2 February 2023

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**VINCENT MILETO**

**Date of hearing:** 10 January 2023

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

**Appearances:** Ms Yana Podolskaya, instructed by Mr Simon McLean, appeared on behalf of the Stewards.

Mr Archibald Butterfly represented Mr Vincent Mileto.

**Rule:** Greyhounds Australasia Rule (“GAR”) 169(5)(c) states:

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

(c) a registration, licence, or other type of authority or permission be suspended.

**Particulars:** On 30 December 2022, Greyhound Racing Victoria (“GRV”) suspended the licence of Mr Vincent Mileto. The suspension imposed is to remain in effect until charges have been heard and determined by the Victorian Racing Tribunal (“VRT”).

**DECISION**

In this matter, Mr Vincent Mileto is seeking a stay in relation to the operation of a period of interim suspension imposed on him by the Stewards. This suspension was imposed as the result of alleged behaviour by him at the Shepparton greyhound meeting conducted at that track on 19 December 2022. The period of suspension came into operation on 20 December 2022. As at the date of this hearing, no charges against Mr Mileto had in fact been laid.

Hearings of this nature are comparatively rare. As I have said on an earlier occasion, they have the capacity to involve questions of law. In my opinion, in the present case, questions of law and of mixed fact and law do arise. Accordingly, in compliance with section 50K of the *Racing Act* 1958 (“the Act”), they are to be determined by me. In that regard, I would also refer to the observations of Robson J in Re Australian Property Holdings Limited (No. 2) [2016] VSC 576. Whilst that case involved a different type of factual background, His Honour’s observations as to the comparatively sizeable burden of proof imposed on the party seeking a stay will be borne in mind by me in the present case.

In relation to the factual background of the present application, it should be noted that the investigation into the facts of the case was not concluded as at the date of this hearing and that my setting out of the factual basis is solely for the purposes of the present application and on the basis of information and material currently provided. The ultimate hearing may or may not involve the presentation of additional or amended facts and allegations.

Turning to the factual basis as I currently find it, Mr Mileto is a greyhound trainer and has so been for many years. He is 53 years of age. He has no other occupation. He does have significant health problems and, as I understand it, receives some government benefits in this regard. He trains a modest number of greyhounds for himself and for others. He lives at Toolamba, near Shepparton. This is in a house owned by another licensed person, Dr Whiting. She also has numerous kennels on the premises and is obviously involved in the industry.

As stated, on 19 December 2022, Mr Mileto attended at the Shepparton track. He had two dogs competing comparatively late in the program, but was in attendance with his dogs prior to the first race.

Shortly after his arrival at the track, Mr Mileto had visited the toilet and, when leaving, had a minor dispute with a young man named Ricky Coleman. That dispute essentially involved the occupancy of the toilet. As matters eventuated, Mr Coleman, who is involved in the industry, was in attendance with another young man, his brother, who is also involved. Because of his uncertainty as to their Christian names, Mr Archibald Butterfly, on behalf of Mr Mileto, has referred to them as “Black Shirt” and “White Shirt”. I shall refer to them similarly. The minor dispute in the toilet was with White Shirt. The brothers are licensed persons who were attending the meeting in connection with a greyhound or greyhounds.

In any event, Mr Mileto left the toilet area and can be seen on the video material as proceeding across an open space within the boundaries of the track area and towards the car park. The surface of the open space appears to be of bitumen.

What next occurred is comparatively clear on the video coverage. Mr Butterfly raised some argument as to the potential inaccuracy of a shorter video made available by the Stewards at virtually the last moment prior to this hearing. However, I ruled it admissible. I am not of the view that there are any important differences, if there are any differences at all, between the content of the “last minute” video and what is evident from the earlier videos.

