

TASMANIAN RACING APPEAL BOARD

Appeal No. 01 of 2019/20

Panel:	Tom Cox (Chair) Suzanne Martin (Member) Wendy Kennedy (Member)	Appellant:	Gavin Whitney
Appearances:	John Walker (on behalf of the Appellant) Michael Hoyle (on behalf of the Stewards)	Rules:	GAR86B (1) (a) GAR86B (1) (b)
Heard at:	Tasracing Glenorchy Tasmania	Penalty:	Disqualified for the term of his natural life
Date:	22 October 2019	Result:	Dismissed

REASONS FOR DECISION

1. The appellant is a licensed greyhound trainer. On 12 September 2019 Stewards conducted a kennel inspection at the appellant's property at 509 Millvale Road, Brighton. During the course of that inspection the Stewards found a wallaby skin, which they believed had been used to entice the appellant's greyhounds contrary to GAR86B (1) (a) and (1) (b), which provides as follows:

(1) A person who, in the opinion of the Stewards or Controlling Body-

(a) uses in connection with greyhound training, education or preparation to race, or racing, any live animal, animal carcass or any part of an animal whether as bait, quarry or lure, or to entice, excite or encourage a greyhound to pursue it or otherwise; or

(b) attempts to possess, or has possession of, or brings onto, any grounds, premises or within the boundaries of any property where greyhounds are, or are to be trained, kept or raced, any live animal, animal carcass or any part of an animal for the purpose of being, or which might reasonably be capable of being, or likely to be, used as bait, quarry or lure to entice or excite or encourage a greyhound to pursue it;

2. The skin was located in a trailer, just metres from a jump box and run on the appellant's property. Within the trailer there was also a toy wombat with a rope attached to it which was designed to act as a lure. The Stewards conducting the inspection recorded both audio and visual evidence of what they found and what the appellant had to say about it. In the video the appellant stated that:

“Ms Lord: So what was this used for?”

Mr Whitney: I just used to torment them with it, you know give them a jump out then I got this [referring to the toy wombat] and I threw that away so that shouldn't be out.

...

Mr Whitney: it's a long time since I used that, it'd be easy 12 months.

...

Ms Lord: So you said you used it with Two Bills and Fancy More you thought?

Mr Whitney: Yeah.

Ms Lord: Can you run me through how you use it?

Mr Whitney: That little trolley, love. I used to tie it on that but it's gone.

...

Mr Whitney: Oh yeah and I used to tie that on I used to tie it on there like that. Some rope around there and then I'd pull it.

Ms Lord: And you'd do the same with that skin?

Mr Whitney: And I'd just pull it and the trolley'd come up here like this.

...

Mr Whitney: And the dog would just, I never let them with a muzzle off never let them bite it. They never (inaudible) ... with a muzzle that's why it's still in pretty good nick, otherwise they would have torn it to bits yeah that's how I used to do it love.”

3. Despite the appellant's apparent admissions to the investigating Stewards, at a subsequent Stewards inquiry held on 25 September 2019, the appellant claimed:

“Mr Whitney: I said I used it 3 or 4 times that skin but Barry reckons I never ever used it. He's only one that's ever helped me and that bloody thing that I got in there, that's what I used. But I just can't ...

Mr Whitney: Yeah well I thought about it later when you girls went I thought about it and thought if I used that other skin I would have had the rope around it, because you gotta put the rope around it to use it and I said I used it probably 3 or 4 times that skin, but Barry said I never. He never ever seen me use it and Barry's the only one that's ever helped me.”

4. Before this Board, the appellant maintained his denial on the basis that Barry, who assisted him with the greyhounds, believed that the appellant had never used the skin. Further, it was contended that because the skin was unmarked this was

consistent with it not having been used. Finally, he called evidence from his son Christopher Whitney, who gave evidence to the effect that he shot, boned and skinned the wallaby approximately 5 years ago before leaving the skin in the trailer for disposal.

5. The appellant also contended throughout the inquiry that his memory was poor and that he couldn't remember using the skin and, therefore, he didn't.
6. We reject the appellant's contention that he did not use the skin as admitted by him to the Stewards during the kennel inspection. The admissions were unqualified and no adequate explanation has been put to us as to why those admissions were based on some misgiving or misunderstanding. The appellant's explanation that his memory is poor does not assist him. If anything, it only serves to reinforce in our mind the unreliability of the appellant's evidence. The circumstances surrounding the Stewards finding the wallaby's skin make it highly probable that the appellant used it contrary to GAR86B (1) (a) and (1) (b) (use and possess):
 - (a) the skin was found in close proximity to the jump box;
 - (b) it was located with another lure, the toy wombat;
 - (c) it was shaped like a lure;
 - (d) if it had been left there for disposal for some five years, one would assume it would have been disposed of or, at least, show significant signs of weathering. As noted by the appellant, he had used it some 12 months ago and it was in good nick because he didn't let the greyhounds get it. The appellant's explanation is far more likely than what was offered by his son; and
 - (e) it was not marked because, as the appellant admitted, he did not allow the greyhounds to get it.
7. In our view, the wallaby skin was used, just like the toy wombat, as a lure to entice greyhounds as they exited the jump box on the appellant's property. The circumstances above support that inference and, when coupled with the appellant's admissions, leave this Board in no doubt that the wallaby skin was used and possessed by the appellant for the purpose of enticing greyhounds contrary to GAR86B (1) (a) and (1) (b).
8. We do not have any discretion as to the terms of penalty. Under the Tasmanian Greyhound Local Rules of Racing LR 36.10, any person who is found in breach of GAR86B (1) (a) or (1) (b), is liable to be disqualified for life.
9. The appeal is dismissed.
10. In accordance with s.34(1A) and (2)(a) of the *Racing Regulation Act 2004*, 50% of the appellant's prescribed deposit is to be forfeited to the Secretary of the Department. The appellant is also ordered to pay 50% of the cost incurred in the preparation of the transcript in accordance with s.34(4A) and (4B)(a) of the Act.