IN THE RACING APPEALS TRIBUNAL

MARK AZZOPARDI
Applicant

v

GREYHOUND RACING NEW SOUTH WALES
Respondent

DETERMINATION

Date of hearing:	**29 May 2025**
Date of determination:	**10 June 2025**
Appearances:	**Mr J McLeod instructed by Advocatus Lawyers for the Appellant**
	Mr P Wallis instructed by HWL Ebsworth for the Respondent

ORDERS

1. **The appeals against the penalties imposed for each of the first and second offences are upheld.**

2. **The penalties imposed by the Respondent in respect of each of the first and second offences are quashed.**

3. **In lieu thereof the following penalties are imposed:**

    3.1 In respect of the first offence, a disqualification of 6 years, commencing on 22 December 2016 and concluding on 21 December 2022.
    3.2 In respect of the second offence, a disqualification of 6 months, commencing on 22 August 2017 and concluding on 21 August 2018.

4. **The penalties in 3.1 and 3.2 are to be served concurrently.**

5. **Any appeal deposits are to be refunded.**

6. **The Appeals Secretary is to forward a copy of these reasons to the Greyhound Welfare and Integrity Commission for its assistance in determining any application the Appellant might now make.**

INTRODUCTION

1. On 23 December 2024 I made orders pursuant to cl 10(6) of the *Racing Tribunal Regulation 2024* (NSW) extending the time for the Appellant to file Notices of Appeal in respect of the decisions of the Respondent to:

    (i) disqualify him for a period of 9 years and 9 months for an offence contrary to r 83(2) of the (then) *Greyhound Racing Rules* (the Rules) committed on 5 August 2016 (the first offence); and

    (ii) further disqualify him for a period of 13 years for a second offence contrary to r 83(2) committed on 19 September 2016 (the second offence).

2. I also made ancillary orders facilitating the filing of Notices of Appeal and evidence.

3. The appeals were heard on 29 May 2025, for the purposes of which I was provided with a Tribunal Book (TB) extending to some 963 pages. That encompasses the entirety of the material relied upon by both parties, although I was further assisted by oral submissions at the hearing.

THE FACTS

The first offence

4. On 25 October 2016, the Respondent charged the Appellant with a breach of r 83(2) of the *Greyhound Racing Rules* (the Rules) in the following terms:

    > *That [the Appellant], a registered trainer, while in charge of the greyhound 'Carjack Arrest', presented the greyhound for the purposes of competing in Race 3 at Richmond on August 5 2016 in circumstances where the greyhound was not free of any prohibited substance.*

5. The prohibited substance was amphetamine.

6. The Appellant was found guilty by Stewards and disqualified for a period of 9 years and 9 months, commencing on 22 December 2016.[1] The reasoning of the Stewards was expressed (in part) as follows:[2]

> *[11] The starting point for the determination of penalty for a category 2 substance under the Penalty System is 156 weeks disqualification.*
>
> *[12] In accordance with the Penalty System, the Steward has considered the aggravating factor of [the Appellant] being found guilty of two previous presentation offences. These were:*
>
> *(a) Positive swab relating to the prohibited substances (sic) benzoylecgonine in 2013. The Participant was disqualified for a period of 2 years.*
>
> *(b) Positive swab relating to the prohibited substance amphetamine in 2016. The Participant was disqualified for a period of 5 years with 2 years suspended.*
>
> *[13] In accordance with the Penalty System, the Steward has considered the mitigating factor of the Participant being (sic) the low level of prohibited substance as confirmed by the Confirmatory Laboratory.*
>
> *[14] Having regard to the above considerations, the Steward considered that a period of disqualification of 9 years and 9 months is the appropriate penalty in the circumstances commencing 22 December 2016.*

The second offence

7. On 9 May 2017, the Respondent charged the Appellant with a further breach of r 83(2) of the Rules in the following terms:

> *That [the Appellant], a registered trainer, while in charge of the greyhound 'Very Choosy', presented the greyhound for the purposes of competing in Race 8 at Bathurst on 19 September 2016 in circumstances where the greyhound was not free of any prohibited substance.*

8. The prohibited substance was caffeine, and its metabolites theophylline, paraxanthine and theobromine.

[1] TB 512.
[2] TB 512 at [11] – [16].

