

IN THE RACING APPEALS TRIBUNAL

RODNEY DENNIS
Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION
Respondent

REASONS FOR DETERMINATION

Date of hearing: 9 May 2025

Date of determination: 12 May 2025

Appearances: The Appellant in person

Mr B Gillies for the Respondent

ORDERS

- 1. The appeal is dismissed.**
- 2. The appeal deposit is forfeited.**

INTRODUCTION

1. By a Notice dated 24 March 2025, Rodney Dennis (the Appellant) has appealed against a determination of the Greyhound Welfare and Integrity Commission (the Respondent) imposing a suspension of 3 months commencing on 18 March 2025 for a breach of r 141(1)(a) of the *Greyhound Racing Rules* (the Rules). The Appellant pleaded guilty to the offence. The appeal is brought on the basis that the penalty imposed is too severe.
2. The parties prepared a Tribunal Book (TB) containing all relevant evidence, and I had the benefit of oral submissions at a hearing on 9 May 2025.

THE RELEVANT PROVISIONS OF THE RULES

3. Rule 141(1)(a) of the Rules is in the following terms:

141 Greyhound to be free of prohibited substances

The owner, trainer or other person in charge of a greyhound:

- (a) nominated to compete in an Event*
- (b) ...*
- (c) ...*

must present the greyhound free of any prohibited substance.

4. Rule 137 is in the following terms:

137 Meaning of prohibited substance

The substances set out below at rule 137(a) to 137(f) are prohibited substances unless they are an exempted substance:

- ...*
- (b) Substances falling within, but not limited to, the following categories:*
- ...*

(xxii) anti - inflammatory agents.

5. There is no dispute that *Meloxicam* is an anti-inflammatory agent, and thus a prohibited substance.
6. Rule 146 is in the following terms:

146 Therapeutic substances and screening limits

(1) *A therapeutic substance for the purpose of the Rules and the screening limit applicable to the therapeutic substance or its specified metabolite, is to be published from time to time by a Controlling Body.*

...

(6) *The following screening limits apply:*

...

(f) meloxicam at a mass concentration of 5 nanograms per millilitre in a sample of plasma or 2 nanograms per millilitre in a sample of urine.

THE CHARGE AGAINST THE APPELLANT

7. The charge against the Appellant alleged an offence contrary to r 141(1)(a) in the following terms:¹

Charge 1 (Rule 141(1)(a)) – Particulars:

1. *That (the Appellant) as a registered Owner Trainer presented the greyhound “Intense Power” for the purpose of competing in race 8 at the Richmond meeting on 13 November 2024 in circumstances where the Greyhound was not free of a prohibited substance;*
2. *The prohibited substance detected in the sample of urine taken from the Greyhound prior to the Event was Meloxicam; and*
3. *Meloxicam, which exceeds the screening limit of a mass concentration of 5 nanograms per millilitre in a sample of plasma or 2 nanograms per millilitre in a sample of urine, is a prohibited substance under Rule 146 of the Rules.*

THE FACTS OF THE OFFENDING

8. The facts of the offending are not in dispute. I draw part of the following summary from the written submissions of the Respondent.²

9. The Appellant was first registered as an industry participant, in the capacity of an Owner/Trainer, on 1 April 1987. Aside from a period between August 2011 and March 2012, he held that registration until February 2024.

¹ TB 44.

² Commencing at TB 7.

10. The Appellant was disqualified for a period of 7 months 6 February 2024 as the consequence of a breach of Rule 141(1)(a), when the prohibited substance 5 β -Androstane-3 α , 17 β -Diol (commonly referred to as “BaB” and a Category 1 prohibited substance) was detected in the urine of his greyhound ‘*Intense Power*’ (the greyhound). BaB is a metabolite of testosterone and is a prohibited substance if present in a female greyhound at a concentration of more than 10 nanograms per millilitre (ng/mL) of urine. Following the expiration of that period of disqualification, the Appellant was again registered as an Owner/Trainer from 21 October 2024. He held that registration at the time of the present offending.

11. On 13 November 2024, the greyhound competed in race 8 at the Richmond race meeting (the event) and placed first. Prior to the event, a urine sample (the sample) was taken from the greyhound. The sample was later analysed by Racing Analytical Services Limited (RASL). On 3 January 2025, RASL issued a Certificate of Analysis certifying that the sample contained Meloxicam.³ That analysis was confirmed on 21 February 2025.⁴

THE NOTIFICATION OF THE CHARGE AND THE APPELLANT’S RESPONSE

12. On 5 March 2025, Stewards sent a Notice to the Appellant outlining the charge previously set out, proposing a suspension of 9 months, and advising that a hearing would take place on 18 March 2025.⁵ In an email dated 10 March 2025,⁶ the Appellant advised the Stewards that he would enter a plea of guilty. In a further email dated 13 March 2025,⁷ the Appellant made a submission which, in fairness to him, should be set out in full:

I write to formally acknowledge and address the positive urine test to Meloxicam in my greyhound Intense Power. I accept full responsibility for this violation and deeply regret my actions.

