IN THE RACING APPEALS TRIBUNAL

JEREMY McGRATH
Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION
Respondent

REASONS FOR DETERMINATION

Date of hearing	**24 October 2025**
Date of determination	**3 November 2025**
Appearances	**Mr G Walters for the Appellant**
	Mr B Gillies for the Respondent

ORDERS

1. **The appeal is upheld.**
2. **The determination of the Respondent imposing a disqualification of 18 months is quashed.**
3. **In lieu thereof, the Appellant is disqualified for a period of 14 months.**
4. **The penalty in order [3] will expire at midnight on 28 July 2026.**
5. **The appeal deposit is to be refunded.**

INTRODUCTION

1. By a Notice of Appeal dated 3 June 2025, Jeremy McGrath (the Appellant) appeals against the determination of the Greyhound Welfare and Integrity Commission (the Respondent) of 28 May 2025 imposing a disqualification of 18 months following a finding of guilt in respect of an offence contrary to r 141(1)(a) of the *Greyhound Racing Rules* (the Rules).

2. The appeal was heard on 24 October 2025, and proceeded principally on the basis of documentary evidence contained in a Tribunal Book (TB) prepared by the parties.

THE RELEVANT PROVISIONS OF THE RULES

3. Rule 141(1)(a) of the Rules provides as follows:

> ***Greyhound to be free of prohibited substances***
> *(1) 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.*

THE FACTS OF THE OFFENDING

4. The Appellant, who was registered with the Respondent as a public trainer, was the trainer of *Zipping Monroe* (the greyhound). On 19 February 2025, the greyhound competed in Race 1 at Richmond, and placed first. A urine sample taken from the greyhound following the race revealed the presence of Ostarine, a permanently banned prohibited substance.[1]

5. On 8 April 2025, the Respondent wrote to the Appellant advising of the result of the analysis.[2] On 12 May 2025, the Respondent wrote to the Appellant again,

[1] TB 31.
[2] TB 32 – 33.

advising of its intention to impose an interim suspension[3] but subsequently determined that this was not appropriate.[4]

6. On 19 May 2025, the Respondent wrote to the Appellant charging him with an offence contrary to r 141(1)(a), the particulars of which were as follows:[5]

> 1. *That you, as a registered public trainer, presented the greyhound Zipping Monroe for the purpose of competing in Race 1 at the Richmond meeting on 19 February 2025 in circumstances where the greyhound was not free of any prohibited substance.*
> 2. *The prohibited substance detected in the sample of urine taken from the greyhound following the event was Ostarine.*
> 3. *Ostarine is a permanently banned prohibited substance under Rule 139(1)(j) of the Rules.*

7. On 22 May 2025, the Appellant wrote to the Respondent in the following terms:[6]

> *I refer to the notice issued by GWIC In relation to the detection of the prohibited substance "Ostarine" in the urine sample of my greyhound Zipping Monroe following its participation in Race 1 at Richmond on 19 February 2025.*
>
> *After careful consideration, I wish to formally plead guilty to the charge under Rule 141(1)(a. I acknowledge that as the trainer, I am responsible for ensuring the greyhound is presented free of prohibited substances.*
>
> *I would like to respectfully provide the following explanation and context in support of my submission for a reduced penalty.*
>
> *The substance was administered in the form of what I believed to be a legitimate muscle repair product, which I was advised would not result in a positive swab.*
>
> *I administered this product a week prior to the event, genuinely believing that the time frame was sufficient for it to clear the dog's system.*
>
> *During this period, I was under considerable personal stress. I had been working long hours underground at a coal mine and, critically, my daughter was admitted to hospital by ambulance due to a serious heart condition.*
>
> *This understandably affected my judgment and mental clarity at the time.*

[3] TB 45 – 47.
[4] TB 48.
[5] TB 51.
[6] TB 54 – 55.

I did not act with any intention to gain an unfair advantage and I have no prior breaches of this nature in my record.

I have always co-operated fully with GWIC and take my responsibilities as a Public Trainer seriously. I am deeply regretful of the breach and the impact it may have on the integrity of the industry.
I assist fellow participant Rick Board by handling and transporting his greyhounds to race meetings as he is unable to regularly attend tracks due to his age and health given the lack of a nearby track in our area. I often travel significant distances to ensure his dogs can race.

