

APPEAL PANEL OF RACING NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF LICENSED JOCKEY MR CLAYTON GALLAGHER

5

Heard at Racing NSW Offices

10 Appeal Panel: **Mr L Gyles SC – Convenor; Mr J Murphy; Ms J Foley**
Representatives: **Racing NSW – Mr M Cleaver, Operations Manager - Integrity**
Appellant - Mr T. Crisafi, Chief Executive officer – NSW
Jockeys Associations.

15 Date of Hearing: **18 November 2024**

Date of Reasons
and Orders: **18 November 2024**

20

REASONS FOR DECISION

25 This is an Appeal by Clayton Gallagher against the severity of the penalty imposed by the
Stewards arising from a breach of AR228(B) for improper conduct in making an inappropriate
comment to an apprentice jockey in the weighing room after a race, and within earshot of
several industry participants. The Appeal was heard on 18 November 2024 and the decision
was announced at the conclusion of the hearing. These are the Panel's formal Reasons for its
Decision.

30 The substance of the complaint was that the Appellant had called the apprentice a "*retard*". Mr
Gallagher pleaded guilty to the Charge and the Stewards imposed a penalty of a three week
suspension, which took into account his history of impulsive outbursts and a very poor
disciplinary record.

35 In circumstances where Mr Gallagher is an experienced and successful jockey, with a
responsibility to set the standards in terms of courtesy to his fellow riders, particularly to
apprentices, and having regard to his very record poor disciplinary record, without more it would
be difficult to say that the penalty which was imposed was not justified and reasonable in the
circumstances.

However a confidential exhibit was tendered before the Panel which formed the basis of a
submission by Mr Crisafi that the Appellant had turned a corner and was seeking to deal with

40 his behavioural issues with the assistance of others, and that the Panel should give him the benefit of that and for his contrition for his behaviour which he accepted was not justifiable and had not been acceptable, and that his penalty should be reduced accordingly.

We do not propose to say anything further about the confidential exhibit except to say that we are satisfied from its contents, and from the evidence given before us by the Appellant, that his
45 efforts are genuine and he is making a real effort to bring about a change to his behaviour.

Mr Crisafi contends that the three week suspension should be reduced by one week, whilst the Stewards recognise his genuine efforts but say that the 3 week penalty was objectively justified and should remain.

The Panel has come to the view that the penalty should be reduced to recognise the way the
50 Appellant has conducted himself over the last few weeks and because of the commitment that he's made to us to continue down that road. We also wish him luck in that endeavour.

We therefore find that the appeal should be allowed and the penalty should be reduced by one week. We also find that it would be interests of justice for the Appeal deposit to be refunded.

55

The orders of the Panel are as follows:

- a. Appeal against breach withdrawn;
- b. Appeal against severity of penalty upheld;
- 60 c. Penalty of suspension of 3 weeks set aside;
- d. In lieu of that penalty, a suspension of 2 weeks is imposed;
- e. The penalty is to commence on 11 November 2024 and conclude on 25 November 2024 on which day he can recommence riding.
- f. Appeal deposit refunded.