1 July 2022

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**RACHAEL BUSUTTIL**

**Date of hearing:** 22 June 2022

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

**Appearances:** Mr Damien Hannan instructed by Mr Anthony Pearce appeared on behalf of the Stewards.

Mr Mark Busuttil represented Mr Rachael Busuttil.

Dr Chad Baali appeared as a witness.

Ms Heather Harvey appeared as a witness.

Dr Steve Karamatic appeared as a witness.

Mr Paul Searle appeared as a witness.

**Charge:** Greyhounds Australasia Rule (GAR) 42(1) states:

(1) A greyhound must be prohibited by the Stewards from competing in an Event if the greyhound is examined by the officiating veterinarian at a meeting and it is found, or otherwise information comes to light which reveals, that the greyhound is: (a) suffering from an illness or condition which affects or may affect any part of its central or peripheral nervous system;

(b) suffering an illness or condition which in the opinion of the veterinarian may cause erratic behaviour or an unsatisfactory performance of the greyhound in, or otherwise affect the true running of, an Event; or

(c) in the opinion of the veterinarian or other authorised person, severely distressed, severely ataxic, collapsed (or would collapse if not supported by a handler), or has suffered a seizure.

**Particulars of charge:** On 17 June 2022, the Stewards finalised an inquiry into the behaviour of Mr Audacious post-race in relation to the provisions of GAR 42. During the inquiry, the Stewards received an amended Veterinary Report that indicated that Mr. Audacious had a seizure, in the catching pen. The Stewards also noted that Mr. Audacious had collapsed post-race in the catching pen, which is a stand-alone provision of the same rule. Therefore, acting under the provisions of GAR 42, Mr Audacious is prohibited from competing in an event until such time as both an external veterinary clearance is provided to the satisfaction of Stewards stating that Mr. Audacious is both; in good health and is suitable to compete in an event and further; a satisfactory trial is completed to the satisfaction of the Stewards, pursuant to GAR 132. Further, under the provisions of GAR 42 (3) Mr Audacious is suspended from racing at all tracks, for 28 days.

**Plea:** Guilty

**DECISION**

Ms Rachael Busuttil, you are seeking a stay in relation to the operation of an order of the Greyhound Racing Victoria Stewards made on 17 June 2022 and in relation to events that occurred at Traralgon on 15 June 2022. A dog trained by you, namely Mr Audacious, had competed in and won Race 5 over 395 metres, the race being a heat of the Glenview Cup, the final to be conducted at Traralgon on 24 June 2022. The final of the cup is a valuable race. Mr Audacious is clearly a talented greyhound, having won 10 of its 13 starts, including 5 of its last 6. I would imagine that it would be well in the market in the final.

In essence, on 17 June 2022, the Stewards made an order pursuant to GAR 42 that Mr Audacious be suspended for a period of 28 days. That, of course, would prevent it from running in the Glenview Cup.

Whilst application for stays are not all that common, I have noticed that sometimes the investigation of the issues necessitates almost a full hearing on the merits. This was such a situation.

I am indebted to Mr Hannan of Counsel for his fair and informative presentation on behalf of the Stewards and to Mr Mark Busuttil, your husband, who, whilst not a qualified lawyer, presented your case thoroughly and clearly.

The essential facts are that, after the running of the race and in the catching pen, Mr Audacious effectively threw itself down on the track and made rapid, pumping type motions with its legs, and particularly with its hind legs. The video of what occurred shows this clearly. The dog was lifted up and recovered quite rapidly. The veterinarian, Dr Baali, had been contacted and proceeded to the catching pen. By the time he was in the vicinity of this Mr Audacious had largely, if not completely recovered.

It was washed down and then taken to the veterinary rooms in the grandstand. A brief video of it being there indicated that it was moving in a normal fashion.

Dr Baali completed a veterinary examination form. On it, he ticked the box for PEDS, which I understand to be the acronym for Post Exercise Disorder Syndrome. In the “comments” column, he wrote “fit”. In relation to treatment, whilst it is difficult to read, he wrote “rest for 7 days”. This time frame would have permitted participation in the Glenview Cup.

On the following day, what had occurred was drawn to the attention of the Chief Steward, Mr Paul Searle. He made further investigations, bearing in mind GAR 42(3) and the possibility of a mandatory period of 28 days suspension. A further form was completed by Dr Baali on 17 June 2022. He again circled the number 7 as being the number of days stand down time. However, on this occasion the diagnosis was written as being “seizure”. Under general comments, Dr Baali wrote that the dog had had a fit in the catching pen and that the treatment was rest for 7 days, along with a discussion concerning nutritional management.

Following the receipt of this form from Dr Baali, the Stewards applied GAR 42(3) and suspended Mr Audacious for 28 days. It is argued that this was in accordance with GAR 42(3) and that no discretion exists.

I would further point out that, as I understand it, this provision only came into operation on 1 May 2022 and Dr Baali makes no secret of the fact that, effectively, he was unaware of the provision in relation to a compulsory 28 day stand down for seizures.

Evidence was taken from Dr Baali; the Chief Veterinary Officer, Dr Stephen Karamatic; Steward Ms Heather Harvey, who was in attendance at the meeting; and Chief Steward Mr Paul Searle.

The bottom line seems to me to be this. Dr Baali made a mistake, which he admits, in relation to the appropriate period of suspension. That is unfortunate and disappointing.

However, GAR 42, as operational as of 15 June 2022, is clear. If a dog has suffered a seizure, the appropriate period of suspension is 28 days. Dr Baali ultimately diagnosed a seizure. Whether these is any material difference between a fit and a seizure for the purpose of the Rule seems to me to be doubtful, but Dr Baali’s diagnosis of 17 July 2022 was “seizure”.

Dr Karamatic gave evidence that the diagnosis of PEDS is sufficiently broad to include seizures and collapses. That seems to me to make sense and to be appropriate.

From whatever angle it is approached, it seems to me that the evidence, including the video evidence, establishes that Mr Audacious suffered a seizure in the catching pen after the race.

If that be so, unfortunately for you the situation falls within the operation of GAR 42(3). As of 1 May 2022, there is a compulsory period of suspension of 28 days for a seizure. A decision to stand down a dog for a lesser period would be an error and would carry no weight as such. Once it has been demonstrated that a dog has suffered a seizure, there is a compulsory suspension for 28 days. An error was made by Dr Baali. That error has been replaced by the compulsory wording of the Rule and applies to the seizure suffered by Mr Audacious.

It is impossible not to have some sympathy for you and your husband. To have a dog of this quality in outstanding form and the quality, prestige and the value of race which was coming up and then not to be able to compete, is doubtless a bitter blow.

I accept completely that you are devoted to the wellbeing of Mr Audacious. It may well be that the dog is showing no signs of injury of further seizures. There is no challenge to the fact that you have his welfare at heart.

However, unfortunately for you the new Rule means that a 28 day suspension is warranted and accordingly the application for a Stay is unsuccessful and is refused. The existing order of 17 June 2022 continues to operate.

Mark Howard
Registrar, Victorian Racing Tribunal