13 December 2024

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**REBECCA ROMYN**

**Date of hearing:** 9 December 2024

**Date of decision:** 13 December 2024

**Panel:** Judge Marilyn Harbison (Deputy Chairperson), Ms Judy Bourke and Ms Danielle Hikri.

**Appearances:** Mr Zero Partos instructed by Mr Anthony Pearce appeared on behalf of the Stewards.

Mr Damian Sheales appeared on behalf of Ms Rebecca Romyn.

 Ms Rebecca Romyn appeared as a witness.

**Charge:** Greyhounds Australasia Rule (“GAR”) 141(1) states:

**Greyhound to be free of prohibited substances**

*(1) The owner, trainer or other person in charge of a greyhound:*

1. *nominated to compete in an Event;*
2. *presented for a satisfactory trial or such other trial as provided for by the Rules; or*
3. *presented for any test or examination for the purpose of a stand-down period being varied or revoked,*

*must present the greyhound free of any prohibited substance.*

**Particulars:** 1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria (GRV) (Member No. 164561) and a person bound by the Greyhound Australasia Rules and Local Racing Rules.

 2. You were, at all relevant times, the trainer of the greyhound “*SODA MAC*” (VJRHG).

 3. “*SODA MAC*” was nominated to and competed in, Race 2, Pink Diamond Challenger Sprinter Heat, conducted by the Shepparton Greyhound Racing Club at Warragul on 8 June 2023 (**the Event**).

 4. On 8 June 2023, “SODA MAC” was presented at the Event not free of a permanently banned prohibited substance, given that:

1. A post-race sample of urine was taken from “*SODA MAC*” at the Event (**the Sample**);
2. Cocaine, Benzoylecgonine and Ecgonine Methyl Ester were detected in the sample.

5. Cocaine, Benzoylecgonine and Ecgonine Methyl Ester are permanently banned prohibited substances.

**Plea:** Guilty

**DECISION**

1. Ms Rebecca Romyn is the owner and trainer of a greyhound named Soda Mac. She is charged with presenting that greyhound at a race at Shepparton on 8 June 2023 when the greyhound was not free of three prohibited substances.
2. The substances detected in a post-race sample were cocaine, benzoylecgonine and ecgonine methyl ester. The latter two substances are metabolites of cocaine. Each of these substances are permanently banned prohibited substances, so the detection of these substances in the dog at the time of the race is a very serious matter. The reserve sample was sent to be tested in Queensland by the Racing Science Centre. This reserve sample also tested positive for these substances.
3. There are no human or veterinary products which contain cocaine. It can therefore only be acquired illegally. It is thought to prevent fatigue during short term exertion in humans and in dogs. It also acts as a local anaesthetic. Thus, its effect on racing greyhounds is positive in the short term, although dangerous in the long term, as it is for humans.
4. Ms Romyn has pleaded guilty to the charge.
5. In doing so, she is adamant that she has absolutely no idea how these substances came to be present in her dog.
6. The Stewards attended her kennels on 20 July 2023. On that occasion out of competition swabs were taken from three of her other greyhounds and a clearance swab was taken from Soda Mac. Each of those swabs was clear.
7. There was nothing in her kennels which could explain how the greyhound came to be ingested with these substances.
8. Ms Romyn had two workers, Ms Rebekka Piper and Mr Taylor Thornton, who cared for her greyhounds from time to time. Both of them were interviewed by the Stewards. Neither could offer any explanation as to how the sample came to be contaminated with these substances.
9. Ms Romyn has been an owner-trainer since 2012.
10. She told the Stewards she had nothing to do with cocaine. She had no idea how the dog had come into contact with cocaine.
11. It often happens that a trainer charged with a presentation offence is unable to ascertain how the contamination occurred. There are many honest and careful trainers who have been convicted of presentation offences. Although this may seem harsh, the vital consideration requiring this strict liability is that it is of the utmost importance that the public and the industry is satisfied that the sport of greyhound racing is drug free. The onus is squarely on the trainer to ensure that this happens. The very future of greyhound racing depends on upon the elimination of drugs from this sport. There should be no trainer in Victoria who is not aware of this.
12. It is for this reason that the concepts of general deterrence and denunciation feature so strongly in sentencing for presentation offences.
13. This case is different from the usual in that the dog was out of the trainer's care for a lengthy period immediately before the race. This is because the dog had been taken to a kennel in Seymour by one of Ms Romyn’s workers and then taken from there directly to the racecourse. Ms Romyn did not see the dog until after the urine sample had been obtained after the race. It has been established that the dog was out of Ms Romyn’s control for at least 52 hours immediately prior to the race.
14. The significance of that is that it is accepted by the Stewards that the exposure of the dog to the cocaine detected in the sample must have occurred after the dog left the care of the trainer. This can be established scientifically because cocaine breaks down within 12 hours and thus has a very short window of detection. This means that the cocaine must have been introduced to the dog at some point whilst it was in the care of either one of Ms Romyn’s workers and particularly Mr Taylor Thornton.
15. Counsel for Ms Romyn relied heavily on this circumstance to argue that she had no culpability for this offending because she had no control over the circumstances of ingestion. He submitted that the penalty in this case must reflect that complete absence of culpability.
16. The submission was that the dog was in perfect health when it left her care and that the interests of justice required that her behaviour be acknowledged as faultless in the circumstances. She had left the dog in the care of Mr Thornton, who was himself a registered trainer, and who should be expected to understand the importance of ensuring the dog had no contact with prohibited substances of any kind.
17. Counsel for Ms Romyn argued that we should therefore be satisfied that it was not appropriate for the sentence to express denunciation or general deterrence, as the Stewards could not point to any conduct of the respondent calling for denunciation, or any conduct which needed to be more generally the subject of general deterrence.
18. He submitted that in the most unusual circumstances of this case, the most appropriate course of action for this Tribunal to take should be to impose no penalty at all. The Tribunal has the power to make such an order under GAR 177. Thus, we should find the charge proven but order that Ms Romyn be discharged without recording a formal finding of guilt, or if the finding of guilt was recorded no penalty ought to be imposed.
19. In making this submission counsel relied heavily on observations of this Tribunal in Racing Victoria v Mitchell Freedman, and particularly on the following passage from that decision:

