24 March 2021

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**KATHRYN MEDCRAFT**

**Date of hearing:** 15 March 2021

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Dr June Smith.

**Appearances:** Mr Marwan El-Asmar appeared on behalf of the Stewards.

Mrs Kathryn Medcraft represented herself.

**Charge:** Greyhounds Australasia Rule (“GAR”) 86(p) states:

A person (including an official) shall be guilty of an offence if the person:

(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.

GAR 86(o) states:

A person (including an official) shall be guilty of an offence if the person:

(o) has, in relation to a greyhound or greyhound racing, done a thing, or omitted to do a thing, which, in the opinion of the Stewards or the Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct.

GAR 86(f)(i) states:

A person (including an official) shall be guilty of an offence if the person:

(f) engages in, publishes or causes to be published, broadcasts or causes to be broadcast, the use of any contemptuous, unseemly, improper, insulting, or offensive language, conduct or behaviour in any manner or form towards, or in relation to-

(i) a Steward.

GAR 86(e) states:

A person (including an official) shall be guilty of an offence if the person:

(e) being an owner, trainer, attendant or a person having official duties in relation to greyhound racing, refuses or fails to attend or to give evidence at an inquiry, or produce a document or other thing in relation to an investigation, examination, test or inquiry pursuant to these Rules when directed by the Controlling Body, Stewards or the committee of a club to do so.

**Particulars of charge: Charge 1**

You, being a person registered with Greyhound Racing Victoria, disobeyed or failed to comply with the lawful order of a person having official duties in relation to greyhound racing, in that:

1. You were, at all relevant times, a trainer/breeder registered with Greyhound Racing Victoria (GRV) (Member No. 164570) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 11 December 2019, you were presented with a written direction (lawful order) to hand over your mobile phone for examination as part of an investigation.
3. You disobeyed or failed to comply with the written direction (lawful order).

**Charge 2**

You, being a person registered with Greyhound Racing Victoria, done a thing, which, in the opinion of the Stewards, was improper and/or constitutes misconduct, in that:

1. You were, at all relevant times, a trainer/breeder registered with Greyhound Racing Victoria (GRV) (Member No. 164570) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 11 December 2019, during the course of an inquiry, you engaged in behaviour which in the opinion of the Investigative Stewards was improper and/or constituted misconduct. This behaviour included the following statement directed at the Stewards:
* *“Do you want to see dick pics too?”*
* *“I’ll hand you my GRV licence and use can piss off.”*
* *“If you’re worried about him getting violent you want to worry about me.”*
* *“Have a look at all the fanny and dick pics on there.”*
* *“That’s the baton he’s going to hit me with, but apparently it’s a microchip scanner.”*
* *“There’s no fucking firearm, go and look.”*

**Charge 3**

You, being a person registered with Greyhound Racing Victoria, did publish or cause to be published the use of contemptuous, improper, insulting or offensive language in relation to a Steward, in that:

1. You were, at all relevant times, a trainer/breeder registered with Greyhound Racing Victoria (GRV) (Member No. 164570) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 11 December 2019, you published on a social media platform known as Facebook a photograph of two (2) Investigative Stewards accompanied by the following statement:
* *“These are the two fucking grv grub rocked up to my house [registration number omitted] number plate grv you are grubs”*

**Charge 4**

You, being a person registered with Greyhound Racing Victoria, disobeyed or failed to comply with the lawful order of a person having official duties in relation to greyhound racing, in that:

1. You were, at all relevant times, a trainer/breeder registered with Greyhound Racing Victoria (GRV) (Member No. 164570) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 16 December 2019, you were served with a written direction (lawful order) to remove offensive photographs and comments published on your Facebook page towards Investigate Stewards (as per the direction).
3. You disobeyed or failed to comply with the Lawful Order.

