

IN THE RACING APPEALS TRIBUNAL

JOSEPH SCERRI

Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION

Respondent

REASONS FOR DETERMINATION

Date of hearing 22 May 2026

Date of determination 26 June 2026

APPEARANCES

Mr E Kerkysharian for the Appellant

Mr B Gillies for the Respondent

ORDERS

- 1. The appeal is upheld.**
- 2. The findings of guilt are confirmed.**
- 3. The penalties imposed at first instance are quashed.**
- 4. In lieu thereof, the following penalties are imposed:**
 - (i) Charge 1 – a disqualification of 12 months commencing on 12 September 2025 and expiring on 11 September 2026.**
 - (ii) Charge 2 – a disqualification of 12 months commencing on 12 June 2026 and expiring on 11 June 2027.**
 - (iii) Charge 3 – a disqualification of 8 months commencing on 12 January 2027 and expiring on 11 September 2027.**
- 5. The aggregate penalty is a disqualification of 2 years commencing on 12 September 2025 and expiring on 11 September 2027.**
- 6. The appeal deposit is to be refunded.**

INTRODUCTION

1. By a Notice of Appeal dated 30 January 2026, Joseph Scerri (the Appellant) appeals against a determination of the Greyhound Welfare and Integrity Commission (the Respondent) made on 23 January 2026, disqualifying him for a period of 4 years for breaches of rr 141(1)(a) and 139(3)(a) of the *Greyhound Racing Rules* (the Rules). The Appellant pleaded guilty to each of those charge at first instance and adhered to those pleas on appeal.
2. The appeal was heard on 22 May 2026, following which judgment was reserved. The parties prepared a Joint Tribunal Book (TB) containing all relevant documentary material.

THE CASE AGAINST THE APPELLANT

3. The Appellant is a greyhound industry participant who is currently registered with the Respondent as a breeder, public trainer and stud master. He has been an industry participant since February 1999. The charges brought against him, although similar in nature, involve three different greyhounds, namely *Tomorrow Wendy*, *Lumina Bell*, and a third to which I will refer as the *Unnamed Greyhound*.
4. On 27 March 2025, the Appellant attended a meeting at Wentworth Park where *Tomorrow Wendy* competed in, and won, Race 2. Urine and hair samples were taken from that greyhound which tested positive for Testosterone Propionate, a permanently banned prohibited substance under r 139(1)(t) of the Rules (the substance). Further testing was later conducted which confirmed the original result.
5. On 24 June 2025, the Appellant attended a meeting at Gosford where *Lumina Bell* competed in, and won, race 6. Hair samples were taken from that greyhound which tested positive for the substance. Further testing was later conducted which confirmed the original result.

6. On 3 September 2025, a hair sample was taken from the unnamed greyhound at the Appellant's registered kennel address (i.e. in the course of out-of-competition testing). The sample tested positive for the substance. Further testing was later conducted which confirmed the original result.
7. As a consequence of the analytical results set out above, the following three charges were brought against the Appellant:

Charge 1 – r 141(1)(a)

That the Appellant presented the greyhound Tomorrow Wendy for the purposes of competing in race 2 at the Wentworth Park meeting on 27 March 2025 in circumstances where the greyhound was not free of any prohibited substance.

Charge 2 – r 141(1)(a)

That the Appellant presented the greyhound Lumina Bell for the purposes of competing in race 2 at the Wentworth Park meeting on 24 June 2025 2025 in circumstances where the greyhound was not free of any prohibited substance.

Charge 3 – r 139(3)(a)

The Appellant did something which, in the opinion of the Controlling Body constitutes an offence, by being in charge of a greyhound when a sample taken from the greyhound was established to contain a permanently banned prohibited substance.

8. Following the Appellant's pleas of guilty, a disqualification of 16 months was imposed in relation to each offence. The decision makers concluded (absent any reasons) that these penalties should wholly cumulative. Accordingly, the Appellant was disqualified for a total period of 4 years commencing on 12 September 2025 and expiring on 11 September 2029.

THE APPELLANT'S CASE

9. The Appellant swore an Affidavit dated 26 March 2025 (which I assume is incorrectly dated and should read 2026) on which he was not cross-examined. He described himself as being "*utterly and totally lost*" as to how the substance came to be in the greyhounds' systems, and categorically denied knowingly administering, or knowingly allowing the administration of, any treatment to any

of his greyhounds which contained the substance.¹ He raised² the possibility of the substance being present in discarded food that he had obtained for the greyhounds from a nearby grocery store. He explained that he had completely revised his practices in that regard and had become (as he put it) “*hyper vigilant*”, to the point where he was committed to using only certified sustainable and/or organic products as greyhound feed in the future.³

10. The Appellant explained that the penalty which was imposed had had a significant effect on his livelihood, with a projected loss of income of more than \$100,000.00 over a period of 6 months.⁴ That loss of income has occurred in the face of significant financial obligations.⁵ The Appellant also spoke of the personal impact of what had occurred.⁶ I do not, for reasons of privacy, propose to address that issue in detail. It is sufficient to say that I am satisfied that the effect of these charges on the Appellant has been profound.⁷

11. It should be noted that the Appellant also relied upon an earlier affidavit of 17 July 2025,⁸ much of the content of which is addressed in his more recent evidence. It is therefore not necessary to refer to the earlier evidence in any detail.

12. The Appellant’s case was also supported by a number of testimonials which variously described him as “*honest, hardworking and a perfectionist with his animals*”;⁹ a person who has a “*lifelong passion for greyhounds*”;¹⁰ “*helpful and honest*”;¹¹ an industry participant who provides “*the best of animal husbandry requirements*”;¹² “*a well-regarded person*” on whom the current charges “*weighed*

¹ At [7] – [10]; [12].

