

# TASMANIAN RACING APPEAL BOARD

Appeal No 02 of 2025-26

<b>Panel:</b>	<b>Mr Patrick O'Halloran (Chair)</b>	<b>Appellant:</b>	<b>Mr Jabez Johnstone</b>
<b>Adviser:</b>	<b>Mr Mike Stiles</b>	<b>Rules:</b>	<b>AR 131(a) Careless riding</b>
<b>Appearances:</b>	<b>Mr Michael Castillo on behalf of Stewards</b>		<b>Ms Sarah Cotton on behalf of the appellant</b>
<b>Heard at:</b>	<b>Conference Room Prospect Government Offices 171 Westbury Road Prospect TAS</b>	<b>Penalty:</b>	<b>1 Tasmanian race date suspension</b>
<b>Date:</b>	<b>25 July 2025</b>	<b>Result:</b>	<b>Dismissed</b>

## REASONS FOR DECISION

1. The appellant was the jockey riding WHIPPIN PICCADILLY in Race 5 [Tasmanian Horse Transport Handicap - (Class 4) – 1350 metres] held on 13 July 2025 at the Devonport Racing Club.
2. Following an inquiry into their ride on that date, Stewards found that the appellant had breached AR 131(a). This rule provides:

*'A rider must not, in the opinion of the Stewards:*

*(a) Engage in careless.....riding'*

3. The particulars of the charge were that *'shortly after entering the front straight for the run to finish, you, the rider of WHIPPING PICCADILLY did shift out abruptly when insufficiently clear of FIGHTING FOR GOLD and the rider of FIGHTING FOR GOLD, Daniel Ganderton, did have to take hold of his mount and lose his position.*
4. The appellant plead not guilty to the charge. Following the inquiry, they were found guilty, and their licence to ride in races was suspended for one Tasmanian race date.
5. Within the Stewards Report the statement of findings included that a focus of the inquiry was why jockey D Ganderton had to severely check his mount shortly after entering the front straight for the run to finish. In regard to penalty, it provided that *'Stewards, when considering a penalty considered his good record under this rule'*.

## Conviction Appeal

6. Within the filed *'Notice and Grounds of Appeal'* - against conviction and penalty - the appellant did not articulate any errors made or discernible grounds of appeal regarding conviction. What was provided in the relevant notice:

*We believe the 1 meeting suspension is to (sic) harsh and only should be a severe reprimand. We also believe Jabez did not have sufficient representation on the day to argue his case.*

7. A review of the transcript of the proceedings reflects that within the opening remarks of the Stewards reference was made to 'Mr Ring, representing Jabez Johnstone in this inquiry'. Within the appeal it was confirmed that such reference was to Mr. Kevin Ring (Tasmanian Jockey Association President).
8. Within the Notice filed it was not articulated how that representation lacked sufficiency (or how it was insufficient) nor was there any particularisation as to what errors were made by the representation or with alternate representation what would have been done differently.
9. Within the notice filed an application for a stay of proceedings was also made. Such application was opposed by Stewards and ultimately did not fall for determination as the substantive appeal was able to be listed (and determined) on 25 July 2025.
10. On behalf of the appellant, it was submitted in summary that:
  - a. Jabez Johnstone was not accompanied by a senior rider nor was he offered the chance to get a senior rider to represent him in the room during the inquiry. If available the appellant and his advocate would have been firmer in submitting their characterisation that the matter should more correctly have been classified as a 'racing incident';
  - b. Whilst the appellant had shifted out marginally such shift occurred when Mr Ganderton's horse, who had been racing un-generously in the lead up to this incident, was racing with a high head carriage and ultimately Mr Ganderton's horse did not lose momentum nor have to stop riding at any stage;
  - c. As stated by the appellant at the inquiry - that if he had stayed exactly where he was Mr Wheelers horse wasn't making ground whilst the appellant's horse was strong.
11. In summary the Stewards submitted:
  - a. The appellant had been careless in the movement he made to gain a clear run on his horse which resulted in interference to another runner;
  - b. It was noted that within the inquiry the appellant had made in part a relevant concession '*I've probably pulled out a little too much.*'
  - c. Stewards came to this decision due to the safety of the other jockey Mr. D Ganderton who had to severely check his mount because of the movement outwards by apprentice J Johnson. Mr Ganderton's mount did lose ground because he had to severely check his horse.
  - d. Stewards when considering a penalty on this occasion took into consideration his good record and only gave him a 1 Tasmanian race meeting suspension.
12. It was further submitted by Stewards within the appeal that on review of the matter (subsequent to the filing of the appeal) – with specific regard to the level of interference – that it was now the view of Stewards that this was a more significant example of mid-range interference. On that basis it was submitted therefore that the Board should exercise its discretion and increase the penalty to two Tasmanian race dates. It was acknowledged such a submission was made without notice to the parties.