I am committed to supporting the industry, not only through my own training activities but by helping others stay involved in the sport.

I understand the importance of maintaining strict compliance with the rules and accept responsibility for my actions. I respectfully request that my early guilty plea be considered along with the mitigating circumstances outlined above and that the Commission considers a reduction in the proposed penalty in accordance with its penalty guidelines.

8. The Appellant was interviewed by the Stewards on 28 May 2025 and the transcript that interview forms part of the evidence before me.[7] In the course of that interview, the Appellant said (amongst other things) the following:[8]

APPELLANT: *No, it doesn't have a label. My understanding it was muscle repair to fix small tears.*

DEGAN: *But you weren't aware of the ingredients?*
APPELLANT: *No, they come from a greyhound person who's been in the game a long time and he's – apparently, his dad was a vet that made this years ago and he had made something and said that there was definitely nothing in there that was swabbable.*

DEGAN: *Okay. We did have the lab on call if you wanted to have you had any questions to the lab or we did also have our Chief Veterinary Officer Tony Kuipers if you had any questions regarding the product Ostarine. Did you require either of those gentlemen today?*
APPELLANT: *Not really. If it's in there, it's in there, I can't change what's happened. And, you know, it's definitely not the product that I brought and as far as I am concerned on the history and research I've done on it, it'd be something you'd have to use more than just once-off, you know what I mean?*

[7] Commencing at TB 78.
[8] TB 80.

9. When given the opportunity to address Stewards on the question of penalty, the Appellant said:[9]

> *Oh, there's not much I can say but if I wanted to enhance a dog I would have looked at different options or plenty of other options and, you know, everyone has been caught for other things and I just - it's just not my cause, you know.*
>
> *You have a look at them dogs that have had 10 starts in 12 months, one's had 12 or 14, the other one. If I wanted to enhance a dog, I wouldn't be using something like that. I've never done - probably the first time I've ever used the needle on the dog. Most of the time, even my B12 or iron shot,. I go to Claire Harrison once a month, my vet, she administrates that.*
>
> *You know, it was a silly move now when I look at it and I still wonder if I've been set up with it all. But at the end of the day, I was accountable for my actions and that's why I pleaded guilty to it all.*

10. When asked if he had any concerns due to the absence of a label on the bottle containing the substance, the Appellant said:[10]

> *But I wasn't thinking clearly and I'd been at the hospital. I actually did it the next day. It was on Thursday. My little girl had been in hospital on the Wednesday night and I knew I was going to work Friday, Saturday, Sunday, Monday and I wasn't 100% with the dog. And I knew I wouldn't be able to work on it, so I resolved it to this. But I definitely didn't know it would be this level of drug or form at all. Like it's crazy. Yeah.*

EVIDENCE IN THE APPELLANT'S CASE

11. The Appellant made a statement for the purposes of the appeal, on which he was not cross-examined.[11] Its contents may be summarized as follows.

[9] TB 84.
[10] TB 85.
[11] Commencing at TB 15.

12. The Appellant is 42 years of age and is married with two children.[12] He was first introduced to the industry in 2004.[13] He was first registered as an Owner/Trainer on 6 June 2006, and as a Public Trainer on 30 November 2009.

13. The Appellant has, over a long period of time, extensively assisted other industry participants.[14] He accepted that his breach has compromised the integrity of the industry, and that a penalty must be imposed.[15]

14. The Appellant also gave oral evidence at the hearing of the appeal.[16] That evidence generally confirmed the contents of his statement, and he was not cross-examined.

