

**NEW SOUTH WALES
HARNESS RACING
APPEAL PANEL**

**APPEAL PANEL MEMBERS
Hon W Haylen KC
G Campbell OAM
J Murphy**

DECISION

5 March 2025

**APPELLANT JACK CALLAGHAN
RESPONDENT HRNSW**

**AUSTRALIAN HARNESS RACING RULES
168(1)(a)**

DECISION

The Appeal Panel makes the following orders:

- 1. The appeal is dismissed;**
- 2. The 10 day suspension imposed by Stewards is confirmed;**
- 3. The appeal deposit paid by the Appellant is forfeited.**

1. On 24 February 2025, Stewards opened an inquiry concerning the reason for the horse, Eiffel From Heaven, being checked, contacting the sulky wheel of another runner and breaking gait approaching the 50m in race 2, at Newcastle. At the opening of that inquiry the Chairman of Stewards, Mr Snudden, stated that from his vantage point from the Chairman of Stewards' tower, that Mr Callaghan was progressing into a run between two runners that had not eventuated, contacted the sulky of the horse to his outside, who he believed was Eyes Been Patient, and as a result broke gait and locked wheels, and checked the runner behind him, which was Glenfrankie.
2. Mr Ison gave evidence that Mr Callaghan was going for a run between his horse and another. His mare had a tendency to get up the track but he was aware that Mr Callaghan had got his wheel. His horse had moved probably three carts up the track. He had turned for home a little of the fence and ended up about three or maybe four wide. Mr Callaghan "arrived, like, I dare he would say sort of heavy on the outside of my wheel...". He checked his horse to straighten up pretty aggressively.
3. The Stewards then asked Mr Callaghan if he believed there was "ever a full run between the horses "driven by Mr Ison and Mr Sutton, to which he replied, "yes". Mr Callaghan accepted that there was not a complete run between the other two horses before being checked. He believed he did not have to get his whole cart through, if there was enough room for his legs to be in there safely. He also stated that if Mr Ison's horse stayed straight, nothing would have happened. He said he grabbed hold well before the contact and there was the slightest brush and contact. He was just coming quick while they were stopping. Mr Callaghan also stated that he had established a run to the outside of Mr Ison.
4. After considering the evidence, the Stewards announced that they could not believe that at any stage Mr Callaghan had established a run to the outside of Mr Ison, and, "at all stages, are running, racing behind him". Mr Callaghan was asked to answer a charge under AHRR 168 (1)(a), that "a driver shall not before, during or after a race drive in a manner which is in the opinion of the Stewards, (a) careless."
5. The particulars of the charge were, that Mr Callaghan, the driver of Eiffel From Heaven... when shifting your runner wider on the track, attempting to improve between Im Freyja and Eyes Been Patient, there's insufficient room for you to do so. As a result, your runner has been checked, contacted the sulky wheel of Im Freyja, broke gait, and as a result was severely checked. Glenfrankie, which was racing in arrears of you, also broke gait. Mr Callaghan pleaded not guilty to that charge as particularised, stating that there was room for him to progress safely. There continued an exchange between Mr Callaghan, the Stewards and Mr Ison concerning the circumstances of the horses being checked.
6. After those exchanges, the Stewards announced that they believed that Mr Callaghan was progressing into a run that had not developed and was not there, and that there was insufficient room for him to go into the run, and his driving, as a result of his driving, his horse has been checked, and broke gait, which they believed was careless, and still formed that view.

7. The Stewards looked to the penalty guidelines which treated a careless driving charge with a starting point of a penalty of 28 days where a horse is checked and breaks gait. That approach was adopted in this case. The guidelines also provided for a 14 day reduction, which was adopted. A further four day reduction was allowed having regard to his overall good driving record, noting that there had been some 4000 drives since his last careless driving charge. As a result of those concessions, Mr Callaghan was suspended from driving for 10 days. Mr Callaghan filed an appeal challenging the conviction and the penalty imposed by the Stewards.
8. On Appeal, these matters were repeated by the Stewards. The Panel was presented with video replays in reduced speed, allowing a better view of the circumstances leading to the horses that were effected. It was noted that Mr Callaghan was vigorous with the whip, especially when he was very close to Mr Ison's horse where there was not sufficient room. There were 4 whip strikes as Mr Callaghan drove his horse into a space that was not safely available. It was also shown that there was not enough room for Mr Callaghan to pass Mr Ison's horse.
9. Submissions for Mr Callaghan, for the first time, alleged that Mr Ison's drive, allowing his horse to shift three or four wide, contrary to the rules of racing, was the cause of the interference. It was also asserted that there was room for his horse when Mr Ison's horse moved again.
10. After close analysis of the running of this race the Appeal Panel is unable to find that there was an opening to allow Mr Callaghan's horse to safely continue its run past Mr Ison's horse. Having reached that conclusion, the appeal against suspension is dismissed. On the question of penalty, it was submitted that Mr Callaghan had a good record and that a fine would be appropriate. It was suggested that he should be allowed to drive in a Group 1 race in the near future. The Appeal Panel notes that it has adopted the approach that penalties should not be reduced because drivers have an opportunity to drive in high stakes events, and that they should be alive to the need to careful in the events in which they drive. Further, it is noted that the penalty imposed by the Stewards is at the lower level of what might have been imposed. In those circumstances, the 10 day suspension imposed by the Stewards is adopted by the Appeal Panel.
11. The final orders of the Appeal Panel are: that the Appeal be dismissed; that Mr Callaghan be suspended for 10 days; and, that he Appeal fee be forfeited.

Hon Wayne Haylen KC – Principal Member
Mr G Campbell OAM – Panel member
Mr J Murphy – Panel Member

5 March 2025.