

APPEAL RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 3 March 2015

SUBJECT: **APPEAL HEARING RESULT – JOCKEY: DAMIEN OLIVER**

Panel Judge Russell Lewis (Chair), Prof Raymond Harbridge, Dr June Smith.

Appearances Mr Des O’Keeffe appeared on behalf of Mr Oliver.
Mr Rob Montgomery appeared on behalf of the stewards.

At Ballarat on Thursday 26 February 2015, jockey Damien Oliver was found guilty of a charge of careless riding on his mount *Cornrow* in Race 2 the *Medical Edge Maiden Plate* (1200m).

The careless riding being that that he permitted his mount to shift in near the 500m resulting in *Comadi* being tightened in across the heels of *Nielson* and having to be checked.

Mr Oliver had his licence to ride in races suspended for a period to commence at midnight on Saturday, 28 February 2015 and to expire at midnight on Wednesday, 11 March 2015 – a total of 12 race meetings (3 metro, 9 provincial.)

In assessing penalty Stewards took into account the incident was in the mid-range and that he will miss a Group 1 meeting.

A Notice of Appeal against **the decision and severity of the penalty** was lodged on Thursday, 26 February 2015. A stay of proceedings was not requested.

DECISION: **Appeal allowed.**

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
PROF R. HARBRIDGE
DR J. SMITH**

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE MEDICAL EDGE MAIDEN PLATE
AT BALLARAT ON 26/2/15**

JOCKEY: DAMIEN OLIVER

MELBOURNE

MONDAY, 2 MARCH 2015

MR R. MONTGOMERY appeared on behalf of the RVL Stewards

MR D. O'KEEFFE appeared on behalf of the Appellant

CHAIRMAN: This is an appeal by Damien Oliver against a decision of the Stewards who found him guilty on a charge of careless riding. Although Ballarat is a spacious and roomy track, the width of the track, particularly approaching and rounding the home turn, was reduced by 15 metres. In fact the rail was out 15 metres from the 600 to the winning post.

That being the case, the head-on film which was taken from tower 2 is of limited value. The only true head-on shot shows Oliver's mount travelling three wide and Dunn's mount to be travelling behind Jamie Mott's mount. It should also be noted that Mr Montgomery conceded that the steward in tower 2 was unable to form a firm opinion as to whether Dunn had established a run.

Approaching the 500 metres, it was obvious that both horses, Cornrow and Comadi, were travelling well, an observation borne out by the fact that they ran 1st and 3rd. Nevertheless, Oliver's mount had the better of Dunn's mount as they negotiated the home turn.

Dunn told Stewards that he sensed that Oliver's mount was finishing well and he therefore moved his mount to the outside of Mott in order to establish a run. He said that he was in that run for some three or four strides when the appellant shifted in and caused his, Dunn's, mount to go in, with the result that Dunn had to check to avoid the risk of catching the heels of Mott's mount.

Oliver vehemently denied that Dunn had established the run. He maintained that he was entitled to shut the gate on Dunn, saying it was simply competitive riding. He maintained that Dunn, in similarly competitive fashion, was attempting to force a run in circumstances where there was insufficient room and found himself having to check. Then ensued much debate as to what the film showed.

In the end, the Board has been left in the position where it is unable to say one way or the other whether the Stewards' case has been made out. Since the standard of proof is on the balance of probabilities, the appeal must be allowed.
