



**Racing
Victoria**

Racing Appeals and Disciplinary Board
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APPEAL DECISION

ANDREW MALLYON *and* RACING VICTORIA STEWARDS

Date of Hearing: 21 June 2018

Heard By: Brian Forrest (Deputy Chair)

Appearances: Brett Wright appeared on behalf of the Stewards
Matthew Hyland of the VJA appeared on behalf of Andrew Mallyon

At Sale on 14 June, rider Andrew Mallyon was found guilty of a charge of careless riding on his mount *Bequeathed* in Race 8 the WorkforceXS Gippsland Middle Distance Series Heat 4 (1400m).

The particulars of the charge being, “in that approaching the 100 metres he permitted his mount to shift in on *Hell on Earth*, which lost its rightful running and had to be eased for four strides.”

Andrew Mallyon had his licence to ride in races suspended for a period of 12 meetings (3 metro & 9 provincial) commencing midnight Saturday 23 June 2018 and expiring midnight Thursday 5 July 2018.

In assessing penalty stewards took into account his guilty plea, his record and that the carelessness was in the mid-range.

A Notice of Appeal against **the severity of the penalty** imposed was lodged on 14 June 2018.

A stay of proceedings was not requested.

DECISION: Appeal against penalty allowed and varied to 9 meetings commencing midnight Saturday 23 June 2018 and expiring midnight Monday 2 July 2018.

**Grace Gugliandolo
Registrar
Racing Appeals & Disciplinary Board**

TRANSCRIPT OF PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD

MR B. FORREST, Deputy Chairman

EXTRACT OF PROCEEDINGS

DECISION

ANDREW MALLYON

and

RACING VICTORIA STEWARDS

RACING VICTORIA CENTRE, FLEMINGTON

THURSDAY, 21 JUNE 2018

MR M. HYLAND appeared on behalf of Mr A. Mallyon

MR B. WRIGHT appeared on behalf of the RVL Stewards

DEPUTY CHAIRMAN: This appeal by Andrew Mallyon is against the severity of a 12-meeting suspension incurred as a result of his ride on Bequeathed in race 8 over 1400 metres at Sale on 14 June. Bequeathed finished second past the winning post. The rider of the third horse, Hell On Earth, protested against Bequeathed which had shifted in approaching the 100 metres and took the running of Hell On Earth which had to be eased. The protest was upheld. Bequeathed was relegated to third place. The upshot of the protest was Andrew Mallyon's suspension for 12 meetings for careless riding, assessed as being mid-range. He pleaded guilty to the charge.

The next morning, stable staff noticed Bequeathed had an injured left eye. Veterinarian, Dr Maxine Brain, examined the horse and prescribed treatment. In her report she wrote:

On examination, the left eye was noted to be partially closed, quite painful, with tearing down the side of the face. The eyelids were manually opened and the cornea examined. This revealed an area of corneal oedema (bruising) together with a small ulcer on the inside canthus of the globe. Given the type and position of this injury, it is my opinion that this eye injury was sustained during the race the filly contested on the previous day, 14 June.

In his notice of appeal, Andrew Mallyon said:

I have new evidence from the stable vet reporting on the horse that caused it to lay in.

This appeal raises questions around the connection, if any, between the injury and the behaviour of the horse as might be reflected in the penalty. There are no definite answers to these questions but rather elements of speculation.

Racing experience will tell us that horses injured when under pressure in races may react in different ways and for their part, jockeys have to be alert to the unforeseen or the unexpected.

Following the race, Andrew Mallyon reported to connections the filly raced uncharacteristically in wanting to get in. In his submissions, Mr Hyland stressed this aspect as an indication of injury. On the other hand, Mr Wright, on behalf of the Stewards, pointed out that the veterinary report does not refer to the injury having any impact.

While the evidence of a causal link between the injury and the laying in is not particularly strong, equally to disregard the injury as an explanation at least in part for the behaviour of the filly is to fail to give any credence to the effect the injury may have had. All things considered, I am reluctant to do that.

Doing the best I can and with the benefit of the veterinary information before the Board which was not available to the Stewards for their consideration when determining penalty, I vary the penalty by a reduction of three meetings.

Accordingly, the period of suspension, commencing midnight Saturday, 23 June 2018, will now expire midnight Monday, 2 July 2018.