“In the present case there is no suggestion that you engaged in a course of conduct which, on the face of it involved some risk. We do not see this as a case where there has been behaviour, either directly or by reason of a lack of supervision or care, which has resulted in feeding or medication causing an elevated reading of a prohibited substance. There is no behaviour or activity, or lack thereof, which provokes the necessity of sending a message to the industry or the public. Nor need we concern ourselves as to matters of strict or absolute liability. There is a plea of guilty. The issue is one of appropriate penalty, over and above the disqualification of the horse from the race in question. For all of the above reasons we are unanimous in our view that no penalty should be imposed. We refer to the unusual circumstances of this case and we again emphasise the absence of any warning, notice or appropriate wording on the packaging or elsewhere and the absence of any negligence, lack of supervision or the like on your part”.

1. Whilst we acknowledge the force of these submissions, it is our view that this case is significantly different from Freedman in one important respect.
2. In the case before us, the trainer has effectively relinquished control over the dog to her workers for over two days leading up to the race. During the hearing, we expressed our concern that the trainer, knowing the potential risks of contamination in general (although of course unaware of the particular contaminant that was later detected), and knowing of her obligation to present the dog to race drug free, would do so. Ms Romyn then gave evidence in relation to this issue. She said that she had previously kennelled the dogs at the Seymour address and had shared those kennels with Mr Taylor Thornton at that time. She therefore knew the kennels and the kennelling arrangements. She still used those kennels to house her breeding dogs. She said she had no concerns about leaving the dog with Mr Thornton.
3. On the basis of that evidence her counsel submitted to us that she had done all she could be reasonably expected to do. We should be amply satisfied that the action of a third party must have caused the contamination, and so this was a case suitable for the application of GAR 177.
4. We accept that the factors relied upon Ms Romyn are of significant weight. We are however left with a concern that she was prepared to leave the dog without effective supervision by herself for such a long period prior to the race. Before doing so, we consider that she should have made detailed enquiries and put in place strict arrangements preventing possible contamination from any source. Her evidence on this point was very short and very general. To hand over a dog to another person’s care for an extended period immediately before a race is fraught with danger. This is so even if that person is himself a licensed trainer. We would have expected much more detailed evidence as to the measures she had required of Mr Thornton and Ms Piper to guard against contamination from any source whilst the dog was in their care.
5. It is for that reason that the principles of general deterrence and denunciation still have a role to play in sentencing in this case.
6. We agree with the Stewards that animal welfare and the integrity of the industry is a paramount sentencing consideration in presentation cases, and this is even more important in sentencing where a dog is presented with a permanently banned substance.
7. We take into account the fact that a guilty plea was entered to this charge on the first day of the hearing. Ms Romyn is entitled to a discount for that plea. We also take into account that she has cooperated fully with the Stewards in their investigation.
8. It was further submitted to us that the Stewards had charged the wrong defendant. It was submitted that the worker Mr Thornton, who was himself a registered trainer, should have been charged with this offence rather than her. The fact that the Stewards had not done so had led Ms Romyn to have a justifiable sense of grievance which should be taken into account in our sentencing disposition. In our view it is not appropriate for us to give weight to this circumstance in sentencing Ms Romyn. It is not for us to surmise as to the reasons why Mr Thornton has not been charged, and we do not see that this should affect our sentencing disposition in respect of Ms Romyn.
9. We were not provided with details of Ms Romyn’s personal circumstances. We sentence her as a trainer of some experience and note that she has committed no relevant prior offences. This is to be taken into account in her favour.
10. On the presentation charge the penalty which we impose is a period of disqualification of nine months with eight months of that period fully suspended for 24 months. The period of disqualification is to commence today.
11. Soda Mac is disqualified from Race 2 at Shepparton on 8 June 2023. In addition, Soda Mac is disqualified final of that event, The Pink Diamond Challenger Final which was Race 11 at Warragul on 16 June 2023. The finishing order of both events is to be amended accordingly.

Mark Howard

Registrar, Victorian Racing Tribunal