## **Penalty**

13. Within the inquiry it was submitted on behalf of the appellant that:
  - a. As at the date of inquiry the appellant had (in terms of number of suspensions) had only one suspension - imposed on 23 March 2025 - for a period of one race day;
  - b. That since that time the appellant had had 'quite a few rides since March';
  - c. And has not been in trouble very often or in the room for any warning or reprimands or anything like that';
  - d. It was submitted on his behalf that - noting the time of year in which the inquiry was being held that a suspension of two race meetings in effect resulted in three weeks off.

14. In determining penalty the Stewards articulated:

*'We've taken into consideration what you've told us in relation to penalty and....taken your record into consideration and it's you know a fairly good record. We don't have too much problems with you but on this occasion, we believe that a one meeting suspension of your rider's licence is the appropriate penalty. We did think about two but the way you've conducted yourself, the interference, and your previous record, that's what's got you in good stead'.*

15. As to the length of licence held and record the Board was advised that the appellant commenced their apprenticeship in November 2024 and had completed over 200 rides.

16. Within that time period he had received the following penalties

- a. 09.11.2024 - A reprimand for a breach of AHRR 131(b)
- b. 13.11.24 – A reprimand for a breach of AHRR 131(a)
- c. 20.03.25 – A suspension for a breach of AHRR 131(a)
- d. 22.06.25 – A fine for a breach of AHRR 131(b)

17. On enquiries from the Board, consistent with past submissions and determinations where such classification were clearly a relevant factor, the Stewards advised that they would classify the level of interference within this Careless Riding as mid-range (however see further above as to how significant an example within the mid-range).

## **Race Film**

18. The Board had available to it the film of the race. Both the appellant and the Stewards referred to that footage within their submission to the Board – specifically the footage from the camera views 'Front on View' and 'Side'

19. The Board had the benefit of advice from the adviser Mr Mike Stiles and carefully considered the race film.

## **Determination of appeal against conviction**

20. As has previously been observed by this Board in regard to determinations of assertions of Careless Riding:

*As so often occurs in appeals of this type, the issues sought to be agitated by the appellant within their submissions to the Board were directed toward the relevant portion of the race*

*measured in seconds. Within this finite and extracted piece of racing the submissions were directed toward a review of the riders within the appellant's immediate proximity and their level of contribution (if any) to the Appellants' actions (or reactions) at the time it was said the Appellant was engaged in careless riding.*

21. On the basis of all the submissions and viewing of the race film the appellant's characterisation of the driving could not be accepted and the Board is comfortably satisfied that this was an incident involving interference. The Board does not identify any error in the description or stated particulars of the driving as articulated by the Stewards in the manner they did within the original inquiry. It is noted that within the relevant time period at no stage did the appellant look to his outside to see if any horse was there (ie where Mr Ganderton in fact was).

#### **Determination of appeal against penalty**

22. As extracted above in its entirety and in the manner described by Stewards within the inquiry (also extracted above) whilst it was not an unblemished record free from prior appearances before the Stewards the appellant had a good record. It further appeared, consistent with the submissions made on behalf of the appellant and his presentation at the appeal, that within all facets of his participation in the industry during his apprenticeship to date, the appellant has conducted himself to a high standard and was very well regarded. These are all factors relevant to a determination of penalty.
23. The appellant ultimately submitted in regard to penalty that taking the offending at its highest coupled with his good record supported a penalty of severe reprimand. Such submissions cannot be accepted by the Board.
24. It is observed that the Stewards were at pains to acknowledge his good record and not impose a sentence that resulted in a disproportionate or crushing penalty or one that sought to dissuade him from maintaining his general respected attitude and behaviour. In the penalty imposed (particularly its duration limited to one Tasmanian race date) at first instance it is further apparent that Stewards can be seen to clearly be not punishing the appellant for past matters and instead impose a penalty proportionate to past penalties (for the same rule breach) balanced against the level of interference involved in the careless riding.
25. By extension therefore, due to the precision and care the Stewards exercised appropriately when determining penalty at first instance the Board observes there is no justification to the Stewards submission now seeking to increase the penalty.
26. The appeal against conviction and penalty are dismissed and the decision of the Stewards is affirmed.
27. In accordance with section 99(4) of the Act, 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 preparation of the transcript in accordance with section 99(8) of the Act.

**DATED: 29 JULY 2025**