**Charge 5**

You, being a person registered with Greyhound Racing Victoria, failed to attend an inquiry in relation to an investigation when directed by Stewards, in that:

1. You were, at all relevant times, a trainer/breeder registered with Greyhound Racing Victoria (GRV) (Member No. 164570) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 30 January 2020, you were sent via registered post, a Notice of Inquiry scheduled for 19 February 2020.
3. You did not make any attempt to contact Investigative Stewards in relation to your attendance at this inquiry.
4. On 18 February 2020, a follow up email was sent to you requesting your attendance at the inquiry, no response was received.
5. You failed to attend the scheduled inquiry on 19 February 2020 as directed by a Steward.

**Plea:** Not guilty to all charges

**DECISION**

1. Mrs Kathryn Medcraft is a registered greyhound trainer and breeder. Her registration has been suspended since 12 December 2019 in relation to matters including the subject matter of the charges laid against her by Stewards of Greyhound Racing Victoria (“GRV”) dealt with in this decision.
2. On 19 November 2019, GRV’s integrity unit received information that Mrs Medcraft had been associating with a known disqualified person, Ms Janine Walker. On 11 December 2019, Investigative Stewards attended the registered kennel address of Mrs Medcraft in Yarrawonga. At the time, Mrs Medcraft had not trained a greyhound for about a year and had a retired greyhound as a pet. She shared the premises, which contained her residence, with her partner, Mr Cameron Medcraft.
3. Stewards opened an inquiry into the allegation that Mrs Medcraft had associated with a disqualified person. Under Greyhounds Australasia Rule (“GAR”) 86(ah), it is an offence for a registered person to associate with a disqualified person for the purposes of greyhound racing.
4. On attending the premises, Stewards provided Mrs Medcraft with a lawful written direction to hand over her mobile phone for examination in her presence. Stewards said that they were looking for specific details about whether Mrs Medcraft was associating with a disqualified person.
5. Stewards said that they wanted to look at text messages and emails to assist their inquiry. They also told Mrs Medcraft that they needed to scan her retired dog. Mrs Medcraft was bewildered by the visit. She stated that she had no current involvement in greyhound racing and wanted no future involvement. She objected to having her phone seized and said she wanted to call her lawyer, obviously in private. Stewards were concerned about text messages or emails being deleted and pursued their request. During the discussion, Mr Medcraft arrived home from work. One of the Stewards asked Mrs Medcraft whether they needed to worry about Mr Medcraft becoming violent. In the audio, Mrs Medcraft can be heard to jokingly say that the Stewards needed to worry more about her getting violent. She demanded to know who it was that she was accused of associating with before handing over her phone. She finally relented and placed the phone on a notepad held by a Steward. Immediately after that happened, Mr Medcraft took the phone and gave it back to Mrs Medcraft who refused a further request from the Stewards to hand it over.
6. The Stewards’ visit occurred at 5pm. Mrs Medcraft said in evidence before the Tribunal that she had only two hours to feed her children and get them ready for bed and was frustrated that Stewards would not tell her who she was supposed to be associating with.
7. Mrs Medcraft has been charged under GAR 86(p) with disobeying or failing to comply with a lawful order of a Steward, in that she failed to hand over her mobile phone for inspection. Mrs Medcraft pleaded not guilty. Although initially handing over her phone, Mrs Medcraft failed to give it back to the Stewards after Mr Medcraft took it and returned it to Mrs Medcraft and despite again being requested to do so.
8. The written direction given to Mrs Medcraft, and signed by an Investigative Steward, required her to produce any mobile phone belonging to her, together with pin numbers, to the Stewards. Under GAR 18(4)(c), an official of GRV is entitled to take possession of a mobile phone of a registered person for the purposes of examination in a situation where the GRV officer believes an offence may have been committed.
9. We are comfortably satisfied that Mrs Medcraft is guilty of breaching GAR 86(p).
