

# TASMANIAN RACING APPEAL BOARD

Appeal No 09 of 2025-26

<b>Panel:</b>	<b>Mr Patrick O'Halloran (Chair)</b>	<b>Appellant:</b>	<b>Mr Arnold Elphinstone</b>
<b>Adviser:</b>	<b>Mr Mike Stiles</b>	<b>Rules:</b>	<b>GAR 124 Failing to pursue</b>
<b>Appearances:</b>	<b>Mr Dominic Tyson on behalf of Stewards</b>		<b>Mr Ricky Aitken 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>VINTAGE KING stood down for a period of 28 days at Launceston only and until the completion of a satisfactory trial</b>
<b>Date:</b>	<b>6 November 2025</b>	<b>Result:</b>	<b>Upheld</b>

## REASONS FOR DECISION

1. This appeal regards a race that occurred on 16 September 2025 at the North West Greyhound Racing Club meeting held at Launceston involving VINTAGE KING and the conviction and penalty imposed per Greyhounds Australasia Rule 124 ('GAR 124').

2. As published by the Tasracing Integrity Unit in regard to 'Race 8 – Ulverstone Pet Foods – Grade 5 (2)- 515M':

*'A post-race veterinary examination of VINTAGE KING revealed no abnormalities'*

*'In the opinion of Stewards, VINTAGE KING failed to pursue the lure pursuant to GAR 124 when it turned its head inwards shortly after turning into the back straight. As it was the greyhounds first offence it has been stood down at Launceston only'*

3. The related Stewards Inquiry was also held on 16 September 2025. Whilst the initial portion of the inquiry was not recorded within the extremely brief continuation of the inquiry, relevant to the appellants ground(s) of appeal:

- it was acknowledged by the Chair of that inquiry '(VINTAGE KING's) quite wide on the track and he's caught the lure on numerous occasions in the past due to incidents' and;
- it was submitted by VINTAGE KING's trainer 'So I think he was wide enough, if he was going to fail to chase and fight another dog, he would have been straight on to it. He's caught the lure on a number of occasions, in a no race. And when that dog fell, it yelped and I believe he was thinking it was the lure or something went wrong'

4. Within their reasons Stewards provided:

*Now obviously the definition of failing to pursue does state in the Rule Book, failing to pursue means when a greyhound turns its head. Now unfortunately, the footage quite*

*clearly shows that he has turned his head and although you do put a strong case forward for the greyhound we have to follow what the Rules state, which means, leads us to Rule 124 which is failing to pursue where in the opinion of the Stewards, a greyhound fails to pursue the lure during an event, the Stewards must impose a period of suspension in respect. In respect of the greyhound pursuant to Rule 127. Now we have had VINTAGE KING vetted which has come back with no abnormalities and 127 is there, gives us, in the case of the first offence, twentyeight days at the track where the offence occurred and until the completion of a satisfactory trial.*

