

**GREYHOUND AND HARNESS RACING APPEALS TRIBUNAL
NEW SOUTH WALES**

TRIBUNAL: JUDGE J. C. MCGUIRE

ASSESSOR: MR J. SCHRECK

APPEAL OF MR WARREN ABSALOM

DECISION

Warren Absalom, the appellant, was charged under Rule 86(o) of the GHRRA Greyhound Racing Rules which provides:

A person (including an official) shall be guilty of an offence if the person –

(o) has, in relation to greyhound or greyhound racing, done a thing, or omitted to do a thing, which, in the opinion of the Stewards or the Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct;

Three charges were levelled against him:

1. On two separate occasions he uttered to Steward Sue Curtis, during the proper conduct of her duties, “this is childish shit”;
2. That on 7 June 2008 at Wentworth Park the appellant referred to the Chief Steward when acting in this role as a “pompous arsehole”;
3. That he told the Chief Steward at Wentworth Park on 7 June 2008 when he was acting in this role during a properly conducted stewards inquiry that he was “completely mad”.

At a Stewards inquiry the charges were found proved and he was fined respectively \$220, \$440, \$440 ie a total of \$1100.

The Tribunal is dealing with Mr Absalom’s appeal both as to the finding of guilt and as to penalty.

Mr Absalom is partially handicapped with regard to his speech because of a condition of Parkinson’s disease his appeal was conducted substantially by his wife Susan Absalom albeit that Mr Absalom fully participated.

He and his wife conducted their appeal with considerable skill.

The appellant and Susan Absalom are both licensed attendants. They attended a race meeting at Wentworth Park racetrack on 7 June 2008, their daughter Carly Absalom was the trainer of a greyhound which raced on that occasion.

Susan Curtis, a Stipendiary Steward of three years standing, officiated at the subject meeting. She and the Absalom's were known to each other.

Ms Curtis made the following statement which was placed before the stewards inquiry:

On 7 June 2008 at approximately 6.00 p.m. I was asked by Mr Hurley to stand at the scales during kennelling to monitor the weighing process of the greyhounds and also to check that all participants were wearing their identification tags upon entering the kennelling facilities. At approximately 6.35 p.m. I noticed a male who was not displaying an identification badge as he produced his greyhound to be weighed (this person would later be identified as Warren Absalom). After removing his greyhound from the scales I stated "Sir, do you have your identification badge on you?" with this he replied "yes" and pointed in the direction of inside his pants approximately where you would buckle up your belt. I then stated "Sir, you need to have your identification on display whenever you enter in the kennelling area so can you please display it?" he stated "no"! after asking a second time Mr Absalom stated "no! Anyway I don't have a pin and you have to give me one".

I had some spare pins and plastic sleeves in my care as it is quite common for participants to ask for replacements during kennelling. I had also questioned several participants on the night during kennelling who also did not have their badge on display due to a broken plastic sleeve or lost safety pin. All other participants cooperated once a new plastic sleeve or pin was issued.

I offered Mr Absalom a safety pin which he thrust his pelvis in my direction and stated "you pin it on me". I handed him a safety pin and stated "no sir, you can pin it on yourself". As I went to walk away Mr Absalom stated "you stupid shit!" I turned around and said "excuse me sir, what did you say?" with which he repeated "you stupid shit". At this stage he had removed his identification badge from the inside of his pants so I looked down at it and identified him as Mr Absalom. I then directed Mr Absalom to attend the Stewards room once he had kennelled his greyhound. I immediately reported the incident to Mr Hurley who was chairing the meeting.

Several minutes later Mr and Mrs Absalom approached Mr Hurley who was standing outside the entrance to the Stewards room approximately 8 metres away from where I was standing at the scales. I heard Mrs Absalom state to Mr Hurley, she wanted to lodge a sexual harassment claim on Carly Absalom against Ms Curtis. As we were still kennelling greyhounds, there were several participants and staff members who also would have over heard this conversation. At the completion of kennelling Mr and Mrs Absalom were

asked to wait outside the Stewards room for a short period of time whilst the Stewards finalised pre race preparation including confirmation of the scratchings with the TAB which is the normal race night procedure.