9. The Appellant was found guilty of the charge and was disqualified for a period of 13 years. That penalty was ordered to be cumulative upon the penalty imposed for the first offence[3] leading to a total effective disqualification of 22 years and 9 months The reasoning of the Stewards was expressed (in part) as follows:[4]

> *[11] In accordance with the Penalty System, the Inquiry Panel considers that the penalty is aggravated by the Participant's previous three breaches of the Rules in relation to prohibited substances.*
>
> *...*
>
> *[12] The Inquiry Panel considers the decision of the Racing Appeals Tribunal, Victoria, of 3 April 2000 in relation to Patterson where Judge Villeneuve-Smith said:*
>
> *A breach of the rules once can be attributable to human frailty or misadventure. A second time it leads to the arousal of suspicions of the bona fides of the individual. To offend yet again would be the result of a product of nefarious intent or culpably reckless behaviour.*
>
> *[13] This is the Participant's fourth offence related to a serious prohibited substance since 2013. The Inquiry Panel considers that such history within a short period is intolerable and that the Inquiry Panel must impose a significant penalty that sends a clear and unequivocal message to the Participant and other trainers who may be like minded that such repeated non-compliance with the Rules will not be accepted.*

10. The Appellant is presently disqualified until 22 September 2039.

THE RELEVANT PROVISION OF THE RULES

11. As noted, both offences were contrary to r 83(2) of the Rules which, at the material time, was in the following terms:

> ***R 83 Greyhound to be free of prohibited substances***
> *(1) ...*
>
> *(2) The owner, trainer or person in charge of a greyhound-*
> *(a) nominated to compete in an Event;*
> *(b) presented for a satisfactory, weight or whelping trial or such other trial as provided for pursuant to these Rules; or*

[3] TB 519.
[4] TB 518.

(c) presented for any test or examination for the purpose of a period of incapacitation or prohibition being varied or revoked

shall present the greyhound free of any prohibited substance.

(3) The owner, trainer or person in charge of a greyhound presented contrary to sub-rule (2) shall be guilty of an offence.

THE NOTICES OF APPEAL

12. Notices of Appeal have now been filed in respect of both decisions.[5] Although each of those Notices advances individual grounds, the nature of an appeal under the *Racing Appeals Tribunal Act 1983* (NSW) (the Act) is such that an Appellant does not have to establish specific error. Counsel for the Appellant accepted[6] that in determining the appeals I am engaging in a fresh exercise of discretion. The Appellant's primary contention is that the individual penalties imposed by the Respondent at first instance, and the overall penalty, are "*draconian, inflexible and manifestly excessive*".[7]

THE FACTS AND CIRCUMSTANCES OF THE OFFENDING

13. The facts of the offending will be self-evident from the particulars of each offence. No elucidation is necessary.

PRELIMINARY ISSUES

14. Before addressing the substance of the appeals, there are two preliminary matters which must be addressed.

15. The first stems from the fact that the Respondent to the present appeals is Greyhound Racing New South Wales, the previous regulator of the greyhound racing industry. The enactment of the *Greyhound Racing Act 2017* (NSW) saw the creation of a new regulator, the Greyhound Welfare and Integrity Commission (the Commission).[8] The Commission was invited by the Respondent[9] to seek leave to

[5] TB 6 – 11 in respect of the first Stewards' decision; TB 12 – 18 in respect of the second Stewards' decision.
[6] Transcript 2.49 – 3.38.
[7] Transcript 10.46.
[8] See s 4.
[9] TB 762 – 763.

appear at the hearing of the appeals, on the basis that, as the present Regulator of the industry, it had an interest in the outcome. The Commission declined to take up that invitation.[10] It would have been advantageous for the Tribunal to have had the assistance of submissions from the Commission. The position it took not only deprived the Tribunal of such assistance, but left the Respondent in the difficult position of having to respond to the Appellant's submissions in circumstances where it is no longer the regulator. I am grateful for the way in which counsel for the Respondent, and those who instruct him, have approached that difficulty.

16. The second matter arises from the submissions of the Respondent. The Respondent sought to assist me by outlining factual matters and mitigating factors which might justify a reduction in the penalties which had been imposed,[11] before submitting the following:[12]

> *[The Respondent proposes] that the Tribunal should exercise its power pursuant to s 17A(1)(c) of the Racing Appeals Tribunal Act 1983 (NSW) to order [the Commission] to decide upon the Appellant's disqualification periods, as a de novo hearing, having regard to any findings of fact made by the Tribunal.*

17. That course was opposed by the Appellant.[13]

18. Section 17A(1)(c) of the Act is in the following terms:

> ***17A Determination of appeals relating to greyhound racing or harness racing***
>
> *(1) The Tribunal may do any of the following in respect of an appeal under section 15:*
>
> *(a) ...*
>
> *(b) ...*
>
> *(c) make such other order in relation to the disposal of the appeal that the Tribunal thinks fit.*

[10] TB 764.
[11] Submissions at 1.11(a) and (b), TB 41.
[12] Submissions at 1.11(c), TB 41.
[13] Transcript 4.29 and following.

19. Whilst some input from the Commission in relation to the issues arising on the appeals would have been welcome, I am unable to adopt the course suggested by the Respondent. That is so for a number of reasons.

20. First, there is merit in the submission advanced by counsel for the Appellant that as a matter of statutory construction, the power in s 17A(1)(c) of the Act does not extend to taking the course which has been suggested. In this regard, s 17A can be usefully compared to, and contrasted with, s 17 of the Act which addresses appeals in respect of thoroughbred racing, and which includes s 17(1)(c) which confers a discretion on this Tribunal to refer any matter to various nominated bodies for rehearing, in accordance with any directions which might be given. Section 17A, which addresses appeals in respect of harness racing and greyhound racing, incorporates no equivalent provision. Its absence supports a conclusion that the Parliament deliberately intended that the course for which s 17 provides in association with thoroughbred racing would not be available in the case of greyhound racing and harness racing.

21. Secondly, the power in s 17(1)(c) is limited to making an order *"in relation to the disposition of the appeal"*. It is at least arguable that an order that another body determine the present appeals may not fall within the purview of something that relates to their *disposition*. Making the order sought by the Respondent would not result in the disposition of anything by this Tribunal.

22. Thirdly, and even if the two propositions discussed above were found to be plainly wrong, it is beyond doubt that s 17(1)(c) confers a *discretion*. Even if it were open to be invoked, considerations of efficiency, cost and time all tend completely against the discretion being exercised in the way for which the Respondent contends.

23. For all of these reasons, I propose to determine the appeals.

THE EVIDENCE RELIED UPON BY THE APPELLANT

24. The Appellant relies on a large body of documentary evidence to which I now turn.

The Appellant's Statement

25. The Appellant provided a statement dated 6 February 2025[14] which was supplementary to the evidence he gave in the previous hearing. He was not cross-examined on the contents of his statement, in which he stated that:

    (i) he did not, when committing either offence, *intend* to administer any prohibited substance to either greyhound, to cheat, or to otherwise gain an advantage;[15]

    (ii) he was suffering from serious personal issues at the time of the offending, including mental health diagnoses and drug addiction;[16]

    (iii) he believes that the two greyhounds were found with the prohibited substances in their system due to secondary contact with him, in circumstances where he was handling them multiple times each week;[17]

    (iv) he is ashamed and embarrassed by the offending, and deeply regrets it;[18]

    (v) he is now rehabilitated and has not consumed any illegal drugs for "*many years*";[19]

    (vi) the effect of the penalties imposed by the Respondent had been "*very difficult*" for him, and had deprived him of "*what [he] had known and what [he] had loved doing"*;[20]

    (vii) his improved mental health would be further enhanced if he were allowed to return to the industry.[21]

[14] Commencing at TB 81.
[15] At [3] – [6].
[16] At [4].
[17] At [5].
[18] At [6] – [7].
[19] At [8].
[20] At [15].
[21] At [15]; [17].