10. Mrs Medcraft is also charged with breaching GAR 86(o) by doing a thing, which in the opinion of the Stewards, constituted misconduct. The misconduct is said to be constituted by comments she made to Stewards during their visit. In isolation, and without context, each comment may be considered individually and cumulatively as being abusive, foul and threatening. However, in context, while the language is offensive and uncalled for, the conversation captured by the audio does not demonstrate, to our satisfaction, that Mrs Medcraft was threatening or abusive in her demeanour. Nor are we satisfied that the comments were intended that way.
11. The first comment was “do you want to see dick pics too”? This was intended to convey Mrs Medcraft’s frustration that there was a great deal of irrelevant personal material on her phone. It was not intended to be abusive or threatening, but it was inappropriate and foul.
12. The second comment was “I’ll hand you my GRV licence and you can piss off”. This comment demonstrated Mrs Medcraft’s frustration with the process and her state of mind about not wanting anything more to do with the industry. Whilst it was offensive and uncalled for, it was not threatening.
13. The third comment was “if you’re worried about him getting violent, you want to worry about me”. This comment resulted from a comment by a Steward, without apparent foundation, about Mr Medcraft being a source of concern to the Stewards’ safety, even before they met him. Mrs Medcraft’s response was clearly meant as a joke. We are fortified in that conclusion by viewing the audio and video of the comment in context.
14. The fourth comment was “have a look at all the fanny and dick pics on there”. It is in the same context as the first comment.
15. The fifth comment was directed to Mr Medcraft in reference to the scanner held by a Stewards. Mrs Medcraft said “that’s the baton he’s going to hit me with, but apparently it’s a microchip scanner”. That comment was intended clearly as a joke.
16. The last comment was “there’s no fucking firearm, go and look”. That was said by Mrs Medcraft in response to a comment made by Mr Medcraft that there was a firearm on the premises, which comment understandably made the Stewards feel threatened.
17. Mrs Medcraft’s language was foul, inappropriate and offensive. However, the conversation on the audio was not threatening or abusive in tone. The situation escalated once Mr Medcraft returned home and overall, in this context, we are not comfortably satisfied that the Stewards have demonstrated that she engaged in misconduct on this charge and we find Mrs Medcraft not guilty of charge 2.
18. Mrs Medcraft is also charged with an offence under GAR 86(f)(i) for publishing contemptuous, improper, insulting or offensive language on Facebook about the two Investigative Stewards who attended her premises on 11 December 2019. The post relied in the particulars of the charge are as follows (with accompanying photos of the Stewards); - “these are the two fucking grv grub rocked up to my house [registration number omitted] number plate grv you are grubs”. Mrs Medcraft admitted to making that post but persisted with her not guilty plea. We are comfortably satisfied that the offence is made out. We find Mrs Medcraft guilty as charged.
19. On 16 December 2019, Mr Medcraft was served with a lawful order, being a written direction signed by the Stewards which required each of the Medcrafts to remove offensive posts and photographs published on Facebook. There is no evidence that Mr Medcraft made Mrs Medcraft aware of the order. He refused to accept it when served with it. We are not comfortably satisfied that the order was ever drawn to her attention. In addition, Mrs Medcraft stated in her evidence before the Tribunal that she changed her settings to private and took the material down. The Stewards were unable to provide evidence that refuted the evidence given by Mrs Medcraft. In the absence of other evidence, we accept the evidence given by Mrs Medcraft and we find her not guilty of the charge of failing to comply with a lawful order under GAR 86(p).
20. Finally, Mrs Medcraft has been charged under GAR 86(e) with failing to attend to give evidence at an inquiry. Mrs Medcraft was sent a letter by registered post on 30 January 2020, asking her to attend an inquiry on 19 February 2020. GRV sent a follow up email to Mrs Medcraft on 18 February 2020 advising of the inquiry. Mrs Medcraft gave evidence that she could not attend due to work commitments. She failed to advise GRV by email or otherwise of that fact. We are comfortably satisfied that Mrs Medcraft is guilty of breaching GAR 86(e) in that respect.
21. The matter will be adjourned to a directions hearing on a date to be fixed to deal with submissions on penalty having regard to the Tribunal’s findings of guilty of charges 1, 3 and 5.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal