

NEW SOUTH WALES HARNESS RACING APPEAL PANEL

**APPEAL PANEL MEMBERS
Hon. W Haylen KC
P Kite SC
B Picken OAM**

13 MAY 2024

**APPELLANT LLEYTON GREEN
RESPONDENT HRNSW**

**AUSTRALIAN HARNESS RACING RULES
163(1)(a)(iii)**

DECISION

- 1. The decision of the Appeal Panel in this case is that the Appeal is dismissed and that Mr Green is suspended for 28 days commencing at midnight on 11th May 2024.**

1. Mr Lleyton Green has appealed against the decision of Stewards to suspend him from driving for 21 days commencing on midnight 11 May 2024. This suspension arose from interference occurring from near the 200 metres in race 3 at Penrith held on 2 May 2024.
2. After taking evidence from three drivers in the race and viewing replays of the race, Stewards asked Mr Green to answer a charge pursuant to AHRR 163 (1)(a)(iii), namely that "A driver shall not cause or contribute to any interference." The particulars of the charge were stated as: that Mr Lleyton Green, being the driver of Twilight Heaven in race 3 at Penrith on 2 May 2024, when approaching the 200 metres, have allowed your runner to shift down the track when not sufficiently clear of Major Statement being driven by Mr Morris, causing that runner to be checked, break gate, as indicated by Mr Day earlier, all other runners excluding Paintmeareason were checked to varying degrees.' Mr Green pleaded guilty to that charge.
3. Mr Day was a Steward observing the third race from the elevated stewards' stand at approximately the 200 metres, which he said afforded him a head-on view as the runners progressed around the final turn, and effectively a side-on to a rear-on view of an incident which occurred just inside the final 200 metres. From his position Mr Day stated that it did appear just after passing the 200 metres that Mr Green did permit his horse, Twilight Heaven, to shift in when not sufficiently clear of Mr Morris's drive, Major Statement, and as a consequence, Major Statement was tightened in onto Paintmeareason which was placed in restricted room. It appeared that there was contact to Major Statement. As a consequence, that gelding was checked, lost ground and locked wheels with Yankee Ideal, which were effectively ahead of the field at that point and resulted in all remaining runners being checked to varying degrees, minus Paintmeareason, which was positioned on the marker pegs. Mr Day's evidence was not questioned at that point of the Stewards inquiry.
4. During a discourse of some length Mr Green argued that coming around the turn he kept his horse on a straight path although a number of horses were racing closely. He said he held his horse 3 wide for the whole turn and even up the straight. He acknowledged that his horse was laying in 'a little bit' but in his opinion he held himself up the track enough for every runner to have enough room. He denied that he had shifted in on Major Statement around the 200 metres. He placed the blame for the interference on Mr Morris' horse. He said that he saw Mr Morris' horse come up the track a half cart and that, in his opinion, that was the reason why there was 'that little bit of interference'. In his evidence, Mr Morris spoke of his horse 'plugging on' but he did not feel like he was coming up the track. He noted that Mr Green said that he had steered up into his horse, 'But I just stayed where I was..nothing has changed my end'. In further evidence Mr Morris repeated that he had not moved his horse up the track. Mr Morris also spoke of Mr Geary, the driver of Paintmeareason, who had been on the pegs with Mr Morris' horse outside it, and in the tightness of the horses he tried to give that horse some room because he felt he was getting dangerously close to be on top of him. He felt his horse was beaten at that time and was just trying to get out of the way.
5. Mr Geary, the driver of Paintmeareason, was called to give evidence before the Stewards. He stated that he was 'marginally' aware of the race incident that occurred in front of him. His horse had a tendency to want to hang in through the turn and was getting tired and giving ground. His horse and Mr Morris' horse were

both under pressure but he did not feel like he was in real restricted room, but might have been racing tight but never felt he was going to be checked or interfered with. He did not feel like he was in any real restricted room, but might have been racing tight yet did not feel he was ever going to be checked or interfered with until the incident occurred and then had to check for a stride as Mr Morris' cart whiplashed a bit. That was more a precautionary move on his part just to give a bit of room. He had shifted closer to the marker pegs but 'not a hell of a lot', and it was not a big shift.

6. After the Stewards charge was read to Mr Green, he was asked to indicate his plea. After some discussion Mr Green entered a guilty plea to the charge as particularised. He then addressed the Stewards about his upcoming drives in high level races and the loss to him if he was suspended. There was a lot of racing that he did not want to miss. He then expressed his view that this was a 'very minor matter', and to be 'completely honest' he was trying to get the time reduced as much as he could. He then stated that he believed he was not guilty for the incident, that he had kept his horse up the track as much as he could and that he had done what he could in the race.
7. Before the Appeal Panel Mr Green withdrew his guilty plea, acknowledging that approach may have an impact on the question of penalty if he were unsuccessful. The matters raised before the Stewards were again argued on the Appeal. The Panel had the advantage of viewing, at slow motion, the significant sections of the race coming into the last turn and on straightening. There is no doubt that the racing was tight as explained by Mr Geary and Mr Morris but apparently not unusual for the Penrith paceway. On a close examination of the horses entering the last 200 metres of the race the Appeal Panel is comfortably satisfied that Mr Green allowed his horse, Twilight Heaven, to shift down the track when not sufficiently clear of Major Statement, causing that runner to be checked as well as other runners in the race. The evidence of Mr Morris, denying that his horse shifted down the track and caused the interference, is also accepted. The Panel also notes that a viewing of Twilight Heaven, from the point of impact with Major Statement coming into the straight and to the finish line, shows at best that the horse was running two and a half carts from the pegs.
8. In relation to an appropriate penalty, on Appeal Mr Green has pleaded not guilty and against his suspension of 21 days. He has lost on both issues. It follows that the 7 days reduction for a guilty plea before the Stewards must be set aside. With that adjustment, the Stewards original penalty should stand.
9. The decision of the Appeal Panel in this case is that the Appeal is dismissed and that Mr Green is suspended for 28 days commencing at midnight on 11th May 2024.

Hon Wayne Haylen KC – Principal Member
Mr P Kite SC – Panel Member
Mr W Picken OAM – Panel Member

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