26. The Appellant is currently employed by NSW Health as a hospital wardsperson[22] He proposes, if and when he is permitted to be registered as an industry participant, to engage in what might be described as a graduated re-entry in the course of which, with the assistance of others, he will familiarise himself with current industry protocols and practices.[23]

27. I should record the fact that when giving evidence before me at the earlier hearing,[24] the Appellant impressed me as a person who has undergone significant (and apparently successful) rehabilitation from an addiction to prohibited drugs, and who is genuinely remorseful for aspects of his past, both within and outside the greyhound racing industry. I unreservedly accept his evidence[25] that he is motivated to return to the industry because of his affection for greyhounds, and with an intention to provide for his family. Whether he is permitted to do so will be up to others in the first instance, but I am in no doubt that his motivations are well founded and genuine.

Testimonial and related evidence

28. The Appellant's stated intentions and ambitions in terms of a return to the greyhound racing industry are supported by a number of persons. To begin with:

    (i) Karen Pitt, a licenced greyhound trainer in Victoria, has undertaken to support the Appellant by giving him the opportunity to engage in the industry, and thus affirm his knowledge and skills;[26] and

    (ii) he will have the immediate support of a number of owners who will entrust him with the responsibility of training their greyhounds.[27]

[22] See evidence at the previous hearing at Transcript 10.27.
[23] At [19] – [25].
[24] Commencing at Transcript 10.1 of the previous hearing.
[25] At [25].
[26] TB 85.
[27] See the testimonial of Mr Sergi at TB 86; Mr Payne at TB 87; Mr Carbone at TB 88.

29. Outside of the industry, the Appellant is supported by his partner, Nina McEvilly, who also provided a statement, the contents of which are unchallenged.[28] Ms McEvilly has been in a relationship with the Appellant since 2013,[29] and they have a son born in March 2022 and who has special needs.[30] It is not necessary for me to canvas Ms McEvilly's statement in any detail. All that needs to be said is that the support she provides to the Appellant is unequivocal. I do not underestimate the importance of that support in the Appellant's continuing rehabilitation and his associated desire to return to the greyhound racing industry.

30. The Appellant also relies on a series of other testimonials which are again unchallenged, some of which have been provided by persons outside of the industry. Those persons variously speak of:

    (i) the laudable efforts that the Appellant has made to overcome the various issues in his past;[31]
    (ii) his remorse for those issues;[32]
    (iii) the honesty, hard work, reliability and diligence that he displays in his current employment;[33]
    (iv) the responsibility he displays towards the needs of his son, as well as the needs of others.[34]

The medical evidence

31. The Appellant also relies upon two expert reports of Dr Stephen Allnutt, Forensic Psychiatrist, dated 14 March 2024 and 21 October 2024. Whilst these reports were primarily obtained to support the previous application for an extension of time, it is important for present purposes to note Dr Allnutt's conclusions that:

[28] Commencing at TB 89.
[29] At [6].
[30] At [3] and [4].
[31] Seona and Jason Thompson at TB 94.
[32] Domenic Sergi at TB 95.
[33] Ashley Tasevski at TB 96; Sylvia Pomroy at TB 98.
[34] Margaret Napier at TB 97.

(i) the Appellant previously suffered from a depressive condition;[35]

(ii) that condition commenced to abate in about 2019;[36]

(iii) the Appellant does not currently manifest symptoms of any diagnosable psychiatric condition;[37] and

(iv) his substance abuse disorder has been in remission since 2017, i.e. for approximately 8 years.[38]

32. Consistent with the conclusion in (iv), a drug screening test of the Appellant was negative, as outlined in a report of 25 October 2024 prepared by Dr Anthony Anachua.[39]

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

33. The submissions of counsel for the Appellant may be distilled into the following propositions:

(i) each of the penalties is manifestly excessive;[40]

(ii) such manifest excess has been brought about, at least in part, by the fact that the penalty imposed for the second offence was ordered to be cumulative on the penalty imposed for the first;[41]

(iii) the total period of disqualification is at odds with principles of proportionality and totality,[42] and constitutes a penalty which is both oppressive and crushing;[43]

[35] TB 114.
[36] TB 115.
[37] TB 114.
[38] TB 114.
[39] TB 164.
[40] Submissions at [13](a); [45].
[41] Submissions at [13](b).
[42] Submissions at [13](g).
[43] Submissions at [13](f).