In the weeks leading up to the race Intense Power exhibited signs of lameness and

³ TB 29.

⁴ TB 32.

⁵ TB 43 – 45.

⁶ TB 15.

⁷ TB 16 – 17.

discomfort during training. This was due to months previously having a surgical procedure to remove a toe joint on her near side front foot.

In an error of judgment, I administered two doses of Meloxicam (prescribed previously after toe surgery) one each on consecutive days 25/10/24 & 26/10/24 after a return to racing trial on the 24/10/24 where Intense Power had exhibited pain and soreness after the trial. This was only done therapeutically to alleviate what I thought was a temporary issue. I mistakenly assumed the medication would clear the system well before she had a race start and failed to verify the appropriate withdrawal period or consult my veterinarian, this was a serious lapse in protocol and in no way an attempt to gain a competitive advantage.

However, I realise now that I did not sufficiently consider the regulations regarding the use of Meloxicam in racing greyhounds. This oversight was unintentional, and I deeply regret not taking further steps to ensure compliance with racing rules. I take full accountability for my actions and I fully understand the importance of maintaining the integrity of the sport.

In summary: I am pleading guilty.

I have fully co-operated with your investigation and pleaded guilty to the charge as soon as possible.

I have since reviewed all racing and withdrawal guidelines with my veterinarian to ensure strict compliance in the future.

Moving forward, all medications – even those previously prescribed – will be approved in writing by a licensed veterinarian prior to us .

I sincerely apologise to GWIC, my fellow competitors, and the sport for my negligence. I understand the importance of integrity in greyhound racing. This incident has been a profound lesson and I will endeavour to uphold the highest standards of care and transparency moving forward.

...

I'm writing also to formally respond to the proposed penalty outlined in the notice of charge of 9 months for Meloxicam. After reading the penalty guidelines for category 3 substances where a 1st offence for any substance in this category is a minimum of 2 months less 25% for early guilty plea. The proposed penalty would seem disproportionate when compared to recent same cases and the penalty guidelines. As this is my first offence for a category 3 substance, and only my second offence overall in 38 years of being a registered participant. I am aware this is only a proposed suspension before knowing all the facts and submissions and while I take this matter seriously I believe any penalty issued should fall in line with the penalty guidelines for first offence in the minimum of category 3 substances and recent offences for the same substance where a suspended sentence and fine has been issued or suspension in the minimum offence range. I would like to point out some recent examples of penalties for Meloxicam.

Example:

10/3/24 Mr Brian Lord \$500 fine plus 4 weeks suspension wholly and conditionally suspended for 12 months for Meloxicam

22/1/24 Mr Syd Swain 5 weeks suspension for Meloxicam.

22/1/24 Mr Rodney McDonald \$1000 fine and 3 weeks suspension wholly and conditionally suspended for 12 months for Meloxicam.

1/2/24 Mr Raymond Lee 4 months suspension for Meloxicam second offence in 12 months for a category 3 same or similar substance.

Further, as I was shocked at being notified of the positive test and knowing I'd administered meloxicam some 19 days prior to Intense Power competing, I contacted Racing Analytical Services to try and find out an exact reading over the threshold of 2 nano grams, and where I could find that reading on the supplied analysis papers.

To my surprise they told me for Meloxicam they are not required to provide an exact reading as it's just a screening test to verify a presence and they only need to notify the Authority when a reading goes above the 2 nano gram threshold for Meloxicam not supply an exact reading. So effectively I may now be facing a suspension for an unknown quantity above the threshold which may be a very small amount considering a nano gram is (1 billionth of a gram) I respectfully would ask that this also be considered when deciding the appropriate penalty for this matter as well.

13. Dr Chris Papantonio from the Colyton Veterinary Hospital provided the following statement:⁸

Intense Power had surgery on 9 May 2024 for a luxated P3 joint – digit 5 on her left foreleg.

We performed an end joint surgery to remove P3 and salvage the remaining toe. She was discharged on cephalexin and Metacam tablets post operatively.

Occasionally, Intense Power (Molly) gets some mild soreness in this toe from time to time and I typically treat her with caprofen as required.

