18 September 2020

**DECISION**

**RACING VICTORIA**

**and**

**MR MICHAEL POY**

**Date of hearing:** 4 September 2020

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

**Appearances:** Mr Simon Carey appeared on behalf of the Stewards.

 Mr Michael Clarke appeared on behalf of Mr Poy.

**Charge:** Australian Rule (AR)131(a) states a rider must not, in the opinion of the Stewards:

1. engage in careless, reckless, improper, incompetent or foul riding;

**Particulars of charge:** Michael Poy (Billabong Bilby) was found guilty of a charge of careless riding under the provision of AR131(a). The careless riding being that over the final 50 metres, whilst riding his mount along, he permitted his mount to shift out, resulting in Groot being carried out and having to be steadied to avoid the heels of Billabong Bilby. Michael Poys permit to ride in races suspended for a total of twelve meetings to commence midnight 5 September, 2020 and to expire midnight 17 September, 2020. (3 metro, 9 provincial). In assessing penalty the Stewards were of the view that the incident qualified for the mid-range category of carelessness and took into account his record and the racing manners of Billabong Bilby.

**Plea:** Not Guilty

**DECISION**

Mr Michael Poy, you have pleaded ‘not guilty’ to a charge of careless riding. It concerns your ride on ‘Billabong Billy’ in Race 9 over 1000 metres at Pakenham on 31 August 2020. It is alleged by Stewards that, in the last 50 metres of the race, your horse moved out quite sharply, causing interference to Groot, ridden by Ms Alexandra Bryan.

I have viewed the video several times. I have viewed the entire race, and not just the last 50 metres, because there has been considerable reference to the behaviour of your horse shortly after the horses swung for home.

Your horse won the race, with Ms Bryan finishing second, one and a quarter lengths behind you. Ms Bryan protested, but the Stewards expressed the view that they did not believe that the interference suffered was greater than a length and a quarter and did not believe Groot would have beaten Billabong Billy in any event. However, they were of the view that your riding was careless and hence this charge. Their primary ground could be described being the fact that you continued to use the whip over the last 50 metres and made no attempt to straighten your horse.

You say that your horse did shift out early in the straight, but went in a straight line after you applied the whip and then under hands and heels riding. When you again applied the whip in the last 50 metres, you expected your horse to again go in a straight line, but it shifted out sharply.

I am of the opinion, that the charge of careless riding has been made out. It may be that the horse was difficult to ride and earlier it had gone straight when the whip was applied. However, the fact remains that the horse was essentially straight until the last 50 metres. You then applied the whip and it moved out quite sharply. You continued to use the whip and made no attempt to straighten the horse. This caused interference to Ms Bryan’s mount, and, to a lesser extent, the two horses to her outside.

In my opinion, this represents careless riding and I find the charge to be proven. I shall now hear the parties on the question of penalty.

**PENALTY**

I have heard the parties on the question of penalty. I have no doubt but that you, Mr Poy, should have stopped riding your horse with the whip. These things happen very quickly, but you made no attempt to straighten your horse when you could have done so. The result was interference to three horses, although for two of them it may not have been great.

A period of suspension is certainly required. At the time of the Stewards hearing, you had some assistance from Mr Alf Matthews, and had some explanation for what had occurred. Nevertheless, you reserved your plea. Today you have pleaded ‘not guilty’, but did seem confused about how you should be pleading. An attempt was made to clarify the situation, and your father, Mr Michael Clarke, who was assisting you, seemed to indicate that you should be pleading ‘guilty’. Firstly, you opted to plead ‘not guilty’, but then when initially invited to ask questions of Mr Carey on behalf of the Stewards, you commenced with statements that were directed to penalty and not guilt.

I appreciate that during the hearing you were driving a car to Donald races. Mr Carey was already at Donald. Mr Clarke was ultimately at home, but was initially in his car and did not realise that the starting time of the appeal had been put back 30 minutes. There was considerable confusion.

You later said that you thought that you were pleading ‘not guilty’ in relation to penalty, although there had been an attempt by me and by Mr Clarke to clarify the situation.

These are difficult times and the Tribunal does its best to dispose of matters by way of telephone link up and, in bigger cases, by video link. Normally they work well, but there was some accidental confusion on the part of you and Mr Clarke and that may not have existed if there had been a hearing in person.

I take that into account. I also take into account your very good record. You are a very talented apprentice with a bright future, but made an error of judgement which constituted carelessness on this occasion.

In all these circumstances, I am prepared to treat the penalty as if you had pleaded ‘guilty’ as you say you thought you were doing, or, as you put it, ‘not guilty’ on penalty.

The appeal is upheld and the penalty reduced to 10 meetings, which seems to me to be what would have been appropriate for a guilty plea.

Mark Howard
Registrar, Victorian Racing Tribunal