



APPEAL DECISION

DAMIEN OLIVER
and
RACING VICTORIA STEWARDS

Date of Hearing: 22 August 2017

Heard By: Judge Bowman (Chair)

Appearances: Terry Bailey appeared on behalf of the stewards.
Damien Oliver appeared on his own behalf.

At Sandown Lakeside on Wednesday 16 August 2017, Damien Oliver pleaded guilty to a charge of careless riding on his mount *Redcore* in Race 1 the *Sheamus Mills Bloodstock Handicap* (1200m).

The carelessness being that near the 900m he permitted his mount to shift in when not fully clear of *Esperance* resulting in severe crowding to *Esperance*, *Secret Reward* which had to be checked severely and in turn *The Sword* which was also checked severely.

Mr Oliver had his licence to ride in races suspended for a period to commence at midnight on Saturday, 19 August 2017 and to expire at midnight on Saturday, 2 September 2017 - a total of 14 race meetings (4 metro, 10 provincial).

In assessing penalty Stewards took into account his guilty plea, record and that the carelessness was in the high range.

A Notice of Appeal against **the severity of the penalty** was lodged on Thursday, 17 August 2017. A stay of proceedings was not requested.

DECISION: Appeal dismissed. Penalty to remain standing.

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE J. BOWMAN, Chairman

EXTRACT OF PROCEEDINGS

DECISION

DAMIEN OLIVER

and

RACING VICTORIA STEWARDS

RACING VICTORIA CENTRE, FLEMINGTON

TUESDAY, 22 AUGUST 2017

MR D. OLIVER appeared on his own behalf

MR T. BAILEY appeared on behalf of the RVL Stewards

CHAIRMAN: Mr Damien Oliver, you have appealed against the severity of the penalty imposed on you by the Stewards in respect of careless riding on Redcore in race 1 over 1200 metres at Sandown Lakeside on Wednesday, 16 August last. The carelessness was that near the 900-metre mark, you permitted your mount to move in when not fully clear of Esperance, ridden by Craig Williams, resulting in severe crowding to that horse, to Secret Reward, ridden by Brad Rawiller, and to The Sword, ridden by Arron Lynch. Severe interference was also caused to Spirit of Aquada, ridden by Brandon Stockdale.

You pleaded guilty to the charge of careless riding, although alleging extenuating circumstances and in particular putting a lot of the blame, on the transcript, on Craig Williams, accusing him of riding in a selfish fashion and effectively expressing the view that you had been stitched up.

The Stewards took into account the circumstances. They considered the interference to be in the higher range and suspended you for a period of 14 meetings. It is against the severity of that penalty that you appeal. I have viewed the video. I have also heard the arguments advanced by you and by Mr O'Keeffe who was assisting you.

The video was shown three or more times. To me, three things are clear:

(1) Craig Williams never shifted off his line three wide, he remained on his line; (2) you crossed him when you were not a safe distance clear of him and certainly not two lengths; (3) gross interference was caused as a result.

In a field of seven, four horses suffered bad interference, three of them quite gross interference. Arron Lynch's horse hit the running rail with considerable force and he was lucky to stay in the saddle. Brad Rawiller was badly squeezed between Craig Williams and Arron Lynch, and his horse forced Lynch's horse onto the rail. Brandon Stockdale copped the backwash and was lucky to stay in the saddle. This was severe interference caused by you crossing Craig Williams when not clear of him. This was interference of a very high order and caused by your careless riding.

The Stewards made some allowance for the fact that Williams may have kicked up on your inside when you did not expect him to and that there may have been no call. In my view, that does not excuse or diminish the careless riding. 14 meetings seems to me to be a very fair penalty for what occurred and the appeal is dismissed.

I would also like to make a couple of observations. Mr O'Keeffe, you might pass these on generally. In relation to careless riding, this Board does not always agree with the penalties imposed by Stewards or their decisions. I appreciate that the Stewards act quickly and, usually at the racetrack, there are jockeys coming and going, races being run and the like. Recently a couple of appeals against careless riding have been upheld completely and also a couple of penalties reduced. It is inevitable that this will happen, given that the Board will not always view a race and the penalty in the same way as the Stewards, particularly bearing in mind that the initial decisions made by the Stewards are made under pressure.

But it also means this, and I give fair warning now: just as this Board can reduce penalties if it thinks the Stewards have erred on the side of severity, so too it has the power to increase penalties on careless riding appeals. That is the role of a review board or, for that matter, a Court of Appeal. It can decrease or increase penalties or leave them the same.

So far during my period as Chairman, I know of no case where a penalty has been increased on appeal, but I give notice that it can be and will be if the circumstances are warranted. In my view, it would have been unfair to have increased the penalty of the present case without Mr Oliver having been warned of that possibility. The interference was of a severity that could have attracted a penalty greater than 14 meetings but, as stated, it would have been unfair so to do without a warning. But I give notice that in the opinion of the Board, if the penalty imposed for careless riding is too light, that penalty could be increased and I would ask that that be passed on.

This is no criticism of the Stewards. As I say, their decisions are made under pressure and, as well, the Board might see things differently. What I am doing is letting it be known that on appeals for careless riding, the penalty may remain the same, may be decreased, but it can also be increased.