I understand she returned a positive swab to meloxicam after racing on 13th November 2024. Mr Dennis informs me he administered some of the remaining meloxicam she had post-surgery approximately 3 weeks earlier to the race, assuming it had a short withholding period and would be excreted from her system.

⁸ TB 18.

I have since spoken to Mr Dennis to explain the longer excretion times of Meloxicam and he now understands that longer withholding periods apply when compared with other NSAIDs.

THE HEARING BEFORE STEWARDS

14. At the hearing before Stewards on 18 March 2025, a transcript of which forms part of the material provided to me,⁹ the Appellant confirmed his plea of guilty¹⁰ and made the following further submissions in mitigation of penalty:

- (i) there was no “*sinister*” aspect to the offending;¹¹
- (ii) the substance had been administered to treat a “*legitimate injury*”;¹²
- (iii) he would ensure, going forward, that the only medication administered to any greyhound under his care would be that prescribed by a veterinarian;¹³
- (iv) the offending was a “*dead set honest mistake*”¹⁴ (a fact which appears to have been expressly conceded by the Senior Steward, Mr Turner);¹⁵
- (v) he had only ever had “*one or two*” greyhounds and trained them as a “*hobby*”,¹⁶ his principal responsibility being that of a carer to his mother¹⁷;
- (vi) the proposed penalty was excessive in the circumstances¹⁸ particularly given that he had been an industry participant for 38 years.¹⁹

⁹ Commencing at TB 54.

¹⁰ TB 56.17.

¹¹ TB 57.30.

¹² TB 57.32; 58.7 – 58.11.

¹³ TB 58.14 – 59.3.

¹⁴ TB 59.7.

¹⁵ TB 58.3 – 58.12.

¹⁶ TB 59.38; 61.26.

¹⁷ TB 59.15.

¹⁸ TB 60.36.

¹⁹ TB 62.32.

15. In assessing the penalty, Stewards had regard to the Appellant's plea of guilty (in respect of which a discount of 25% was applied), his history as an industry participant, and the circumstances of the offending which had been outlined by the Appellant at the hearing.²⁰

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

16. The Appellant's submissions for the purposes of the appeal essentially mirrored those he made before the Stewards. The essence of his position was that the penalty was disproportionate to the offending, and was inconsistent with penalties imposed in other cases, including those of:

- (i) *Swain*;²¹
- (ii) *McDonald*;²²
- (iii) *Lord*;²³
- (iv) *Jenner*;²⁴ and
- (v) *Lee*.²⁵

17. I have addressed those decisions further below. The Appellant also referred to decisions in matters of *Farrugia* and *Sultana* but I do not appear to have those determinations.

18. Again, for reasons of fairness, it is appropriate that I set out in full the Appellant's written submission provided to me:²⁶

I respectfully appeal my 3 months suspension issued on 18th March 2025 for positive urine sample to meloxicam.

²⁰ TB 47 – 49.

²¹ A determination of Stewards of 22 January 2024.

²² A determination of Stewards of 6 November 2023.

²³ A determination of Stewards of 27 December 2023.

²⁴ A determination of Stewards of 29 August 2024.

²⁵ A determination of Stewards of 18 October 2023 and a further determination of Stewards of 26 January 2024, along with a determination of the Tribunal of 23 December 2024.

²⁶ TB 4 – 5.

While I accept accountability, the penalty is disproportionate compared to recent similar cases.

Also the proposed penalty of 9 months that the 25% reduction for early guilty plea was applied to, is also disproportionate to recent proposed penalties for meloxicam and for a first offence of a category 3 substance.

Examples

22/1/24 Mr Syd Swain

Meloxicam

5 weeks suspension

Proposed suspension of 2 months

22/1/24 Mr Rodney McDonald

Meloxicam

\$1000 fine

3 weeks suspension conditionally suspended for 12 months

Proposed penalty of 2 months

10/3/2024 Mr Brian Lord

Meloxicam

\$500 fine

4 weeks suspension conditionally suspended for 12 months.

Proposed penalty 2 months

1/2/2024 Mr Raymond Lee

Meloxicam

4 months suspension

A second offence of a like substance within 12 months

Proposed penalty 6 months

26/11/2024 Mr Michael Jenner

Suspension 9 weeks

Proposed penalty: 3 months suspension

Meloxicam

24/3/2025 Mr Mark Farrugia

Fine \$500

4 weeks suspension wholly & conditionally suspended for 12 months

Meloxicam

Proposed penalty 2 months

27/3/2025 Mr Victor Sultana

Fine \$500

4 weeks suspension wholly and constitutionally (sic) suspended for 12 months.

