NEW SOUTH WALES HARNESS RACING APPEAL PANEL

APPEAL PANEL MEMBERS

Hon W Haylen KC
D Kane
D Morgan

DECISION

27 March 2026

APPELLANT DANIEL ROWELL
RESPONDENT HRNSW

AUSTRALIAN HARNESS RACING RULES
190(1), (2) & (4)

DECISION

The Appeal Panel makes the following orders:

The Panel is satisfied that an appropriate penalty in this case is disqualification for a period of 12 months. Mr Rowell has already served 9 months disqualification and will have to serve a further 3 months under disqualification.

1. On 22 December 2025, HRNSW Stewards conducted an inquiry following a report received from the Australian Racing Forensic Laboratory that Total Plasma Carbon Dioxide above the prescribed threshold was detected in the blood sample taken from the horse The Real Rocketman NZ, prior to it running in race 4 at Wagga on 24 June 2025. That horse was trained by Mr Rowell.

2. At the conclusion of the Stewards investigation Mr Rowell was charged with breaching the provisions of AHRR 190 (1), (2), and (4). Those rules stated: a horse shall be presented for a race free from prohibited substances; if a horse is presented for a race otherwise than in accordance with sub rule (1), the trainer of the horse is guilty of an offence; and, an offence under sub rule (2) is committed regardless of the circumstances in which the prohibited substance came to be present in or on the horse. Mr Rowell pleaded guilty to those charges but denied he had administered TC02. He was assured that he had not been charged with administration but had been charged with a presentation offence.

3. During discussion with the Stewards Mr Rowell mentioned that he had been licensed since around 2001 and ran the stable by himself with help from his partner. He had no paid employees or volunteers. His feeding regime did not use any bicarbonate sodas and when he bought feed he made sure that it did not have alkalinising agents in it. It was then noted by the Chairman that Mr Rowell did not treat the horse with anything.

4. In discussions about the appropriate penalty, the Stewards noted that he had a previous TCO2 offence from 17 March 2006 for which he received a nine month disqualification. Reference was then made to the penalty guidelines that provided a starting point of a two year disqualification for a first offence and five years for a second offence for a Class 2 prohibited substance. Stewards also gave consideration to the evidence he had given, noting that he had no explanation for the levels recorded and that Dr Wainscott was unable to provide any indication as to why those levels had been recorded based on the information provided and available.

5. The Stewards then stated that the appropriate penalty was disqualification for prohibited substances. The starting point was three years disqualification having taken into account the previous prohibited substance matter. Five years was considered not to be appropriate. A 25% reduction was allowed for his guilty plea and co-operation. A further reduction of 25% was adopted having regard to his personal and financial subjectives. That approach finally resulted

in a penalty of 18 months disqualification commencing from 15 July 2025. At the time of announcing that penalty, Mr Rowell had been disqualified for 5 months.

6. Mr Rowell has appealed to this Panel and seeks a reduction in penalty. In written submissions to the Panel he sought a reduced total penalty of 9 to 12 months.

7. In written submissions filed by HRNSW it was noted that in June 2025 the Australian Racing and Forensic Laboratory had issued a certificate confirming the presence of TC02 at a level of 37.2 in the sample collected from the horse.It was noted that no explanation had been offered by Mr Rowell as to these elevated TC02 levels. It was again noted that in March 2006 he was disqualified for 9 months for presenting a horse to race with elevated levels of TCO2.

8. HRNSW further submitted that the elevated levels of TCO2 were well known in racing and was a class 2 prohibited substance under the penalty guidelines. As such, there was a need for general deterrence whenever elevated levels of TCO2 were detected. In addition, there had been no expression of remorse from Mr Rowell for this breach. Further, it was submitted that there were other issues in respect of husbandry practices undertaken by Mr Rowell , particularly in having a herbal product that was found to contain prohibited substances.

9. Mr Rowell also provided a written submission in which he openly accepted that he had no option but to plead guilty to the charges. However, he challenged the severity of the 18 months disqualification, noting that insufficient weight was applied to his previous good record and conduct and that the penalty was excessive having regard to the low range level of offending. He argued that the 2006 penalty for the same offence had limited relevance to the present case ' lacking any meaningful contemporary connection.' Properly characterised, he should be treated as a first offender. He also argued that insufficient weight had been given to his good character and record. Unfortunately, Mr Rowell presented no character references although his statement on this matter was read during the Appeal without objection.

10. It is necessary to clarify some of the matters raised against Mr Rowell. In the course of the investigation by the Stewards it was noted that he did not have prohibited substances in his stable and did not treat the horses with

anything. He did have a herbal supplement and was advised by the Chairman that it could be a problem and the advice to the industry was that they should be very cautious with them due to a lack of quality control. In later evidence Dr Wainscott strongly advised Mr Rowell not to use the herbal supplement although there was no evidence of alkalinising agents in the samples. That approach was accepted. In relation to the submission that he had not expressed remorse for his breach, Mr Rowell pointed out that Dr Wainscott stated that there was nothing untoward in any of his results and that was reflective of his management system. Dr Wainscott was asked by the chairman, that based on the information provided, there was no indication as to why they had the results received. Dr Wainscott agreed. Mr Rowell has stated that he had no remorse because he did not use a prohibited substance on the horse on the day of the race, or ever. He could not understand how the substance came to be in the system of the horse. That substance was not found in his stable. He also told the Stewards that he was "dumbfounded" as to how the substance came to be in the horse. The Chairman also asked Dr Wainscott if he had any concerns at all about the feed or any of the supplements or feed additives that Mr Rowell used in his stable. Dr Wainscott replied that he had not concerns at all about the feed and that there was no evidence of alkalinising agents in the samples. Further, Dr Wainscott had all of Mr Rowell's samples going back to 2012, and in all that time he had 83 samples taken with the highest level being 33.6, which was "absolutely normal" and there was nothing untoward in any of Mr Rowell's results, being reflective of his management systems.

11. A similar approach of Stewards arose in the case of Mr Bertwistle (HRNSW Appeal Panel November 2025). Mr Bertwhistle could not explain how high levels of cobalt were detected in the samples. Dr Wainscott gave evidence that the cobalt detected in the samples obtained were unable to be attributed to any of the treatments provided to the horse. The Stewards responded by stating: 'consequently stewards regard the circumstances that have resulted in cobalt above the threshold being detected in the subject samples as not having been appropriately explained.' The Panel observed; ' In the view of this Panel, that conclusion leaves Mr Birtwistle in the second category set out in the well known case of McDonough, that is the lack of evidence category. This is the situation where a Tribunal is left in the position of having no real idea as to how the prohibited substance came to be in the horse. In this case it seems that the Stewards took the view that the circumstances that had resulted in cobalt above the threshold, as 'not being appropriately explained'. That status, by itself, does not permit a finding that somehow Mr Bertwistle did apply cobalt

to his horse on both race days. There was no evidence to support such a finding. Equally, there is no evidence which permits a conclusion that he was not at fault.' In this case the two penalties applied by Stewards resulted in a disqualification of two and a half years. The Appeal Panel reduced that finding and imposed a disqualification of one year and two months.

12. The Panel does not accept that the presence of herbal products in Mr Rowell's stable as being relevant to the case of TCO2 brought by the Stewards.

13. The long standing decision of Judge Williams in the case of McDonough (June,2008) is relevant to this case and continues to be applied in racing cases concerning prohibited substances and strict liability offences. Shortly, the first category is, where through an investigation, admission or other direct evidence, the Authority can establish before the Tribunal a positive culpability on the part of the person responsible, perhaps a trainer. Within that category the culpability may be in the class of deliberate wrongdoing or it may be through ignorance or carelessness or something similar. The second category is where at the conclusion of any evidence and plea the Tribunal is left in the position of having no real idea as to how the prohibited substance came to get into the horse. This may be with the trainer giving some explanation which the Tribunal is not prepared to accept or the trainer may simply concede that he has no explanation. This second category was regarded as perhaps the most commonly experienced scenario. The third category is where the trainer or other person involved, may provide an explanation which the Tribunal accepts and which demonstrates that the trainer has no culpability at all. An obvious example would be if the trainer could satisfy the Tribunal that his horse had been nobbled, and it had been nobbled notwithstanding the presence of reasonable measures to prevent the same. Other various factual scenarios where the horse could somehow be the subject of the administration or ingestion of a prohibited substance without any culpability either directly or indirectly on the part of the trainer. This category represents cases where the trainer does establish to the Tribunal's satisfaction, the onus being on him, that he is free of blame, that he himself was not instrumental in the administration of the prohibited substance and that he has done all he could be expected to do to prevent same.

14. The Panel is satisfied that this case falls within the second category defined and adopted in the McDonough case. Although a small time trainer he has maintained his stable with appropriate substances. He pleaded guilty to the charge while strenuously asserting that he did not use any prohibited

substance on the horse when it raced in June at Wagga. He accepts that this matter is an absolute liability offence and carries a significant penalty. The Panel is satisfied that an appropriate penalty in this case is disqualification for a period of 12 months. Mr Rowell has already served 9 months disqualification and will have to serve a further 3 months under disqualification.

Hon Wayne Haylen KC – Principal Member
Mr Darren Kane – Panel Member
Mr Dallas Morgan – Panel Member

27 March 2026