15. The Appellant also relied on a series of testimonials in which he was variously described as *a respected figure within the industry*,[17] a person whose conduct and attitude are a *"testament to his kindness and love for the animals he works with*.[18]

EVIDENCE IN THE RESPONDENT'S CASE

16. The Respondent relied upon a report of Dr Karamatic, Chief Veterinarian, of 13 July 2025. Dr Karamatic said that Ostarine is capable of having anabolic (e.g. tissue building) effects without any noticeable androgenic (e.g. aggression) effects of anabolic steroids.[19] Such effects may include an increase in speed and endurance, but in Dr Karamatic's opinion any effect on performance was likely to be positive.[20] He said that it was safe to assume that the product could affect a greyhound's performance[21] and that there was no reason for the substance to be

[12] At [1].
[13] At [5].
[14] At [16].
[15] At [19] – [20].
[16] Commencing at Transcript 4.25.
[17] Kylie Provest at TB 19.
[18] Brian Moloney at TB 20.
[19] At [19].
[20] At [28].
[21] At [21].

present in a greyhound, let alone administered.[22] He also pointed out[23] that permanently banned substances were the subject of a Notice to Industry issued on 13 July 2018.

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

17. In written submissions, Mr Walters, who appeared on behalf of the Appellant, advanced the primary submission that the penalty imposed was too severe.[24] He also pointed out that the Appellant:

    (i) is of prior good character;[25]

    (ii) had pleaded guilty at the first available opportunity;[26] and

    (iii) had fully co-operated with Stewards in their investigation and was remorseful for his offending.[27]

18. Mr Walters acknowledged that the offending had the capacity to impact adversely on the industry, and that general deterrence was an important factor. [28] However, he submitted that even when full weight was given to those factors, the penalty remained excessive, particularly when compared to penalties imposed in other cases of similar offending.

19. In oral submissions Mr Walters took me to a number of previous decisions of the Tribunal for comparative purposes, but in doing so accepted (as he put it) that "*every case is different*".[29] Mr Walters also raised the question of whether the substance found on analysis was, in fact, that which had been administered by the Appellant.[30] I have addressed this issue below.

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[22] At [22].
[23] At [25].
[24] At [1].
[25] At [2].
[26] At [3].
[27] At [4].
[28] At [8].
[29] Transcript 13.36.
[30] Transcript 17.15.

Submissions of the Respondent

20. In written submissions, Mr Gillies who appeared for the Respondent advanced the following propositions:

    (i) the opinion of Dr Karamatic regarding the enhancing effects of Ostarine was important;[31]

    (ii) the detection of the substance in the greyhound was serious;[32]

    (iii) the Appellant's conduct exhibited a high degree of recklessness;[33]

    (iv) whilst no issue was taken as to the Appellant's character, this had been properly reflected in the penalty imposed;[34]

    (v) a considerable degree of leniency had been demonstrated towards the Appellant, and the penalty was appropriate.[35]

21. Mr Gillies expanded upon these propositions in oral submissions. In doing so, he submitted that the offending fell within Category 1 of the principles set out in *McDonough*.[36] He submitted that all relevant factors had been taken into account by the Stewards, and were reflected in the penalty imposed which incorporated a 50% discount having been applied to the starting point which was adopted.[37]

CONSIDERATION

22. It is appropriate that I firstly address the submissions made by the parties as to the category into which the present offending falls. In doing so, it is important to bear in mind that the Appellant has not been charged with *administering* the substance. The offence to which he has pleaded guilty is that he *presented* the greyhound to compete with the substance in its system. In other words, the Appellant is charged with a presentation offence. Generally speaking, by

[31] At [17].
[32] At [19].
[33] At [24] – [25].
[34] At [28] – [29].
[35] At [30] – [32].
[36] [2008] VRAT 6.
[37] Transcript 22.37 – 22.42.

reference to the decision in *McDonough,* cases of that kind fall into one of three categories in terms of culpability, 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.

23. The respective positions of the parties in relation to this issue give rise to something of a conundrum, which has evolved in this way.

24. It is apparent that this matter has always proceeded on the basis that the Ostarine which had been found to be present in the greyhound was the substance which was administered by the Appellant in the circumstances he outlined. On the evidence before me, there is no competing inference available.

25. On 19 May 2025, the Appellant was charged with failing to *present* the greyhound free of a prohibited substance. In his response to that charge, the Appellant did not simply admit to the fact of presentation. He admitted to having *administered* the substance to the greyhound. Accordingly, at a time well prior to the hearing, the Respondent was on notice of that admission. Despite that, no steps were taken to amend the charge to one alleging the *administration* of a permanently banned substance. The Appellant was dealt with by Stewards on the basis of a *presentation* offence, and his appeal has proceeded on that basis before me.

