

**NEW SOUTH WALES  
HARNESS RACING  
APPEAL PANEL**

**APPEAL PANEL MEMBERS  
Hon W Haylen KC  
Mr G Campbell OAM  
Mr G Watson**

**15 APRIL 2024**

**APPELLANT COREY JOHNSON  
RESPONDENT HRNSW**

**AUSTRALIAN HARNESS RACING RULES  
149(2)**

**DECISION**

- 1. The Appeal is dismissed, Mr Johnson is suspended for a period of 28 days.**

1. On 15 March 2024 Harness Racing NSW Stewards opened an inquiry into the tactics adopted by Driver Corey Johnson in race 5 conducted at Broken Hill that day. In that race Mr Johnson drove Jakes Sportswriter in a 1900m event, a distance and class the horse had contested on three past occasions at the Broken Hill track.
2. In this Race the short priced favourite was Quartzite. Next in the market was Jakes Sportswriter at \$5 with Overpowering at \$7. At the beginning of the race Mr Johnson drove Jakes Sportswriter under the whip in an attempt to lead but had to settle in second place to Quartzite with Overpowering at the rear of a five horse field. While Quartzite continued to lead and win the race by a significant margin, Jakes Sportswriter was driven with the whip on two further occasions in an endeavour to prevent Overpowering from overtaking its position in the race. Ultimately, Overpowering was able to pass Jakes Sportswriter and run third in the race. Coming up to the bell lap Jakes Sportswriter weakened substantially and finished last some 80 metres from the winner.
3. At the Stewards inquiry Mr Johnson said that he had considered handing up his position to Overpowering but believed that his horse normally raced better while in the death. He admitted that it was probably not his best drive but he expected his horse to perform a lot better than it did. He believed that the horse did not handle the track and normally the horse would win 500m from home and keep lifting. He noted that the horse was spent and could not lift its legs. In the past his horse had gone straight past Overpowering. The Stewards drew attention to the fact that recently Overpowering was racing much better than Jakes Sportswriter, having won three of its four last starts while Jakes Sportswriter ran last, ninth of 10 and fourth in a six horse field in its last three starts.
4. Following that discussion the Stewards asked Mr Johnson to answer a charge under AHRR 149 (2), "A person shall not drive in a manner which in the opinion of the stewards is unacceptable." The particulars of the charge were that in race 5 at Broken Hill on Friday 15 March 2024, where you were the driver of Jakes Sportswriter, that after obtaining the position outside the lead in the early stages of the race, when challenged by Overpowering entering the back straight on the first occasion, you did drive Jakes Sportswriter forward in an endeavour to maintain your position outside the lead, when in the opinion of the stewards it was reasonable for you to take cover from Overpowering. Furthermore, that after then coming back off the leader, Mr Backhouse's horse, and approaching the back straight on the second occasion when Overpowering did again move three wide and attempt for the position outside the lead after Jakes Sportswriter being under pressure, you did then allow that gelding to again stride forward and race in close proximity to the leader and as a result Overpowering again wasn't able to obtain that position outside the leader, when we say, in our opinion, that it would have been acceptable for you to take cover from Overpowering. When considering that we do take into account the form of Overpowering and also the recent form of Jakes Sportswriter. And as a result of those tactics, we believe that was the main contributing factor to Jakes Sportswriter weakening in the event to be beaten 80.5m. Mr Johnson pleaded guilty to that charge as particularised.

5. The Stewards then considered Mr Johnson's record. They adopted the penalty guidelines so as to preserve consistency with penalties for all drivers, and for this offence the starting point was a suspension of 10 weeks. The Stewards then allowed a reduction of two weeks due to his early guilty plea, so reducing the penalty to eight weeks. A further reduction of 50% was given in light of his driving record. In their calculation that approach resulted in a suspension for a period of 28 days.
6. Mr Johnson filed an appeal against the 28 day suspension, but this time pleaded not guilty of the charges laid by the Stewards and also challenged the severity of the period of suspension. At the commencement of the Appeal proceedings, Mr Johnson was warned that if his appeals failed, he would lose the benefit of the two weeks reduction due to his early guilty plea. Mr Johnson said that he understood that possibility but, nevertheless, wished to proceed with all aspects of his appeal.
7. On the hearing of the Appeal a number of propositions were put of behalf of Mr Johnson that reflected the matters argued before the Stewards inquiry, but in some more detail. There was repetition of the main submissions put to the Stewards with emphasis on the asserted superiority of Jakes Sportswriter over Overpowering but no recognition of the differences in recent times where Overpowering had established a superior record. The Stewards had pointed out that a major distinguishing feature between this race and previous races contested by Jakes Sportswriter at Broken Hill, was that this race was at least 2.2 seconds faster than the earlier races it had contested. The Stewards also submitted that as an experienced Grade A driver, Mr Johnson was expected to demonstrate a high level of driving skill.
8. Having considered the submissions of the parties after reviewing the video of the race, the Appeal Panel is clearly of the view that the charge brought against Mr Johnson under AHRR 149 (2) is established. Mr Johnson drove this race believing that Jakes Sportswriter still had the measure of Overpowering when the recent records of both horses told a very different story. Mr Johnson drove vigorously to seek the lead, and on two occasions again drove vigorously to prevent Overpowering from challenging for a better position. Those tactics resulted in the horse capitulating to the extent that it stopped contesting the race and finishing some 80m from the winner.
9. As Mr Johnson has failed in his appeal against conviction he will lose the two weeks allowed by the Stewards in recognition of his early plea. It is the view of this Panel that in setting a penalty for the breach of AHRR 149 (2) regard is given to the relative seriousness of the breach to the extent that an appropriate starting point is a suspension of 8 weeks. The Stewards had taken the approach of also allowing a 50% reduction in recognition of his driving record, an assessment that the Panel does not seek to review. Mr Johnson is therefore suspended for 28 days commencing on 11 April 2024.
10. In summary, the Appeal is dismissed and Mr Johnson is suspended for 28 days commencing on 11 April 2024.

Hon Wayne Haylen KC – Principal Member  
Mr G Campbell OAM – Appeal Panel Member  
Mr G Watson – Appeal Panel Member

15 April 2024