Mr and Mrs Absalom left from outside the Stewards room and had to be called back by Mr Hurley as they were walking in the direction of the grandstand.

The Stewards panel consisted of Mr Hurley (chairman) and Mr Max Reading as now I was a witness to the incident. Mr and Mrs Absalom were asked to attend the Stewards room to be interviewed by Mr Hurley. After Mr Hurley started the interview I found Mr and Mrs Absalom both to be very rude and interruptive constantly talking over the top of Mr Hurley. Mrs Absalom officially stated on record she wanted to lodge a sexual harassment case on her daughter Carly Absalom against myself. At this point Mr Hurley intervened and stated that this was a separate matter and if she wished to lodge an official complaint with the Authority she could do so. At present I am dealing with the incident that took place between Mr Absalom and Authority Steward Sue Curtis at the scales.

I categorically refute the allegations made by Mrs Absalom and believe it was purely a personal attack on myself simply for carrying out my duties on the night as a Stipendiary Steward for the Greyhound and Harness Racing Regulatory Authority.

Mr Hurley tried to question Mr Absalom regarding the incident at the scales. Mr Absalom stood up from his seat, walked in the direction of the door and stated—

And I did not hear the first word, but I heard "arsehole".

Mr Hurley said "I beg your pardon Mr Absalom?" Mrs Absalom also stood up from her chair and stated "he said nothing". Mr and Mrs Absalom then left the Stewards room.

Mr Hurley exited the Stewards room to direct Mr Absalom to return to the interview. Several attempts were made by Mr Hurley to have Mr Absalom return to the Stewards room including him being paged by the club over the PA system. Mr Absalom finally returned to the Stewards room where Mr Hurley informed Mr Absalom that an inquiry would be opened regarding the incidents throughout the evening and he would be notified by mail with the particulars.

Ms Curtis adhered to that statement and her evidence before the stewards inquiry she maintained that the appellant had twice refused to produce his tag which he had placed down his trousers front behind his belt.

The appellant disputed Ms Curtis version of events. It was the effect of his account that he was unable to position his identification tag on his clothing as he had lost the pin attached to it and he had it tucked behind his belt. He denied the suggestions that he had thrust his pelvis forward and that he had refused to display the tag. He claimed that he had requested her to place the pin upon him, he being handicapped by reason of his condition Parkinson's disease, to what she responded "put it on yourself". She gave him a pin and he then affixed the identification tag.

He then made the remark "this is childish shit". He repeated that remark at which point Ms Curtis approached Mr Hurley Chief Steward. Prior to this he had requested of Ms Curtis that he be allowed to position the identification tag after he had kennelled the dog he was handling

The appellant was required to attend at the stewards room because of this incident. There is little point in detailing what occurred at that inquiry. Suffice it to say that the appellant had to leave on the first occasion of the inquiry as he had an engagement and when he re-attended he uttered the words "pompous arsehole" and "you're completely mad".

The appellant placed the following statement before the inquiry which investigated his conduct:

On Saturday night June 7, 2008 I went into the kennelling area with my identity badge which was pushed into my pants as I had lost the safety pin. As it was a cold night I was wearing a jumper. The jumper covered the identity badge.

2. As I was getting my greyhound, Folklore, out of the weighing cage Ms Curtis asked to see my identity badge. I showed the identity badge to her.