Meloxicam

Proposed penalty 2 months .

This was my first offence for a category 3 substance and second offence in over 38 years

I immediately pleaded guilty also took corrective action by consulting my vet which is shown in the letter provided by Dr Papantonio and pointed out in my submissions, I also apologised to the authority and sport for my actions.

The standard sanction for this offence according to recent cases for the same offence would fall in line with penalty guidelines for a category 3 substance of the minimum 2 months proposed, then reduced from that point.

Nowhere in the penalty guidelines does it say that a previous penalty for a higher category substance within a specified time period can be taken into account when determining a proposed penalty or penalties.

Only same category substances can be used to determine penalties within specified time periods according to the guidelines.

The suspension has already impacted me personally and financially (Return \$1500 prize money) as I'm a fulltime carer for my 83 year old mother. I respectfully request a reduction in line with the precedent s set in previous cases in my examples for the same substance: A penalty wholly a conditionally suspended for 12 months or reduced Penalty.

Submissions of the Respondent

19. The Respondent's submissions may be distilled into the following propositions:

- (i) whist there were no prior determinations which were directly comparable to the present case, the Appellant's disciplinary history was, in light of the matter in 2024, more serious than any of the participants in the previous determinations on which he relied;²⁷
- (ii) a comparison of the penalty imposed in the present case to those imposed in the previous cases relied upon by the Appellant did not support the proposition that the penalty imposed on the Appellant was excessive;²⁸
- (iii) the penalty was appropriate and reflected Stewards having given appropriate weight to all relevant factors.²⁹

²⁷ At [46] – [47].

²⁸ At [48].

²⁹ At [24].

CONSIDERATION

20. At the heart of the Appellant's case is the proposition that the penalty imposed is excessive having regard to the penalties imposed in other cases. It is necessary in those circumstances to make some preliminary observations about the relevance of such determinations.
21. To begin with, and as I have previously observed,³⁰ no two cases are ever identical, be it in terms of the objective circumstances of the offending, or the subjective case of the offender.³¹ What is sought when determining penalty is not numerical equivalence with the outcomes of other cases, but the consistent application of principle in what is an essentially discretionary exercise.
22. Moreover, previous determinations of Stewards (as opposed to those of the Tribunal) are subject to the further limitation that Stewards are not required to, and thus do not, set out the reasoning process adopted, or the entirety of considerations taken into account, when determining penalty.³²
23. I am mindful of the limitations placed on the application of principles derived from the criminal law to cases of the present kind.³³ However in my view, the caution with which the criminal law approaches the consideration and analysis of previous cases for the purposes of determining penalty has some role to play. That caution has been expressed in the following terms:³⁴

Sentences imposed in other cases are not binding precedents. They are statements of what has happened in the past. A history of sentencing can establish a range of sentences that have in fact been imposed. However, such history does not establish that the range is the correct range, or that the upper or lower limits of the range are the correct upper and lower limits. Further, the range of sentences that have been imposed in past cases does not fix the boundaries

³⁰ See for example *Dennis v Greyhound Welfare and Integrity Commission* a decision of the Tribunal of 2 April 2024 at [23].

³¹ See the comments in *RLS v R* [2012] NSWCCA 236 at [132].

³² *Gatt v Greyhound Welfare and Integrity Commission* a decision of the Tribunal of 28 March 2025 at [33].

³³ See generally *Australian Building and Construction Commissioner v Pattinson* [2022] HCA 13; (2022) 274 CLR 450.

³⁴ *Goodbun v R* [2020] NSWCCA 257 at [236] – [237].

within which future judges must, or even ought, to sentence. Such cases can, and should, provide guidance to sentencing judges, and to appellate courts, and stand as a yardstick against which to examine a particular sentence. However when considering past sentences, it is only by examination of the whole of the circumstances that have given rise to the sentence that unifying principles may be discerned. Fundamentally, the consistency that is sought in sentencing is consistency in the application of the relevant legal principles, and not numerical or mathematical equivalence.

It follows that a careful approach must be taken when a Court is asked to compare the sentence imposed in one case with the sentence imposed in another. The need for such an approach obviously arises, at least in part, from the fact that no two cases are the same. There will inevitably be differences, both in terms of the objective circumstances of offending and the subjective circumstances of the offender, between one case and another.

24. That statement, in my view, reflects the approach which the Tribunal should take when asked to consider the outcomes of previous cases in support of the proposition that a penalty is too severe on the one hand, or too lenient on the other.

