22 January 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**JACK LAUGHER**

**Date of hearing:** 11 January 2024

**Panel:** Justice Shane Marshall (Deputy Chairperson).

**Appearances:** Mr Adrian Crowther appeared on behalf of the Stewards.

Mr Jack Laugher represented himself.

**Charge:** Australian Harness Racing Rule (“AHRR”) 156(2)(a) states:

(2) (a) A driver shall only apply the whip and/or the rein in a wrist only flicking motion whilst holding a rein in each hand with the tip of the whip pointed forward in an action which does not engage the shoulder.

**Particulars:** Driver, Jack Laugher, was found guilty of a charge pursuant to AHRR 156(2)(a) for using his whip with more than a wrist only flicking motion and generating force through the use of his elbow and shoulder when driving out in the home straight. In determining penalty Stewards took into consideration Mr Laugher’s recent record which indicated that a second tier fine of $400 had been imposed some ten days prior, and HRV Minimum Penalty guidelines. Mr Laugher’s drivers licence was suspended for two weeks, with a nine day deferment granted to allow the suspension to begin at midnight on 16 January 2024.

**DECISION – STAY APPLICATION**

1. Mr Jack Laugher is a registered harness racing driver. On 7 January 2024, he drove “Earl Of Pembroke” in Race 8 at Cobram.
2. After the race, Stewards told Mr Laugher that they needed to speak to him about his whip use in the race. Mr Laugher and the Stewards watched a replay of the race. At that point, the Stewards did not identify where in the race the improper whip use occurred. They had not yet determined whether they would charge Mr Laugher. However, it would have been of assistance to have asked Mr Laugher about his whip use at clearly identified stages of the race.
3. Mr Laugher was then asked to wait outside the Stewards room. He was then called back into the Stewards room and was informed by the Stewards that, based on the film evidence, there was a case to answer.
4. Mr Laugher expressed concern that he had not been told where in the race he had transgressed. The Stewards had not then provided the particulars, largely due to his interrupting the Chairman. The Chairman then charged Mr Laugher under Australian Harness Racing Rule (“AHRR”) 156(2)(a), which compels a driver to apply the whip only in a flicking motion in an action which does not engage the shoulder. AHRR 156(2)(b) extends the meaning of “flicking motion” by referring to no force being generated by use of the elbow.
5. The particulars given by the Stewards of the charge were that “you have, when driving in the home straight, used your whip with more than a wrist only flicking motion, an action which has seen you generate force through the use of your elbow or shoulder”.
6. Mr Laugher pleaded not guilty. He asked the Stewards to specify where in the 200 metre long straight the offending conduct occurred. The Chairman responded that he did not need to tell Mr Laugher where in the straight the offending occurred. Mr Laugher was asked if he had anything else to say. At that point, there was no point in him asking again for what in effect was a further and better particular of the charge – that is, where precisely it was allleged that the breach occurred.
7. After deliberating, the Stewards found the charge proven. Mr Laugher then re-agitated his concern about where precisely he was alleged to have breached the Rule. The Chairman reiterated that he did not have to do so, other than refer to the home straight.
8. The matter of penalty was then the subject of discussion between the Stewards and Mr Laugher. The Stewards imposed a penalty of a two week suspension on Mr Laugher to commence at midnight on Tuesday, 16 January 2024.
9. Mr Laugher now applies for a stay of the operation of that penalty pending the hearing and determination of his appeal against the decision of the Stewards. In order to be granted a stay, Mr Laugher is required to show that there is an arguable case that he will succeed on the appeal and that the balance of convenience favours the grant of a stay.
10. In my opinion, there is an arguable case that Mr Laugher was denied procedural fairness when he made a reasonable request for further and better particulars of the charge and that request was refused. The balance of convenience favours the grant of the stay, as it is unlikely that the appeal can be heard and determined before the suspension period is due to commence.
11. The order of the Tribunal is that the decision of the Stewards of 7 January 2024 to find Mr Laugher guilty of an offence under AHRR 156(2)(a) and suspend him for a period of two weeks commencing at midnight on 16 January 2024 is stayed pending the hearing and determination of the appeal against the decision of the Stewards.
12. The timing of the hearing of the appeal will be a matter to be determined between the parties and the Registrar of the Tribunal. The matter will be listed within the next four weeks.

Kathleen Scully

Acting Registrar, Victorian Racing Tribunal