

INTERNAL REVIEW DECISION
(Internal Review Decision Notice in response to an Application for Internal Review)

PART 1: Details of Internal Review	
Internal Review Number:	Internal Review 0057-18
Applicant's Name:	Dale Groves
PART 2: Decision History	
Original Decision:	Breach of Rule 175(q) of the Australian Rules of Racing
Original Decision Makers:	R Hitchener, B Cooke
Date of Original Decision:	31 May 2018
Internal Review Decision:	Original decision on penalty amended - the four (4) week suspension is confirmed and the \$500.00 fine is to be wholly suspended for a period of two (2) years subject to no further offence pursuant to Rule 175(q)
Internal Adjudicator:	Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	22 June 2018
PART 3: Summary of Internal Review Application	
<p>The Applicant, Mr Dale Groves, is a licensed track work rider within the thoroughbred racing industry in Queensland. The Applicant was charged pursuant to Australian Rule of Racing 175(q) for physically assaulting a licensee on 29 May 2018 at the Toowoomba Turf Club.</p> <p>Australian Rule of Racing 175 states:</p> <p><i>"The Principle Racing Authority (or the Stewards exercising powers delegated to them) may penalise:</i></p> <p><i>(q) Any person who, in their opinion, is guilty of any misconduct, improper conduct or unseemly behaviour.</i></p> <p>At the stewards' inquiry conducted on 31 May 2018, the Applicant was charged pursuant to Australian Rule of Racing 175(q) in that the Applicant, as a licensed track work rider, did physically assault a licensee on 29 May 2018 at the Toowoomba Turf Club. The Applicant pleaded guilty to the charge.</p> <p>In determining penalty, the stewards were mindful of the Applicant's personal circumstances, his guilty plea and his disciplinary history. The stewards were also mindful of similar penalty precedents and the negative impact that breaches of this rule have on the image of the industry.</p> <p>The Applicant was subsequently suspended for a period of four (4) weeks to commence at midnight on 31 May 2018 and to expire at midnight on 28 June 2018, together with a fine of \$500.00.</p>	



The Applicant sought a review of the penalty and provided the following submissions in support of his Application:

"Appeal the severity.

20 years with no offence with Queensland Racing before. Plead guilty and believe a 1 month suspension does not fit the charge. Many other racing identities have had similar charges brought upon them with a lesser sentence given. I am also the sole provider to my family... and this will place significant hardship to my family if the penalty sticks as track work is my sole income.

The Ruby Ride Baylee Nothdurth case at Warwick where Ruby was handed a \$400 fine and reprimand."

The outcome sought by the Applicant was for the suspension period to be set aside and that the fine of \$500.00 was sufficient.

PART 4: Reasons for Internal Review Decision

The stewards inquired into a report received from the Integrity Investigations Team (IIT) of the Queensland Racing Integrity Commission particular to an alleged incident that occurred between the Applicant and licensed apprentice jockey Mr Baylee Nothdurft near the tie up stalls during track work at Toowoomba on 29 May 2018.

During the stewards' inquiry conducted on 31 May 2018, Mr Nothdurft and Mr Beau Appo (witness) provided statements particular to the alleged incident.

Evidence was provided by the Applicant stating *"Beau was talking about pigeons - I think it was Michael Lakey had pigeons and he was talking about - they were going to - notes on pigeons legs, you know, to send texts obviously. Like just as a yarn. I went to say there was a comedy act on Mt Isa radio years ago and a bloke had pigeons and they lived at Boonah in Queensland, and the pigeons - I didn't get to finish before the little smart arse here jumped in and interrupted me and I said - I told him to shut up. Then I didn't get to finish again and he's interrupted again, and he looked at me like I was a piece of shit, so I grabbed him by the shirt and put him on his arse. With no intent, as Beau said. If I was serious he wouldn't be sitting here talking. Like I'm not a violent man, but I won't take shit off kids, you know. I've been in the industry long enough, sir, and kids have got to be put in their place, I believe."* The Applicant was questioned *"Put in their place by physically..."* to which the Applicant replied *"No, it wasn't - well, if you call that - if you called that an assault or whatever. I seen - Bradley Appo's was worse when he smacked Nathan Evans in the face and he got nothing. I didn't even lay a hand on him if you are talking like that."*¹