26. In the course of submissions, it was put on behalf of the Respondent that I should assess the objective seriousness of the offending on the basis that it fell into the first of the *McDonough* categories, namely, a case in which there is evidence of positive culpability on the part of the Appellant based on his admission as to having knowingly and intentionally administering the prohibited substance.

27. The difficulty with that proposition is that although the Appellant made that admission, he has not been charged with administering the substance. Whilst these are not criminal proceedings, and the Tribunal is not a Court, a participant cannot, in my view, have a penalty assessed on the basis of an aggravating factor which would have warranted a finding of guilt for a more serious offence[38], nor can a participant be punished for an offence with which he or she has not been charged.[39] To allow either of those results would be procedurally, and for that matter substantively, unfair. It follows that I am unable to accept the proposition that the offending falls into the first of the three categories outlined above.

28. All of that said, the assessment of the seriousness of offending is not dependent upon strict categorization. What I must do is identify, and taken into account, the facts, matters and circumstances surrounding the offending. In the present case, there was a degree of recklessness on the part of the Appellant. Clearly, there was no label on what he was given. His understanding of the precise nature of the substance, its purpose, and its potential effect, were, to say the least, vague. Against that background, the Appellant made no real enquiry and presented the greyhound to compete with the substance in its system. Importantly, the opinion of Dr Karamatic supports the conclusion that Ostarine is properly described as performance enhancing. That factor, in particular, supports a conclusion that general deterrence has a clear role to play in determining penalty.

[38] See generally *R v Di Simoni* (1991) 147 CLR 383 at 389 per Gibbs CJ.
[39] See generally *R v Di Simoni* (1991) 147 CLR 383 at 389 per Gibbs CJ.

29. As against that, the Appellant pleaded guilty at the first available opportunity, made full admissions, and was fully co-operative with the investigation. He impressed me at the hearing as someone who is clearly remorseful and he has made a not inconsiderable contribution to the industry over a long period of time by assisting persons who are less fortunate than himself. I also take into account the fact that he had a particular personal burden at the time of the offending which I am satisfied had some impact upon him acting as he did.

30. I also take into account the fact that the Appellant has no history of similar offending. Indeed, leaving aside an offence in 2022 for which he received a reprimand, the Appellant last came under notice for a minor offence in 2015 for which he received a fine. It follows that personal deterrence is of limited significance on penalty. All of these matters tend to support the view that the offending should be viewed as an aberration.

31. Mr Walters took me to a number of previous decisions of this Tribunal by reference to which he sought to make good the proposition that the penalty imposed on the Appellant by the Stewards was too severe. There are a limited number of determinations dealing with permanently banned prohibited substances but in any event, the approach which is to be taken to such an exercise has been stated many times and need not be repeated. At the centre of that approach is the important fact, which Mr Walters conceded, that every case is factually different. The focus is on the consistent application of principle.

32. That said, and bearing in mind the limited number of previous decisions, there is some force in Mr Walters' argument that consistent application of principle reflects something of an inconsistency between the outcome of the decision in *Marshall v Greyhound Welfare and Integrity Commission*[40] (in which I affirmed the determination of the Stewards) and the penalty imposed by Stewards in the present case. That is particularly so when one considers the respective subjective

[40] 30 August 2024.

cases. When the relevant principles are applied, and all matters are taken into account, the Tribunal's decision in *Marshall* (in which the 2 year disqualification imposed by the Stewards was upheld) does not sit entirely comfortably with the 18 month disqualification imposed on the Appellant.

33. As been said on many prior occasions, I am not bound by the Penalty Guidelines. I am also not bound to adopt a "starting point". My task is one of instinctive synthesis, in which all relevant matters are taken into account, and a penalty determined. Adopting that approach I have come to the view that a disqualification of 14 months is appropriate.

ORDERS

34. I make the following orders:

1. The appeal is upheld.
2. The determination of the Respondent imposing a disqualification of 18 months is quashed.
3. In lieu thereof, the Appellant is disqualified for a period of 14 months.
4. The penalty in order [3] will expire at midnight on 28 July 2026.
5. The appeal deposit is to be refunded.

THE HONOURABLE G J BELLEW SC

3 November 2025