(iv) the Appellant's evidence that he had no intention to cheat should be accepted, which is relevant to an assessment of the objective seriousness of the offending;[44]

(v) the Appellant has now served a total disqualification of more than 8 years, a period which:

(a) more than reflects all relevant considerations including the objective seriousness of the offending;

(b) more than adequately meets both community and industry expectations;[45]

(vi) the Appellant has a strong subjective case, from which it is clear that:

(a) the personal issues which impacted upon him at the time of the offending had now been completely overcome;[46]

(b) he is genuinely remorseful;[47]

(vii) although the Appellant committed two similar offences prior to the first offence, such offences should be viewed through the prism of the personal difficulties he was suffering at the time;[48]

(viii) the Appellant has the clear support of a number of persons who have provided testimonial and other evidence[49] some of whom will specifically support his clearly defined pathway for a return to the industry if he is permitted to do so;[50]

(ix) a substantial injustice will be visited on the Appellant if the penalties are not reduced, to the point where I should come to the view that the period of disqualification he has served represents a more than adequate penalty.[51]

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[44] Submissions at [16]; Transcript 16.20; 21.6 – 21.9.
[45] Submissions at [13](c) – (e).
[46] Submissions at [20] – [29]; [32]; Transcript 18.22 – 18.30.
[47] Submissions at [31].
[48] Submissions at [30].
[49] Submissions at [33] – [34]; Transcript 24.7 – 24.9.
[50] Submissions at [46].
[51] Submissions at [47].

Submissions of the Respondent

34. Noting the constraints within which the Respondent has been required to approach the present appeals, its submissions may be summarised as follows:

(i) the penalties had been calculated in accordance with the terms of the Respondent's penalty guidelines which were then in operation;[52]

(ii) those guidelines remained relevant, albeit that the Commission's guidelines were indicative of lesser penalties;[53]

(iii) the Appellant's disciplinary history, incorporating the two prior offences, was deserving of substantial weight in the process of assessing penalty[54] and operated to increase the penalties to be imposed for the first and second offences;[55]

(iv) there was limited evidence to support a conclusion that the Appellant had engaged in meaningful drug and alcohol rehabilitation, or mental health treatment;[56]

(v) the Appellant's attempted "*downplaying*" of the significance of his offending was indicative of a lack of remorse;[57]

(vi) there were a number of subjective factors in the Appellant's favour including his recent history of stable employment, and the evidence of his positive good character;[58]

(vii) it would be open to accept the Appellant's assertion that the offending came about by way of innocent transfer, such that it fell at the lowest level of objective seriousness and culpability;[59]

(viii) a low level of substance was present in relation to the first offence;[60]

[52] Submissions at 2.1(a).
[53] Submissions at 3.1(c).
[54] Submissions at 2.1(c).
[55] Submissions at 1.6.
[56] Submissions at 3.1(a).
[57] Submissions at 3.1(b).
[58] Submissions at 3.2.
[59] Submissions at 3.2
[60] Submissions at 3.2.

(ix) the Appellant had already served a substantial disqualification of more than 8 years.[61]

CONSIDERATION

35. It is appropriate to commence by making some general observations.

36. First, at the time of imposing the original penalties, the decision-makers had no evidence before them as to the Respondent's subjective circumstances. Whilst the responsibility for that lies with the Appellant, there is a plethora of subjective evidence before me. I therefore consider that I am in a substantially better position that the decision makers to determine the appropriate penalties.

37. Secondly, presentation offences of the kind committed by the Appellant are, of themselves, objectively serious. They necessarily have the capacity to affect the integrity of, and public confidence in, the greyhound racing industry, and threaten the maintaining of a level playing field for participants.