The Applicant was then questioned *"So we are not in a position where we are denying what's happened though, are we?"* to which the Applicant replied *"No, no, honestly. No. True and correct but I wouldn't say - I wouldn't say it was like a - slammed his head into the ground and all that sort of rot. And I have apologised and I am remorseful for what I did, but I mean it's not..."* The Applicant added *"I just apologise for my behaviour. It will never happen again. That's all."*²

There was no injury or reported injury sustained to Mr Nothdurft in the incident.

¹ Transcript of Stewards' Inquiry dated 31 May 2018, page 5

² Transcript of Stewards' Inquiry dated 31 May 2018, page 7, 8 and 9



The reviewer acknowledges the Applicant pleaded guilty to the charge and the subject of review was particular to the penalty imposed.

The Applicant submitted a review of the penalty imposed and the Applicant's submissions are outlined in Part 3 of this decision.

The Applicant's disciplinary history is clear of any offence pursuant to Australian Rule of Racing 175(q). The Applicant has been licensed as a track work rider periodically over a period extending twenty (20) years. The standard penalty for an offence pursuant to Australian Rule of Racing 175(q) ranges from a reprimand to a disqualification period.

The reviewer acknowledges the importance that each case is treated on its merits and set of circumstances.

The reviewer finds on the evidence the Applicant was not provoked to any extent that would mitigate or condone his actions and/or behavior. The Applicant demonstrated some form of remorse and accepted responsibility for his actions. The Applicant subsequently apologised to Mr Nothdurft for his actions, which apology was accepted.

In weighing up the evidence in totality, and taking into account the aforementioned factors, consideration was provided to the severity of the incident, the Applicant's guilty plea, disciplinary history (noting a clean disciplinary history over an extended period of twenty (20) years), personal circumstances, the age of the victim and the financial impact such suspension will have on the Applicant's ability to earn an income from riding track work. Notwithstanding, the reviewer acknowledges that, as with any breach of the Australian Rules of Racing, any penalty imposed will attract some form of hardship which must be evenly weighed against the degree of the offence. Further consideration was provided to the character statement provided by Mr Gerard Betros on behalf of the Applicant.

The reviewer finds, irrespective of the circumstances, licensed participants are bound by the Australian Rules of Racing and should be able to attend their workplace and carry out their duties without fear of intimidation or physical harm. Conduct of this nature is a serious offence that adversely impacts the reputation of the racing industry.

The reviewer finds, taking into account all of the circumstances, that the \$500.00 fine be suspended under the provisions of Australian Rule of Racing 196(4) for a period of two (2) years on the condition the Applicant does not reoffend in that period, and further finds the original period of four (4) weeks suspension be confirmed.

For reference, Australian Rule of Racing 196 sub-section (4) states:

(4) Any person or body authorised by the Rules to penalise any person may in respect of any penalty imposed on a person in relation to the conduct of a person, other than a period of disqualification or a warning off, suspend the operation of that penalty either wholly or in part for a period not exceeding two years upon such terms and conditions as they see fit.

PART 5: Review Rights following Internal Review Decision

In accordance with section 246 of the *Racing Integrity Act 2016*, as the applicant for an internal review of the original decision, you are able to apply to the Queensland Civil and Administrative Tribunal (QCAT) for an external review of the internal review decision.



An external review is commenced by lodging the appropriate forms with QCAT. In accordance with section 33 of the *Queensland Civil and Administrative Tribunal Act 2009*, an application for an external review of an internal review decision is to be made within 28 days from the day this internal review decision notice is provided to the applicant.

For further information regarding the processes for an external review of the decision, please contact QCAT:

Queensland Civil and Administrative Tribunal

Registry Location: Level 9, 259 Queen Street, BRISBANE QLD 4001
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