

## **IN THE RACING APPEALS TRIBUNAL**

**GARY PAYTON**  
Appellant

**v**

**GREYHOUND WELFARE AND INTEGRITY COMMISSION**  
Respondent

### **REASONS FOR DETERMINATION OF APPLICATION PURSUANT TO CLAUSE 14(1)(a) OF THE RACING APPEALS TRIBUNAL REGULATION 2015**

#### **INTRODUCTION**

1. On 23 April 2024, the Greyhound Welfare and Integrity Commission (the Respondent) imposed an interim suspension on Gary Payton (the Appellant) pursuant to r 169(5)(c) of the *Greyhound Racing Rules*. On the same day, the Appellant lodged with the Appeals Secretary a Notice of Appeal against that determination, along with an application for a stay pursuant to cl 14(1)(a) of the *Racing Appeals Tribunal Regulation 2015*.
2. This determination deals with the Appellant's application for a stay.

#### **FACTUAL BACKGROUND**

3. I draw the following summary from the Respondent's submissions.
3. The Appellant is registered with the Respondent as a Public Trainer and Breeder. He resides at a property in Wyong (the property) from which he conducts his activities in the greyhound racing industry. On 11 April 2024 officers of the Respondent attended the property to conduct a routine inspection. During the course of that inspection, it became apparent that the status of the Appellant's

kennels were such that he may be in breach of provisions of (inter alia) the Greyhound Racing Rules.

4. In the course of the inspection, the Respondent's officers became aware of the presence of a greyhound identified as 'Front Foot' (the greyhound) that required veterinary attention. Photographs of the greyhound which have been provided to me unequivocally confirm its obviously emaciated state. The Appellant was issued with a notice pursuant to s 24N of the *Prevention of Cruelty to Animals Act 1979 (NSW)*, requiring him to obtain veterinary attention for the greyhound (as well as one other which was in his care) within 24 hours. The Appellant complied with this requirement.
  
9. On 15 April 2024, the Respondent notified the Appellant that it was considering imposing an interim suspension of his registrations, pending the finalisation of an investigation. The following day, 16 April 2024, the Appellant responded. In opposing the Respondent taking the course it had foreshadowed, the Appellant said that he:
  - (i) had been a participant in the greyhound racing industry for over 20 years;
  - (ii) had never previously come under notice;
  - (iii) cared for his greyhounds in a proper manner;
  - (iv) had, in recent months, had the responsibility of caring for his grandson who suffers from autism and ADHD, a circumstance which had caused him considerable stress;
  - (v) had been aware that the greyhound was "not in top condition"; and
  - (vi) would take steps to ensure that these circumstances did not arise again.

#### **THE DETERMINATION OF THE RESPONDENT**

10. On 23 April 2024 the Respondent determined to suspend the Appellant's registrations on an interim basis, pending the finalisation of its enquiry.

#### **SUBMISSIONS OF THE PARTIES**

## **Submissions of the Appellant**

11. In support of the application for a stay, the Appellant said the following:

*Racing greyhounds is my life and passion and I have fulfilled all requirements that I was asked. Not being able to race my dogs and be a part of the industry is not something I want/. I would like to be able to continue with racing in the interim until the decision is made instead of being suspended and not being able to do what I love and which is my livelihood.*

## **Submissions of the Respondent**

12. In opposing the application, the Respondent pointed to the principal objectives set out in s 11 of the *Greyhound Racing Act 2017* (NSW) which, it was submitted, were directly relevant to the circumstances of the present case. The Respondent submitted that to allow the Appellant to continue to engage in the industry whilst the investigation was underway ran contrary to such objectives.

## **CONSIDERATION**

13. The principles to be applied in determining an application for a stay have been canvassed at length in a number of previous determinations, and I do not propose to repeat them.<sup>1</sup> I have applied such principles in the present case. Fundamentally, they require that in order to be granted a stay, the Appellant must establish that:

1. there is a serious question to be tried; and
2. the balance of convenience favours the grant of the stay.

14. On the evidence which has been made available to me, it would be open to conclude that the Appellant had, in his care, a greyhound who was clearly unwell. The greyhound's poor state of health is immediately apparent from viewing the photographs with which I have been provided. The Appellant seems to acknowledge that he was aware of the ill health of the greyhound, but did little

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<sup>1</sup> See for example *Marshall v Greyhound Welfare and Integrity Commission* 21 December 2023 at [16].

about it. It is difficult to identify a serious question to be tried in those circumstances.

15. Even if I were to conclude that a serious question was made out on the evidence, the balance of convenience weighs heavily in favour of the position of the Respondent, and very much against the grant of a stay. I accept that if a stay is not granted, there will be some adverse effect on the Appellant's livelihood, although I am not able to determine the extent to which that might be the case. However, that circumstance must be balanced against the Respondent's statutory objectives, which include:

- (i) promoting and protecting the welfare of greyhounds;
- (ii) safeguarding the integrity of greyhound racing; and
- (iii) maintaining public confidence in the greyhound industry.

16. Bearing in mind the evidence to which I have referred, allowing the Appellant's continued participation in the industry whilst an investigation against him in respect of animal welfare issues continues, would have the clear capacity to threaten each and every one of those statutory objectives. That, without more, significantly outweighs the Appellant's subjective factors.

17. Needless to say, it will be incumbent upon the Respondent to conduct and complete its enquiry quickly and efficiently, and to keep the Tribunal updated as to its progress.

## **ORDERS**

18. For the reasons stated, the application for a stay is refused.

**THE HONOURABLE G J BELLEW SC**

**15 May 2024**