### **The appeal**

5. The appellant filed an appeal against conviction and penalty. Within the appeal hearing the appellant conceded that in the event the appeal against conviction was dismissed the Board had no discretion in regard to the penalty imposed. The appellant further clarified that references to ‘mitigating circumstance’ was meant to convey a description of circumstances which spoke against the breach being established (and did not refer to circumstances that could reduce any penalty).
6. Within the Notice and Grounds of Appeal the appellant submitted (and adopted in their oral submissions to the Board in regard to the instant race and separate past racing incidents relevant to the instant race) that:
  1. *My greyhound Vintage King has a clean record in that there has been no offence brought against him whatsoever throughout his racing career.*
  2. *My greyhound Vintage King has had a considerable and unusual interrupted racing and trial schedule through having to circumnavigate a number of circumstances that includes:*
    - *My greyhound Vintage King participated in the same race when greyhound “Raiders Guide” fell at Launceston on Monday July 28<sup>th</sup>. Death of Tasmanian champion greyhound Raider’s Guide prompts renewed calls to shut down the industry – ABC News. When the lure was stopped during this race, it was stopped in EXACTLY the same position on the track when greyhound ‘Set the Tone’ fell during the race on Tuesday September 16<sup>th</sup>. The fall of ‘Set the Tone’ has taken my greyhounds attention momentarily, resulting in a change in stride, however, almost immediately after my greyhound Vintage King realised the race had continued on through the lure and whole field not stopping, he continued on pursuing keenly as he always does. Noting that he finished 6<sup>th</sup> in that race.*
    - *My greyhound Vintage King’s typical racing pattern is to be slow early in his races whereby he exercised a ‘come from behind’ style of racing. During his race on Tuesday September 16<sup>th</sup> he displayed his usual racing pattern.*
    - *The fact that the lure has come to a complete stopped (sic) unexpectedly in 2 separate races that my Greyhound Vintage King has participated in has raised unwanted awareness for him for stopping lures during races*
    - *The fact that the lure has stopped 1 time unexpectedly during trial that my Greyhounds Vintage King participated in*
7. And further (in relation to a stay sought but relevant to the substantive appeal):
  - *Unfortunately my Greyhound Vintage King has been conditioned to look out for a stopping lure and falling greyhounds through excessive exposure to falling greyhounds and faulty and inconsistent performing lures. Through the greyhound ‘Set the Tone’ falling during the race on Tuesday September 16<sup>th</sup> in the location that he did has again highlighted this.*
8. Within the hearing of the appeal there was no challenge that the past racing incidents had occurred in the manner described by the appellant.

## The Rule

9. GAR 124 provides:

124 Failing to pursue

*(1) Subject to rule 125, where, in the opinion of the Stewards, a greyhound fails to pursue the lure during an event, the Stewards must impose a period of suspension in respect of the greyhound.*

10. Within GAR 9 it is provided:

*Failing to pursue means when a greyhound turns its head, visibly eases, or fails to pursue the lure with due commitment, during the running of the event.*

## Relevant precedents

11. There is paucity of appellate decisions which have reviewed the breach of this rule particularised solely on the basis that a greyhound had turned its head.
12. In the Decision of *Greyhound Racing Victoria v Danielle SMITH* (Victorian Racing Tribunal dated 30 September 2025) Chairperson Judge BOWMAN dealt with a charge particularised as ‘the greyhound tuning its head and failing to pursue the lure with due commitment’.
13. What has been said by way of guidance in regard to the rule, relevant to the Board’s determination of this appeal, is per Chairperson Cuthbertson in Appeal No. 09 of 2023-24 (re LIGHTNING JEWEL) at para 10 (***emphasis added***):

*Given the nature of the Rule, which is grounded on the opinion of Stewards, the appellant is required to successfully challenge the professional opinion of Stewards which is based on their assessment of the race. Due recognition has to be given to their expertise and capacity to view the films **and consider the overall race**. It is a matter for the appellant to satisfy the Board that Stewards could not have reasonably reached their ultimate conclusion in order to be successful in the appeal.*

## Stewards Position

14. As the Board understands the submission of the Stewards the breach in this case was established in its entirety by the greyhound turning its head i.e. - once the greyhound turned its head irrespective of any other factors or considerations it had *ipso facto* breached the rule.
15. The Board observes that within their stated reasons when required to articulate how it was in their opinion there had been a failure to pursue Stewards did not articulate what, if any, other actions (separate to the head turn) were said to contribute to the stated failure or how, in their opinion, the head turn in and of itself was demonstrative of or leant itself, to a characterisation of failing to pursue.