3. Ms Curtis informed me that the identity badge needed to be displayed.

4. I stated that I had no pin. Ms Curtis handed me a pin.

5. I proceeded to take my greyhound out of the weighing cage and put its lead on.

6. I was diagnosed with Parkinson's disease approximately four years ago, and while this does not affect my ability to handle a greyhound it does make it difficult to deal with the smaller objects, such as pins and buttons. It also affects my speech when I'm under stress. As I was holding my greyhound I did not feel comfortable attempting to put the pin on myself, and I did not want to hold up people behind me as I knew I would be slow. I told Ms Curtis that I would pin the identity badge on after I had kennelled the greyhound. The following conversation or words to the effect ensued:

Ms Curtis: You need to put it on now.

Mr Absalom: You put it on for me.

Ms Curtis: Do it yourself.

Mr Absalom: This is childish shit.

Ms Curtis: What did you say?

Mr Absalom: This is childish shit.

8. Generally the staff and stewards are helpful and offer me assistance whether or not I need it. I was completely taken aback by Ms Curtis refusal to assist. Ms Curtis then informed me that I would have to report to the stewards' room at the end of kennelling.

9. I proceeded to kennel the greyhound and as I passed by Mr Hurley I was almost knocked over by Ms Curtis in her haste to get to Mr Hurley.

10. Mr Hurley followed me as I continued towards the kennel to tell me what Ms Curtis had already told me and that was that I would be required in the stewards' room at the end of kennelling.

11. I left the kennelling area and told my wife, Sue Absalom, what had happened.

12. At about 6.55pm Mr Hurley said he would be about 5 minutes. My wife, a GBOTA director, told him that we were required in the committee room at 7.00pm for formalities. That evening was the final of a puppy group race at Wentworth Park and was an important evening for the GBOTA as the race was named after a former popular chairman of the Association.

13. We waited about 10 minutes. My wife was getting anxious as she was required in the committee room to meet guests. My wife insisted on being in the room with me as the trainer, my daughter Carly Absalom, had asked that I not be left alone with the stewards. As I mentioned earlier, I have Parkinson's disease and have difficulty communicating when under stress. I left with my wife to go to the committee room with the intention of returning as soon as the formalities were over. These were expected to take no more than about 5 minutes.

14. As we entered the grandstand we heard my name called over the loudspeaker asking me to return to the stewards' room. Once my wife had finished her duties we returned to the kennels.

15. When we arrived at the stewards' room Mr Hurley called us in. The conversation that followed was taped. I have read the transcript but at this stage have not heard the actual tape.

16. I was feeling very stressed and upset at the way I felt I had been treated by Ms Curtis. As I left the room, in my frustration, I uttered the words "pompous arsehole" which, while not said to Mr Hurley, was said about him.

17. Mr Hurley then came out of the room yelling after me to come back. As I was feeling stressed and frustrated my wife and I felt it was better to go outside and calm down before facing the stewards again. I find that I can think clearer if I have a "time out". This is the reason we walked outside of the kennels when Mr Hurley was yelling at me.

18. My name was called over the loudspeaker again and we returned to the stewards' room. Again this conversation was taped. I have read the transcript but have not heard the tape.

Mr Hurley's evidence was to the effect that at the initial inquiry he said "Good Day" or "Good Evening" to Mr Absalom to which he responded "Good Day, you're a pompous arsehole". Some 15 minutes later Absalom returned to the stewards room and was being spoken to by Mr Hurley about obeying stewards directions. The appellant made the remark "you're completely mad."

The appellant frankly admitted that he made the respective remarks referred to however he maintained that when he uttered the words pompous arsehole he made that remark to his wife of Mr Hurley. He denied directing that remark to Mr Hurley.

Mr Hurley agreed that the appellant made the comment as he was getting to the doorway. He further agreed that the appellant was not looking at him at that time.

At the stewards inquiry Mr Hurley was questioned as to this:

CHAIRMAN: Okay, good as gold. Is there a possibility, Mr Hurley, is there a possibility that the comment was made about you to Mr Absalom, rather than directed directly to you? Is that possible, because there's no denial that the words were said?