What appears on the videos could be summarised as follows. Mr Mileto was walking across the bitumen area towards the gate to the car park. Two young men – White Shirt and Black Shirt – effectively passed him, going in the opposite direction. Clearly some conversation or remark took place between Mr Mileto and Black Shirt. He stopped and turned back to Mr Mileto, talking to him at very close range. Mr Mileto was shrugging his shoulders. White Shirt, who had continued on for something in the order of ten or more metres, then turned back and approached his brother and Mr Mileto at some speed. As he got close to Mr Mileto, Mr Mileto put Black Shirt in a type of headlock and wrestled him at first upright and then to the ground. He did not throw him to the ground. By this time, another older man was also on the scene. The situation did not escalate further. Black Shirt lay on the bitumen for a short time, before getting to his feet and moving on with his brother. In the meantime, Mr Mileto had walked off and out through the gate area into the car park. That concludes my summary of what I saw on the videos.

There is some mention in the Stewards’ documents of Black Shirt having suffered concussion, although this point was not pushed by them during the conduct of the hearing and indeed reliance upon it effectively was not pursued. Whether Black Shirt required any, and if so what, medical treatment is not clear. It was asserted by Mr Butterfly, and not disputed, that Black Shirt continued to participate in the meeting and indeed attended to the boxing of a greyhound in Race 3. Whatever the situation may be when all the relevant evidence is before the Tribunal, it is difficult to say from the material available in this application that Black Shirt suffered any significant injury in the incident.

It was also put by Mr Butterfly, and not disputed, that Mr Mileto has a long history in the industry and has a record that is almost completely without blemish. There is one very minor offence that attracted a small financial penalty and was of a totally different kind to the present situation. It was of an administrative nature. Thus, he has an excellent record. In addition, three very supportive references from people associated with greyhound racing were put before me. I take note of them.

I also accept that Mr Mileto has major health worries of a physical and mental nature. I shall not go into them in detail. Suffice to say that they are significant.

Further, this immediate suspension, particularly if ongoing, will have an obvious impact upon Mr Mileto’s participation in the greyhound industry. That participation plays a major role in his life.

This was an unfortunate and unpleasant incident. Such behaviour by Mr Mileto is unacceptable, although I do note that it occurred when Mr Mileto was confronted by one young man many years his junior and that man’s brother was approaching him rapidly. On the basis of the material presently available, whilst this was an unseemly episode with the capacity to damage the image of greyhound racing, it does not seem to me to be anywhere near being in the same league as the offending in the unsuccessful stay applications of Mr Benjamin Divirgilio and Mr Ian Anderson. Mr Divirgilio’s offending involved live baiting and possums. Mr Anderson’s conduct related to gross cruelty and the bashing to death with a rock or rocks of four greyhounds. Ultimately, Mr Divirgilio was disqualified for a lengthy period and Mr Anderson was disqualified for life on each of four charges. The conduct in the present case was nowhere near these levels of offending.

There is also the case of Mr Luckie Karabitsakos. His application for a stay was refused. The charges originally laid against him included preventing Stewards from carrying out their duties, essentially by way of preventing them from obtaining a urine sample from a greyhound; twice using improper and insulting language towards them; and refusing to produce a prohibited substance. That is a summary of the charges against Mr Karabitsakos at the time of his unsuccessful stay application. Whilst it may not be offending of the magnitude of that of Mr Divirgilio and Mr Anderson, it is still alleged behaviour considerably more grave than that of Mr Mileto.

Further, I am not of the view that Mr Mileto’s continuing to be involved in greyhound racing carries with it any discernible risk. In the present application and on the basis of the material before me, I am not of the opinion that Mr Mileto poses a threat to the safety or wellbeing of any individual or greyhound or is likely to again engage in conduct that brings greyhound racing into disrepute.

Weighing up all these factors, it is my finding that Mr Mileto’s stay application is successful. This may well involve a high or very substantial burden of proof, but in my opinion, that burden of proof has been discharged. Mr Mileto’s application for a stay of the suspension imposed upon him is successful and that stay is now operative. It will operate until the conclusion of the matter or further order.

At this stage, the Stewards have not laid charges against Mr Mileto. In the event that charges are laid against Mr Mileto, the Tribunal will conduct the matter in the usual way.

Kathleen Scully

Acting Registrar, Victorian Racing Tribunal