

TASMANIAN RACING APPEAL BOARD

Appeal No. 18 of 2018-19

Panel:	Kate Brown (Chair) Rod Lester (Member)	Appellant:	Samantha Gangell
Appearances:	Steven Shinn (on behalf of the Stewards) Anthony O'Connell (on behalf of the appellant)	Rules:	AHRR 163 (1)(b)
Heard at:	Launceston	Penalty:	Suspension for 2 race dates
Date:	20 June 2019	Result:	Dismissed

REASONS FOR DECISION

1. The appellant, Ms Samantha Gangell, had been suspended for two race meetings as a result of her drive of *Gems* in the Carlton Draught Stakes, Race 3 at the Launceston Pacing Club meeting on the 2nd June 2019. Stewards had charged Ms Gangell under AHRR 163(1)(b) which states in part '*A driver shall not... make another horse cover more ground than necessary*'. The particulars of the charge were that '*... approaching the 950-metre point ... shifted from the one-wide position to a position wider on the track when not clear of the extended front legs of number 12 BRYSTABELLA and as a result in your shifting out, BRYSTABELLA has been obliged to race four-wide.*'
2. The facts surrounding the incident were reasonably straight forward and generally agreed by the parties. The race was run over the sprint distance of 1680 metres and had been run at a fast pace since the beginning. At or about the 1000 metre mark Ms Gangell tried to drive *Gems* from the one out line to a wider position and let her improve her position around the field. At around the same time Mr Ashwood, driving *Brystabella*, commenced a move from the rear of the field. *Gems* was slow to respond to Ms Gangell's urgings to pick up speed and move out of her lane, whilst at the same time *Brystabella* was racing somewhat fiercely and made up the distance to *Gem's* sulky quickly. When *Gems* finally responded to Ms Gangell's driving, *Brystabella* had almost reached her sulky, and had little alternative but to shift four wide when *Gems* came out of the one out line. *Brystabella's* options were further limited as Mr Dornauf, driving *Levi Jimmy*, had followed *Gems* into the three wide line, meaning that even if Mr Ashwood had been able to restrain *Brystabella* it is unlikely that he could have got back into the three-wide line.

3. The appellant put forward the argument that the incident was out of her control in that the horse did not respond as quickly as she had anticipated, and that when she did respond the misfortune that befell *Brystabella* was substantially contributed to by that horse racing ungenerously, as well as *Levi Jimmy* effectively taking *Brystabella's* escape route.
4. Stewards on the other hand argued that when *Gems* failed to respond to Ms Gangell's initial efforts, and especially when *Brystabella* neared her sulky, Ms Gangell should have desisted her efforts to change position, and waited until it was again safe to do so.
5. As is often the situation during a race there was a reasonably complex set of circumstances involved in *Brystabella* being forced four-wide, and it is quite reasonable to say that any one circumstance, of itself, was probably not enough to result in the ultimate outcome.
6. It is, however, generally accepted that one of the important roles of a driver is to make split second decisions that are a response to, and responsible in, the circumstances in which they find themselves. It is also accepted that if these decisions are less than optimal the driver shall bear the responsibility of that decision and its outcomes.
7. Whilst the board accepted that there were a number of factors involved in the severity of the outcome to *Brystabella*, it could not escape the fact that if Ms Gangell had indeed desisted with her move when *Gems* was slow to respond the incident would not have occurred.
8. The Board determined to dismiss the appeal against conviction.
9. With respect to penalty the appellant put forward the proposition that the other factors that had contributed to the incident meant that her culpability was low and that if there were to be any penalty then a reprimand would be the appropriate one. The penalty imposed by Stewards had failed to fully take into account the circumstances, and more properly reflected a situation with a higher level of culpability.
10. The Steward's position was that this was the fourth infringement against this particular rule by Ms Gangell since the start of December 2018, and that under those circumstances the penalty was comparatively light, and had appropriately taken into account her level of culpability.
11. The Board agreed with the Stewards and dismissed the appeal against penalty.
12. The appellant was ordered to forfeit 50% of the prescribed deposit and pay 50% of the costs of the preparation of the transcript for the appeal.