38. Thirdly, I accept that the Appellant's two previous offences are relevant in determining the penalties for the first and second offence. That said, there is nothing before me which suggests any sustained history of criminal offending.

39. Fourthly, and without intending any disrespect, considerable care must be taken when applying broad statements of the kind made in *Patterson* which appears to have been relied upon by the decision-makers at first instance when imposing the penalty for the second offence.[62] Each case must be determined on its particular facts.

40. Fifthly, penalty guidelines (be they those of the Respondent or the Commission) are of limited significance for two reasons. The first, is that they are just that, a

[61] Submissions at 3.2.
[62] See [9] above.

guide. The second, is that they are not binding on me in any event. In those circumstances I do not consider that I am required to resolve any issue as to which guidelines might be relevant.[63]

41. I turn to the objective seriousness of the first and second offences. The Respondent's concessions in this regard[64] are entirely appropriate. The offending in both cases tends towards the lower end of the scale. There is no evidence to support a finding that the commission of either offence was deliberate in any sense and I accept that the Appellant did not set out to cheat or gain an advantage.

42. Presentation cases of this kind are generally accepted as falling into one of three categories, namely:

    1. where there is evidence of positive culpability on the part of the participant, for example, where there is evidence of the participant knowingly and intentionally administering the prohibited substance;
    2. where the participant provides no explanation for the presence of the prohibited substance, or where such explanation which is proffered is rejected, such that the Tribunal is left in a position of having no real idea as to how the substance came to be in the animal's system;
    3. where the participant provides an explanation for the presence of the prohibited substance which the Tribunal accepts, and which supports a conclusion that there is no culpability at all.[65]

43. In my view, the present offending falls into the second category. It may be that the presence of the substances in the two greyhounds came about by way of what might be described as secondary transfer of a kind described by the Appellant, but I am not able to affirmatively reach that conclusion. General deterrence has some role to play in determining an appropriate penalty.

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[63] See for example *R v Moon* [2000] NSWCCA 534 at [71]; *Crimes (Sentencing Procedure) Amendment Act 2022* (NSW) Sch. 1[4].
[64] See [34](vii), (viii) and (ix) above.
[65] See *McDonough* [2008] VRAT 6.

44. In terms of the Appellant's subjective case, the following matters are relevant.

45. First, the Appellant did not appear before the decision-makers at first instance, and accordingly the matter proceeded on the basis that he had pleaded not guilty. The Appellant's personal circumstances at that time are well-documented. The clear inference is that those circumstances played some role in the Appellant's non-appearance. In the proceedings before me, the Appellant has not taken any issue with his guilt. In all of the circumstances, and given that I am considering the matter in the fresh exercise of discretion, I consider that the Appellant should have the benefit of a discount of 20%.

46. Secondly, I am satisfied that the Appellant is genuinely remorseful for his offending. In this regard, I am unable to accept the submission of the Respondent that the Appellant has sought to "*downplay*" his offending, and that this is indicative of a lack of remorse. On the contrary, the Appellant has been completely accepting of the nature and extent of his wrongdoing. The entirety of his evidence in this respect is unchallenged. There is no reason not to accept it.

47. Thirdly, I am satisfied that the Appellant has undergone significant, and importantly successful, rehabilitation from his previous addiction to drugs. In this respect, I am again unable to accept the submission of the Respondent that there is an absence of evidence of the Appellant having engaged in such rehabilitation. As I have noted[66] a drug screening test performed in October 2024 was negative. That result speaks for itself, as does the fact that the Appellant has found stability in both his personal life and in his employment. The Respondent's submission also flies in the face of the evidence of Dr Allnutt[67] that the Appellant's previous substance abuse disorder has been in remission for approximately 8 years.

[66] At [32] above.
[67] At [31] above.

48. Fourthly, I am similarly unable to accept the Respondent's submission that there is a lack of evidence that the Appellant has engaged in meaningful mental health treatment. That proposition is somewhat inconsistent with the unchallenged evidence of Dr Allnutt[68] that the Appellant's mental health issues commenced to resolve in about 2019, and that the Appellant is not currently manifesting any symptoms of a diagnosable psychiatric condition. It is also inconsistent with the objective inconsistency in the Appellant's personal and professional life.

