31 March 2022

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**KEVIN WARD**

**Date of hearing:** 24 March 2022

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Dr Andrew Gould.

**Appearances:** Mr Damien Hannan, instructed by Mr Marwan El-Asmar, appeared on behalf of the Stewards.

Mr Brendan Wilkinson represented Mr Kevin Ward.

Dr Nick Evans appeared as a witness.

Mr Daniel Caruana appeared as a witness.

Mr Kevin Ward appeared as a witness.

**Charges and particulars:** **Charge 1**

Local Racing Rule (“LR”) 42.1 states:

It is a Serious Offence if a person keeps a greyhound in conditions which are dangerous or detrimental to the health.

1. You were, at all relevant times, a public trainer/breeder registered with Greyhound Racing Victoria (“GRV”) (Member No. 45105) and a person bound by the Greyhounds Australasia Rules (“GAR”) and Local Racing Rules (“LR”).
2. Between April 2011 and December 2020, you had the care and custody of greyhound “Alouette Lass” (Ear Brand: VDM 2353).
3. On 12 December 2020, this greyhound was found in conditions where the greyhound was not provided with suitable dry and soft bedding and the greyhound’s kennels and yard had not been cleaned and maintained in an appropriate manner, including a build-up of dirt in the kennels and a build-up of long grass in the yard.
4. These conditions in which the greyhound was kept were dangerous or detrimental to the health and safety of the greyhound.

**Charge 2**

Greyhounds Australasia Rule (“GAR”) 106 (1)(c) states:

(1) A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with –

(c) Kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in a clean and sanitary condition.

1. You were, at all relevant times, a public trainer/breeder registered with Greyhound Racing Victoria (“GRV”) (Member No. 45105) and a person bound by the Greyhounds Australasia Rules (“GAR”) and Local Racing Rules (“LR”).
2. Between April 2011 and December 2020, you had the care and custody of greyhound “Alouette Lass” (Ear Brand: VDM 2353).
3. On 12 December 2020, this greyhound was found in a kennel and yard which had not been cleaned, maintained regularly and appropriately which resulted in a build-up of dirt in the kennel and a build-up of long grass in the outdoor yard.
4. Between April 2011 and December 2020, the kennel housing Alouette Lass was not kept in a clean and sanitary condition.

**Charge 3**

GAR 106(1)(d) states:

(1) A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with –

(d) Veterinary attention when necessary.

1. You were, at all relevant times, a public trainer/breeder registered with Greyhound Racing Victoria (“GRV”) (Member No. 45105) and a person bound by the Greyhounds Australasia Rules (“GAR”) and Local Racing Rules (“LR”).
2. Between April 2011 and December 2020, you had the care and custody of greyhound “Alouette Lass” (Ear Brand: VDM 2353).
3. On 12 December 2020, Investigative Stewards located on your property, and under your care, greyhound Alouette Lass (VDM 2353) which was emaciated, dehydrated, unresponsive to stimuli, had submandibular swelling, faecal matting, and an increased pulse and respiratory rate which required veterinary treatment.
4. You failed to provide veterinary attention for this greyhound between 2 December 2020 and 12 December 2020, where upon the greyhound was then euthanised.

**Charge 4**

GAR 106(2) states:

(2) A registered person must exercise such reasonable care and supervision as may be necessary to prevent greyhounds pursuant to the person’s care or custody from being subjected to unnecessary pain or suffering.

1. You were, at all relevant times, a public trainer/breeder registered with Greyhound Racing Victoria (“GRV”) (Member No. 45105) and a person bound by the Greyhounds Australasia Rules (“GAR”) and Local Racing Rules (“LR”).
2. Between April 2011 and December 2020, you had the care and custody of greyhound “Alouette Lass” (Ear Brand: VDM 2353).
3. On 12 December 2020, Investigative Stewards located on your property, and under your care, greyhound Alouette Lass (VDM 2353) which was emaciated, dehydrated, unresponsive to stimuli, had submandibular swelling, faecal matting, and an increased pulse and respiratory rate which required veterinary treatment.
4. You failed to exercise reasonable care and supervision to prevent this greyhound from being subjected to unnecessary pain or suffering.