## Is a head turn enough?

16. A review of the entirety of the wording in GAR 124 highlights the serious nature of the conduct the rule seeks to penalise and the expectations on the greyhound participants. The Board observes the removal of any discretion in regard to (i) whether anything less than a penalty can be imposed by virtue of the mandated penalty imposition (*‘the Stewards must impose’*) and (ii) the type of penalty (i.e. *‘a period of suspension’*).
17. Underpinning that which the section seeks to penalise is the inherent and explicit requirement or positive obligation that in any given race each greyhound must pursue (the lure) and do so

for the entirety of the race (or for so long as the lure is actively running in a valid race). As the requirement is for the entirety of the race it is observed that to pursue something involves the obligation to maintain a sustained and ongoing pattern of behaviour, a course of action or a physical exertion over an overarching or extended period of time and/or race.

18. Distinct from the other descriptors provided for under GAR 9 the inclusion of turning its head is the only reference to a stand-alone physical movement. The remaining phrases ('visibly eases', 'fails to pursue') describe or contemplate a broader more subjective assessment and where the action(s) or inaction(s) of the greyhound are demonstrative of a failing to pursue.
19. In that light it cannot sensibly be assessed that an isolated physical action (or inaction) viewed in isolation from all other aspects of the race that occurs as an anomaly and is in fleeting contrast to what is otherwise racing behaviour that is compliant with rules governing expectation and behaviour is necessarily and automatically demonstrative of a failing to pursue.
20. Whilst every race is necessarily reviewed and penalty determination assessed on a race by race basis it would be nonsensical to interpret the rule such that absent any other factor or event that a fleeting head turn in direct response to an unexpected or unauthorised external stimuli assessed in isolation with no consideration to the racing behaviour before or after is automatically proof positive of failing to pursue the lure.
21. To interpret the rule in that way - akin to a strict liability approach - by isolating a single physical gesture - risks failing to properly consider the totality of the actions and in the simplest argument to interpret and apply that rule in a way that lacked common sense.

### **The race footage**

22. Whilst it was not disputed by the appellant that VINTAGE KING had in fact turned his head in the location and manner particularised, as was submitted by his trainer at inquiry and in submissions to the Board, the surrounding circumstances in which that head turn in that race on that day occurred (in combination with a series of previous incidents at similar track locations) provided relevant and exculpatory context.
23. The Board had available the relevant race footage which was played within the hearing and to which the appellant made submissions on the relevant portions of the race.
24. The footage was also subsequently carefully reviewed by the Board with the assistance of adviser Mr Mike Stiles.
25. The Board accepts that the footage does depict that which was submitted by the appellant - namely: *The fall of 'Set the Tone' has taken my greyhounds attention momentarily, resulting in a change in stride, however, almost immediately after my greyhound Vintage King realised the race had continued on through the lure and whole field not stopping, he continued on pursuing keenly as he always does. Noting that he finished 6<sup>th</sup> in that race.*
26. Noting the need (see ref above re Chairperson Cuthbertson) to consider the overall race of considerable note in the Board's assessment is that the head turn was momentary, and that VINTAGE KING proceeded on with the race finishing 6<sup>th</sup>. Further, as was submitted by the appellant to the Board, once the greyhound realised what happened he kept going and finished 6<sup>th</sup> (and in the course of doing so passed another greyhound).
27. Such actions of VINTAGE KING having highly likely been completed due to and within the context of the unfortunate conditioning that had occurred as a result of the previous incidents in past races (as asserted without challenge by the appellant in his grounds of appeal).
28. As the Board has characterised the totality of the actions of VINTAGE KING and in light of the interpretation of the rule (as stated above) it is the Board's view that the appellant has

therefore discharged to the necessary level of satisfaction the requisite burden i.e. the Board is satisfied that Stewards could not have reasonably reached their ultimate conclusion.

29. The appeal is therefore upheld and the decision of Stewards is quashed.
30. As the decision of the Stewards has been quashed, the board orders pursuant to section 99(5)(e) of the *Racing Regulation and Integrity Act 2024*, that the appellant's prescribed deposit is to be refunded in full.

**DATED: 27 JANUARY 2026**