

NEW SOUTH WALES HARNESS RACING APPEAL PANEL

APPEAL PANEL MEMBERS

Hon. W Haylen KC

G Kelly

R Horne

FRIDAY 22 SEPTEMBER 2023

APPELLANT ARTHUR CLANCY

RESPONDENT HRNSW

**AUSTRALIAN HARNESS RACING RULES
163(1)(a)(iii)**

DECISION

- 1. The Appeal against the decision of the Stewards is upheld.**
- 2. The suspension of 14 days is set aside.**
- 3. The appeal fee is to be refunded to the appellant.**

1. On 17 September 2023 at Cowra Harness Racing Club, Stewards opened an inquiry into the circumstances that led to the horse Prince Parker breaking gate near the 300m point in Race 1. The central figures in this Inquiry were Mr Clancy, being the driver of Rose of Julia, and the driver of Prince of Parker, being Mr Mitch Turnbull.
2. Mr Turnbull told Stewards that he was driving "three on the fence" and pulled into "the 1-1" and travelled there. The 1-1 position was vacant for some time and eventually he took that position. His horse was travelling well but half way around the last corner of the race Mr Clancy's horse came down "halfway around the corner, sharply" and checked him. His horse galloped for a stride or two, causing Mr Turnbull to check runners behind him.
3. The driver of Polka Dot Dance, Mr James Locke, was on the inside at the turn but told Stewards that he was unaware of this incident. He did hear "a bang" coming around the corner and that was all he heard. He had maintained his position on the marker pegs around the bend.
4. Mr Clancy told Stewards that he was on the outside of Mr Turnbull and going up the back straight he "moved out a fraction". Coming into the turn he "had the horse's mouth with both reins" and then "Mr Turnbull came charging through from the inside and came straight into" him. Mr Turnbull's horse was running out and hit his gig. He told the Stewards that he was holding his position around the turn.
5. The Stewards then took the Drivers through the video replay of the race. Mr Turnbull said that he was getting pressure from the outside and did not want to get his horse checked, "so it was probably a moment of panic". He then referred to it being "a mongrel of an angle," because what happened in the race, in his vision, read differently. He said the camera did not show it correctly.
6. Mr Clancy told Stewards that the video showed him three wide going into the turn and they agreed. He said he could sense Mr Turnbull coming through the inside, so he took a good hold of his horse, dropped back about three quarters of a length leaving a minor gap. However, he argued that the gap did not entitle a horse to go through it. Mr Turnbull's horse went through that gap and hit his wheel. Mr Turnbull's horse's head was turned to the inside, he was running out and ran into Mr Clancy's gig.
7. During this discussion Mr Turnbull stated that he had no room outside him and it was a desperate move to get away from Mr Clancy who was coming down the track to the inside. He said he had come to a point where he had nowhere else to go.
8. After hearing these submissions and viewing the video of the race the Stewards announced a charge against Mr Clancy under AHRR 163(1)(a)(iii), namely a driver shall not cause or contribute to any interference.
9. The Particulars of the charge were: "...in race 1 at Cowra on Sunday 17 September 2023, and where you were the driver of Rose of Julia, that at a point near the 300 metres, you have allowed that mare to shift down the track when not sufficiently clear of Prince Parker, driven by Mitch Turnbull, and as a result, Prince Parker has been checked and broke stride at that stage." Mr Clancy pleaded not guilty.
10. In discussion with the Stewards on the issue of penalty Mr Clancy stated that his record was excellent. His record showed that he had been driving since 1984 and had 82 drives since his last offence, which was just short of two years. The Stewards started their penalty considerations by reference to the Penalty Guidelines that recommended a 28 days suspension for this type of offence. His driving record was such that he was entitled to a 10 day reduction or where a driver had 600 drives or

two years since their last suspension, a 14 day reduction. The Stewards noted that he was just under two years, but considering the circumstances of the incident applied the full reduction of 14 days. His driver's license, therefore, was suspended for 14 days.

11. At the start of the Appeal hearing, the Panel members stated that they had encountered great difficulty in pin pointing on the video where the interference occurred just prior to Mr Turnbull's horse breaking gate. The video available to the Panel does not have the facility to slow down the race during the running. The Stewards were asked to use their facilities to slow down the running of the race to the slowest level. This request was suitably met during the hearing and the Panel was able to view the race closely with the assistance of the Stewards commentary. Despite the availability of this assistance the Panel was not able to pin point exactly who was at fault at this stage of the race. The two drivers had totally different versions of the situation: Mr Turnbull says that he is driving into an open space available to him and Mr Clancy says that Mr Turnbull did not have room to make that move and ran into the back of his cart. Mr Locke did not see any of this but heard a bang at that point.
12. One other matter of interest came to attention during the video replay at the hearing. There was an elevated Stewards stand on the back straight which appeared to give a clear view of the horses as they run up to what is regarded as a tight turn at the Cowra track. The Panel asked if the Steward posted there in this race was consulted about this incident. The Panel was informed that this Steward was not involved in the hearing of this matter because he was required for other duties that had arisen after the race.
13. In the circumstances set out above, the Panel can not be comfortably satisfied that the charge against Mr Clancy has been made out. It follows that the Appeal is upheld, the 14 day suspension is set aside, and the Appeal fee is to be returned to Mr Clancy.

Hon Wayne Haylen KC – Principal Member

Mr G Kelly – Panel Member

Mr R Horne – Panel Member

25 September 2023