Mr HURLEY: I certainly took it that it was directed at me from—. The comments were as Mr Absalom—and I do believe, Mr Chairman, and I may be corrected if I'm wrong, in my report I think I made a comment in regard to the comment made by Mr Absalom, that it was as he was getting to the doorway.

CHAIRMAN: Yes. So he wasn't looking at you?

Mr HURLEY: No, no, no.

CHAIRMAN: It was actually as—

Mr HURLEY: No. He had turned around, and made the comment as he had turned around.

This Tribunal finds some inconsistency between Mr Hurley's account as detailed in the passage of transcript just quoted at what he had previously said "and on getting up to leave the inquiry Mr Absalom – I said "good day or good evening" Mr Absalom said "good day you're a pompous arsehole".

The appellant was questioned as to Mr Hurley's statement in which he quoted the appellant as having said "I think you are completely mad" as Mr Hurley explained to him the importance of returning to a stewards inquiry when directed to do so.

The appellant admitted that he uttered those words and stated that he was a bit "carried away".

As to the uttering “pompous arsehole” it was the appellants evidence that at that point Mr Hurley was at his desk and he, the appellant, was walking away from the stewards room door and had proceed some five or six yards from that door at the time the remark was uttered.

In considering whether the charges have been established this Tribunal is required to apply the Briggenshaw standard.

Clearly there was hostility and friction in the confrontation between Ms Curtis and the appellant. There existed atmosphere of mutual indignation and annoyance.

The Tribunal has no doubt that Ms Curtis, Mr Hurley, the appellant and his wife have each sought to give a truthful account of the subject events, however there is clearly room for the real possibility of mistaken recollection.

It is to the credit of the appellant that he made frank admissions against his interests.

Whilst the Tribunal accepts substantially Ms Curtis’ version of the incident it is prepared to find, as did the stewards inquiry, that he uttered the words “this is childish shit” rather than “you are a stupid shit”. He was charged with uttering the words “this is childish shit” and will be dealt with on that basis.

The Tribunal holds a reasonable doubt with regard to the second charge and is not prepared to find that the words “pompous aresehole” were directed to Mr Hurley. It could well have constituted a remark made by the appellant to his wife regarding Mr Hurley.

As to the third charge the Tribunal is comfortably satisfied that Mr Absalom deliberately directed the remark to Mr Hurley, that he was “completely mad”. The stewards hold highly responsible positions and perform difficult functions. It is essential to the efficient conduct of greyhound racing that they be respected when properly carrying out their functions.

Ms Curtis was acting entirely within her responsibilities when requiring the appellant to display his identification tag. He on the other hand did not respond reasonably to her requirements and was not entitled to utter the words “this is childish shit” a completely unfair and inappropriate description of Ms Curtis’ reasonable requirement of him.

Mr Hurley was acting was acting with complete proprietary when seeking to inquire into the tag identification issue and it was entirely inappropriate for Mr Absalom to in effect being “completely mad”.

Both Ms Curtis and Mr Hurley were acting reasonably and appropriately and they must be afforded protection against denigration and being subjected to distasteful obnoxious and insulating language.

The Tribunal is well aware of the appellant's 50 years association with the greyhound industry as an owner, trainer, registered attendant and of his contributions to the industry. It is further aware of his Parkinson's disease however this cannot be proffered as some excuse for misconduct.

The appellants conduct was clearly improper and constituted misconduct.

The fact that the appellant was annoyed and ill tempered provides no excuse what so ever for his churlish conduct.

Others who may be indignant at being required to comply with reasonable directions must be deterred from expressing their annoyance by uttering derogatory offensive and insulting remarks directed towards the stewards properly discharging their duties.

In relation to the appeal against Charge 1, the appeal is dismissed and the penalty of \$220 is confirmed.

In relation to Charge 2, the appeal is upheld.

In relation to Charge 3, the appeal is dismissed and the penalty is confirmed.

The appeal deposit is forfeited.

15 August 2008

J. C. McGuire, Judge