25. With all of these matters in mind, I make the following observations in respect of the present case.

26. First, the Appellant pleaded guilty at the first available opportunity and is thus entitled to a discount of 25%.

27. Secondly, the Appellant has only one previous matter of substance on his disciplinary history, in circumstances where he was first registered as a participant in 1987. The Respondent conceded during the course of the hearing that this was a significant factor that the Appellant was entitled to have taken into account in his favour. That said, the previous matter related to a Category 1 substance and was therefore of some seriousness.

28. Thirdly, I accept, as the Appellant submitted to Stewards, that the offending was the consequence of an innocent mistake and that there was nothing nefarious in his conduct. That said, all presentation offences are serious.

29. Fourthly, I am satisfied that the Appellant is genuinely remorseful, and that he will amend his husbandry practices with a view to ensuring, as far as he is able to do so, that offending of this kind is not repeated.

30. Fifthly, I accept that the penalty has had some financial impact on the Appellant. That will inevitably be the case with any penalty imposed. Whilst I do not dismiss the significance of that financial impact, the fact is that it is minimal given that the Appellant trains only one greyhound, and does so as a hobby.

31. Sixthly, the present offending involves a Category 3 substance whilst the previous offending involved a Category 1 substance. However, that does not mean, as the Appellant submitted, that the present matter should be regarded as a first offence for the purposes of assessing penalty, or that the previous matter is somehow irrelevant. Both offences involve a breach of the same rule (albeit in respect of a different category of substance) and for obvious reasons, repeat offending is a relevant consideration. It is also of some significance that the present offence was committed only a matter of weeks after the expiration of the Appellant's previous period of disqualification.

32. Seventhly, and bearing in mind the limitations placed upon the consideration of outcomes in previous cases as I have outlined, the following brief observations may be made in relation to the determinations in other cases relied upon by the Appellant:

- (i) the Appellant in *Swain*:
 - (a) had been an industry participant for 50 years;
 - (b) committed the same offence in relation to Meloxicam;
 - (c) pleaded guilty;
 - (d) had two prior offences in respect of the same substance;
 - (e) was suspended for 5 weeks.
- (ii) the Appellant in *McDonald*:

- (a) had been an industry participant for 30 years;
 - (b) committed the same offence in relation to *Meloxicam*;
 - (c) pleaded guilty;
 - (d) had no other similar offences in his disciplinary history;
 - (e) was fined \$1,000.00.
- (iii) the Appellant in *Lord*:
- (a) had been an industry participant for 60 years;
 - (b) committed the same offence in relation to *Meloxicam*;
 - (c) pleaded guilty;
 - (d) had (at that point) one prior similar offences in his disciplinary history (in relation to caffeine);
 - (e) was fined \$400.00 and was suspended for 4 weeks (which was itself suspended).
- (iv) the Appellant in *Lee*:
- (a) had been an industry participant for 30 years;
 - (b) committed the same offence in relation to *Meloxicam*;
 - (c) pleaded guilty;
 - (d) had one prior offence in respect of a category 2 substance;
 - (e) was suspended for 4 months;
 - (f) committed a second offence in relation to *Meloxicam*;
 - (g) pleaded guilty;
 - (h) was suspended for 9 months by Stewards;
 - (i) was suspended for 6 months by the Tribunal (which was itself suspended).³⁵
- (v) the Appellant in *Jenner*:
- (a) had been an industry participant for 35 years;

³⁵ It is evident from the determination in *Lee* that the Appellant's age, and his state of health, were significant subjective factors in the Tribunal's determination: see [34](i) and (iv).

- (b) committed the same offence in relation to Meloxicam;
- (c) pleaded guilty;
- (d) had one prior offence in respect of a category 2 substance;
- (e) was suspended for a period of 9 weeks.

33. The short precis set out above highlight the salient factors in each of those cases, and demonstrate the bases on which each is distinguishable from that of the Appellant. None of the outcomes of these cases demonstrate that the penalty imposed on the Appellant is too severe. On the contrary, they demonstrate that when all relevant factors are taken into account, the penalty imposed on the Appellant sits comfortably within the range of the proper exercise of discretion, and is generally consistent with the penalties which have been imposed in previous instances of similar offending.

34. Finally, it needs to be emphasised that the penalty guidelines do not, as the Appellant has submitted, set out a “*standard sanction*”. The guidelines are just that: a guide. They are not binding on me in any event.

35. For all of these reasons, I am satisfied that the penalty is appropriate.

36. In those circumstances, the appeal must be dismissed.

ORDERS

37. I make the following orders:

1. The appeal is dismissed.
2. The appeal deposit is forfeited.

THE HONOURABLE G J BELLEW SC

12 May 2025