**Pleas:** Not Guilty to all charges

**DECISION**

1. Mr Kevin Ward is a registered greyhound trainer and owner. As of December 2020, he was the registered owner of a retired greyhound called “Alouette Lass”. He was ultimately responsible for the welfare of the greyhound, despite delegating some of the tasks to staff.
2. When Stewards of Greyhound Racing Victoria (“GRV”) conducted a kennel inspection on 12 December 2020, they found Alouette Lass emaciated, dehydrated, unresponsive to stimulus, with submandibular swelling, faecal matting, and an increased pulse and respiratory rate. Her body score was 1 out of 5. The greyhound was dying and in pain. She was in an appalling condition. Mr Ward knew that she was dying of cancer. However, when he had last seen the greyhound a few days before he death, he believed that he could let her die at home. She appeared to him to be able to move about. He had not been monitoring her recent decline personally.
3. Mr Ward faces four charges laid by Stewards of GRV. The first is under Local Racing Rule (“LR”) 42.1, in which he is alleged to have kept a greyhound in conditions which were dangerous or detrimental to the health and safety of the greyhound. He pleaded not guilty to this charge.
4. Stewards discovered Alouette Lass in a kennel in an outdoor yard. There was a build up of dirt in the kennel. There was only an old, worn blanket for her to lie on, as well as minimal shredded paper. There was also a secondary kennel in the yard, which contained minimal shredded paper and was exposed to the ground. The yard itself had a build up of long grass.
5. The particulars of the charge are that the greyhound was not provided with suitable, dry bedding and that the yard had not been appropriately cleared. There was a build up of dirt both in the kennels and in the long grass in the yard. It is self evident that a lack of dry bedding and a dirty kennel are detrimental to the health of a greyhound. There was no evidence conflicting the claim of the Stewards in that regard, apart from Mr Ward claiming that the dirty condition of the kennels was due to strong winds bringing in dirt from nearby paddocks. That might explain the presence of the dirt, but it does not excuse it not being cleaned away and is no excuse for a failure to provide proper shelter. A lack of proper, soft bedding increases the likelihood of developing sores and attracts parasites. We are comfortably satisfied that this charge is made out.
6. Charge 2 is under Greyhounds Australasia Rule (“GAR”) 106(1)(c), which refers to the failure to provide a greyhound with kennels which are kept in a clean and sanitary condition. This charge overlaps with Charge 1, save that it does not require proof that the conditions were detrimental to the health of the greyhound. We are comfortably satisfied that it is made out, but any penalty imposed regarding its breach will be made concurrent with the penalty under Charge 1. We note that there was also a not guilty plea to this charge.
7. Charge 3 is under GAR 106(1)(d), which prohibits a failure to provide a greyhound with veterinary attention when necessary. Mr Ward also pleaded not guilty to this charge. At the kennel inspection on 12 December 2020 he said that the greyhound was dying at home and that there was no point in taking her to a veterinarian. Investigative Stewards, looking at the emaciated and almost lifeless state of the greyhound, considered to the contrary. That view was supported by expert evidence from veterinarian, Dr Nick Evans. His view was based on the report of the Stewards about the condition of the greyhound referred to earlier in this decision and upon photographs of the greyhound taken at the time.
8. In Dr Evans’ opinion, the physical condition of Alouette Lass was “totally unacceptable”. He stressed that her body condition was so poor that she could not walk or access food or water and it was likely that she had been unable to move for days. Dr Evans also referred to evidence of the appalling state of the greyhound, as shown on the body worn camera of a Steward at the kennel inspection. Dr Evans said that: -

“It is unacceptable for any animal to be left in that condition for any period of time. Mr Ward did present the greyhound to Dr Bell some time prior to the inspection on [12] December 2020. However, it would be reasonable to expect that a layperson let alone an individual who is highly experienced in greyhound training and husbandry would have realised that the greyhound was in dire need of urgent veterinary attention well prior to the state that the greyhound was found by Investigative Stewards”.

1. Dr Evans considered it improbable, given the greyhound’s condition on 12 December 2020, that a few days before she was standing and running around. In this regard, he referred to her body condition and the extent of faecal matting present in the perineum, being the area of skin between the opening of the vagina and the anus.
2. Dr Evans’ expert opinion was that “it is a reasonable conclusion that while in the state observed during the inspection on [12] December 2020, Alouette Lass would have experienced unnecessary pain and suffering”. Dr Evans was not challenged on that opinion. We consider that it is an opinion supported by the evidence of the condition of the greyhound on 12 December 2020, as shown on the body worn camera and photos taken by Stewards on that day. Dr Evans gave oral evidence consistent with his expert report and was cross examined by counsel for Mr Ward. We are comfortably satisfied that this very serious charge is made out.
3. Mr Ward gave evidence that he had a personal rule to check with a veterinarian when a greyhound was near death. He was far too slow to do so on this occasion. We reject the implausible concept that the deterioration of the greyhound happened overnight as suggested by Mr Ward. We find this charge proven.
4. The fourth and final charge is one under GAR 106(2), which compels registered persons to exercise such reasonable care and supervision as to prevent greyhounds from being subjected to any unnecessary pain and suffering. Mr Ward also pleaded not guilty to this charge. For every minute that the greyhound was in the condition the Stewards found her in, she was, on the uncontradicted evidence of Dr Evans, in pain and suffering. That pain and suffering was unnecessary. She should have been taken to a veterinarian earlier, perhaps many days earlier, to be euthanised. Even when Stewards suggested to Mr Ward that the greyhound be euthanised at a local veterinary practice, he insisted on going from Mount Moriac to Dr Bell at Craigieburn to have her put down and delayed doing so while he engaged with Stewards in a long winded self justification for his negligent behaviour. We are comfortably satisfied that this extremely serious charge has been established. We will now hear the parties on the question of penalty in relation to each charge.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal