

Appeal decision

Date: 16 January 2014

Code of racing: Thoroughbred

Appeal panel: Mr B Miller (chair), Mr P James and Mr D Kays.

Appearances: Mr D Bell appeared on behalf of apprentice jockey Michael McKenzie.

Mr I Brown, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Suspension of licence to ride in races for a period covered by five meetings – AR137(a).

Appeal result: Appeal upheld.

Extract of proceedings – in the matter of the MCG Legal Class 2 Handicap over 1400 metres at the Gold Coast on 23 December 2013. Apprentice jockey: Michael McKenzie

THE CHAIRMAN: The Tribunal has had the opportunity of listening to the submissions presented by both parties and viewing the video on a number of occasions. The two concepts are diametrically opposed. On the one hand, Mr Bell, representing Michael McKenzie, has indicated that after consideration of a number of views of the film in question it became apparent to him and to Michael McKenzie that the horse Don't Cry Argentina was a significant contributing factor to the horse ridden by Michael McKenzie seemingly appearing to veer to its left and as a result thereof Mr Bell admonishes us to uphold this appeal on the basis that there was nothing that Mr McKenzie, as the jockey, did that in any way caused the interference or contributed to the interference.

Of course, re-seeing the film we can see that that there was other interference that came from the jockey to the left of Don't Cry Argentina, and that matter is something that has been dealt with already with Mr Appo having been similarly charged and, one would imagine, suffering some form of penalty imposition.

On the other hand of course, Mr Brown, as steward - and as the chairman of stewards for the purposes of this inquiry - made it quite plain that, in his opinion, there was significant movement by jockey McKenzie's horse in manoeuvring the position away from the rail and from behind the leader and into what could be termed the running lane on a one-out-and-one-back situation.

To our view the appearance of the gap between Don't Cry Argentina and the then leader became manifest such that it enabled and demanded that McKenzie move his mount to that position in an attempt to take the run. He was riding with the whip in the right hand and entered into the gap and proceeded, so far as we could see, to maintain a straight course until such time as his horse did veer to the left. In our opinion, the veering to the left was contributed to or caused by the horse Don't Cry Argentina.

In the circumstances we believe that this appeal should be allowed and that is the determination.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at www.qcat.qld.gov.au