49. Fifthly, I am satisfied that the Appellant has undergone a level of rehabilitation which is both clear and convincing. Whilst it will obviously be necessary, for a number of reasons, for the Appellant to maintain that course, I am satisfied on the evidence before me that his rehabilitation is effectively complete.

50. Sixthly, it is noteworthy that the Appellant has a strong support network available to him, constituted by persons both within and outside the greyhound racing industry. With that in mind, and also having regard to the Appellant's personal circumstances, I am satisfied that there is little risk of the Appellant re-offending. It follows that specific deterrence is not an issue in terms of assessing penalty.

51. Finally, many of those who have supported the Appellant have specifically attested to his good character. That is further evidence of the extent of his rehabilitation.

52. The remaining issue concerns the degree to which (if any) the penalties to be imposed on the Appellant should be concurrent or cumulative (be any accumulation whole or part). Determinations of that kind are entirely discretionary. The Rules provide no specific guidance as to matters which are to be taken into account in that respect. Accordingly, the discretion falls to be exercised by reference to, amongst other things, considerations of totality and proportionality.

[68] At [31] above.

53. The relevant chronology is as follows:

DATE	EVENT
5 August 2016	First offence committed – '*Carjack arrest*'.[69]
19 September 2016	Second offence committed – '*Very choosy*'.[70]
25 October 2016	Appellant charged with first offence.[71]
22 December 2016	Disqualification of 9 years and 9 months imposed in respect of first offence.[72]
9 May 2017	Appellant charged with second offence.[73]
22 August 2017	Disqualification of 13 years imposed in respect of the second offence.[74]

54. A number of factors emerge from that Chronology.

55. First, the first and second offences were committed within approximately 6 weeks of each other.

56. Secondly, whilst those offences were separate and distinct, and did not form the one course of conduct in a strict sense, they were proximate in time. They could (and arguably should) have been dealt with together.

57. Thirdly, and importantly, this was not a case in which the Appellant was dealt with in respect of the first offence, and responded by committing the second offence. Notwithstanding that, it would appear that the decision makers took the commission of the first offence into account as an aggravating factor.[75]

[69] TB 10 at [1].
[70] TB 16 at [1].
[71] TB 10 at [1].
[72] TB 11 at [14].
[73] TB 16 at [1].
[74] TB 18 at [18].
[75] TB 17 at [11](c).

58. Fourthly, the decision makers, when imposing the sentence for the second offence, noted the guideline of a disqualification of 24 weeks.[76] The penalty imposed was a disqualification of 13 years. That equated to six and a half times the guideline.

59. Whilst the Appellant is not required to establish specific error in order to succeed in the present appeals, the matters to which I have referred above reflect what was, in my view, a miscarriage of the discretion. That has, in part, led to the imposition of a sentence which in my view is manifestly excessive, in the sense of being unreasonable or plainly unjust.[77]

ORDERS

60. The practical effect of the orders that I propose to make is that the Appellant has now served the entirety of his disqualification. It will be a matter for the Commission to consider any application that the Appellant might make for registration. For the reasons given, I make the following orders:

1. The appeals against the penalties imposed for each of the first and second offences are upheld.
2. The penalties imposed by the Respondent in respect of each of the first and second offences are quashed.
3. In lieu thereof the following penalties are imposed:
    3.1 In respect of the first offence, a disqualification of 6 years, commencing on 22 December 2016 and concluding on 21 December 2022.
    3.2 In respect of the second offence, a disqualification of 6 months, commencing on 22 August 2017 and concluding on 21 August 2018.
4. The penalties in 3.1 and 3.2 are to be served concurrently.
5. Any appeal deposits are to be refunded.

[76] TB 17 at [10].
[77] See generally *Dinsdale v The Queen* [200] HCA 54; (2000) 202 CLR 321.

6. The Appeals Secretary is to forward a copy of these reasons to the Greyhound Welfare and Integrity Commission for its assistance in determining any application the Appellant might now make.

THE HONOURABLE G J BELLEW SC

10 June 2025