene McSwain appeared on behalf of the Stewards.

Mr Matthew Hyland represented Mr Shaun Cooper.

**Charge:** Australian Rule of Racing (“AR”) 131(a) states:

A rider must not, in the opinion of the Stewards:

(a) engage in careless, reckless, improper, incompetent or foul riding.

**Particulars of charge:** Shaun Cooper, as the rider of Warrior Xena in race 5 at Yea on 19 February 2023, permitted your mount to shift in passing the winning post on the first occasion when not sufficiently clear of Mel McDonald's mount, Montalbano, resulting in her having to check her mount and shift out to avoid your mount's heels.

**Plea:** Guilty

**DECISION**

Mr Shaun Cooper, you are appealing against a penalty of three meeting suspension imposed by the Stewards in relation to your ride on Warrior Xena in Race 5 over 2100 metres at the Yea Picnic meeting on Sunday, 19 February 2023. It is alleged by the Stewards that you caused interference to Montalbano, ridden by Ms Melinda McDonald just after passing the winning post on the first occasion. Your interference is alleged to have been caused by your crossing in front of her horse when not sufficiently clear of her.

There is only one helpful video of what occurred, and that is the video that accompanied by the race call of the on-course commentator. A second video which was supplied and appears to be taken from a position inside the track is of no assistance because of trees. There is no head-on vision. The absence of head-on vision is something which received a lot of attention from you when interviewed. Certainly that may have assisted, but in my opinion the side-on vision taken from a position somewhere close to opposite to the winning post tells the story and, whilst not perfect, is adequate. Careless riding relating to crossing is demonstrated.

Secondly, much attention has been focused on your plea, which on the day was not guilty. The Stewards were good enough to suggest that you contact Mr Matt Hyland, which you did. In his capable hands, the plea changed to one of guilty today. I should add that the penalty imposed by the Stewards was of suspension for three meetings, and that there would be a reduction of two from the recommended five because of your excellent record. Your present appeal is in relation to penalty only.

I agree with Mr Hyland that the Record of Interview does show a certain amount of confusion on your part. It is clear that the Chairperson said to you that five meetings suspensions was normal for mid-range careless riding; that two meetings had been deducted for your excellent record; and that “no further concessions with the not guilty plea unfortunately”. When the three meetings penalty was imposed, you said you thought that this was “pretty harsh”.

The Stewards explained to you, that, with a plea of guilty “it comes down to two” – see page 21 of transcript.

You then asked “What if I plead guilty, I can’t change it now?”.

A Steward then told you that if you did plead guilty, the only avenue of appeal would be against the severity of the penalty.

I could add further quotes from the conversation, but certainly the impression gained is firstly that you did not fully understand the process and secondly that you did raise and have some interest in a change of plea.

As Mr Hyland pointed out, you have had a large number of rides and never been charged with careless riding and never been through the process of the Stewards Inquiry into a ride of yours. The transcript certainly conveys the impression of a lack of understanding. You have twice been charged with breaches of the whip rule, but that is essentially just a simple matter of a calculation of the number of relevant strikes.

You are pleading guilty now. You certainly seem to have at least contemplated pleading guilty when interviewed after the race. I am of the view that you did not fully understand the process and its ramifications at the time. The Stewards indicated that, had there been a plea of guilty from the outset, a further reduction of one meeting may well have been available. The impression that you may well have gained was that it was too late to do so. Someone of more experience in the Stewards’ room, may have done things differently.

The bottom line is that you do have an excellent record and you do now plead guilty. I am aware of the limited number of picnic meetings and the impact of a suspension. In all the circumstances, the appeal is upheld, and the period of suspension reduced to two meetings.

Mark Howard
Registrar, Victorian Racing Tribunal