² Commencing at [9].

³ At [11].

⁴ At [16] – [17].

⁵ At [23].

⁶ Commencing at [31].

⁷ See the report of Ms Weissenfeld dated 27 March 2026.

⁸ TB 65.

⁹ Linda Corney at TB 107.

¹⁰ Peter Cutajar at TB 108.

¹¹ Borce Dimitrijeviski at TB 109.

¹² Matthew Godden at TB 110.

heavily”,¹³ a person who applies “*dedication and consistency*” in his care of animals,¹⁴ a person for whom “*the well-being of, and care for, his animals are his first and foremost priority*,”¹⁵ and a person of “*honesty, respect and fairness*”.¹⁶

THE EXPERT EVIDENCE OF DR KARAMATIC AND DR ROBERTSON

13. A report of Dr Steven Karamatic of 14 July 2025 addressed to the Chief Executive Officer of the Respondent forms part of the evidence on the appeal.¹⁷ Dr Karamatic explained¹⁸ that the substance is an anabolic and androgenous male hormone which:

1. promotes tissue building processes;
2. can reverse tissue breakdown;
3. can stimulate red blood cell production;
4. can cause retention of nitrogen, sodium, potassium and phosphorous;
5. has growth promoting effects; and
6. is known to improve athletic performance by increasing strength and condition, thus conferring an unfair performance advantage by increasing lean muscle mass and endurance.

14. Dr Karamatic explained¹⁹ that any effect of the substance on a greyhound is likely to be positive, in the sense of enhancing behaviour, condition and performance. Whilst generally accepting²⁰ the proposition that there are limitations on categorically confirming the effect of any drug on an animal, Dr Karamatic expressed the view that there was no reason for a permanently banned substance such as the substance to be present in, let alone administered to, any greyhound.²¹

¹³ Andrew Smith at TB 112.

¹⁴ Calia Codina at TB 113.

¹⁵ Marco Onofri at TB 116.

¹⁶ Daniel Weizman at TB 117.

¹⁷ Commencing at TB 192.

¹⁸ At [19] – [20].

¹⁹ At [21].

²⁰ At [22].

²¹ At [23].

15. Importantly, Dr Karamatic stated:²²

*The detection of testosterone propionate in a hair sample indicates that the synthetic testosterone ester was administered on at least one occasion to this greyhound at some stage in the months prior to this hair sample. **A narrowing of the timeframe, or confirmation of the number of administrations or the amount administered, is not currently possible from analysis (sic) canine hair** (emphasis added).*

16. Ultimately, Dr Karamatic expressed the view²³ that:

1. It was difficult to come to any conclusion other than that the presence of the substance in the hair samples was due to administration by, in all likelihood, injection of product containing the substance, such as *Testoprop*.
2. It was not possible to conclude on how many occasions such administration may have taken place.
3. Any effect of the substance on the greyhounds' performance was, more likely than not, positive.

17. Dr Karamatic gave evidence at a disciplinary hearing which was held on 19 January 2026. When it was put to him, in effect, that the presence of the substance in a hair sample could have come about as a consequence of the greyhound eating a contaminated product, Dr Karamatic replied:²⁴

So there's difficulties sort of believing the likelihood of that Can I categorically say it's not possible? No. It's just around the likelihood of those things happening. ... Everything's possible. It's just the likelihood.

18. Importantly, Dr Karamatic accepted²⁵ that although he considered administration by injection of a product such as *Testoprop* as being the most likely explanation,²⁶ the evidence at its highest supported the conclusion "*just that testosterone*

²² At [29].

²³ At [35] and following.

²⁴ TB 210.36 – 211.42.

²⁵ TB 210.6 – 210.10.

²⁶ TB 197 at [30].

propionate was exposed – these greyhounds were exposed to that”, and that “administration is far more likely than other causes”.

19. A report of Dr Michael Robertson was relied upon by the Appellant.²⁷ In a number of material respects,²⁸ Dr Robertson did not disagree with the views expressed by Dr Karamatic. Importantly, Dr Robertson stated²⁹ that the time period represented by a collected hair sample may be many months, and that³⁰ it was not possible to determine either when the exposure to the substance occurred, or the source of the exposure. Finally, he expressed the view³¹ that if food containing the substance was given to any of the greyhounds on a number of occasions during the time period represented by the hair samples, that was a possible source of the presence of the substance in the hair samples. Dr Karamatic did not agree with that proposition because in his view, the substance is poorly absorbed orally.³²

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

20. The submissions of counsel for the Appellant advanced the following propositions:

1. The application of ordinary principles of totality warranted, without more, the imposition of a substantially lesser penalty.³³
2. The application of the principle of totality supported a conclusion that the penalties should be wholly concurrent.³⁴
3. The evidence supported the conclusion that the Appellant’s expressed belief as to the circumstances in which the substance was found in the hair samples was likely to be correct.³⁵

²⁷ TB 98 and following.

²⁸ At [9] – [12].

²⁹ TB 101 at [5].

³⁰ TB 102 at [7].

³¹ TB 106 at [9].

³² TB 210.37.

³³ At [6].

³⁴ At [33] – [38].

³⁵ At [20]; Transcript 3.16 and following.

4. Even if that conclusion were not reached, the evidence did not support an alternative hypothesis that the substance was intentionally administered by the Appellant.³⁶
5. The third charge was of lesser gravity because it did not involve the presentation of a greyhound, and this should be reflected in the imposition of a fine.³⁷
6. Subjectively, the Appellant has an impressive history in the industry over a long period of time and has suffered, and will continue to suffer, considerable financial penalty as a consequence of the penalties imposed.³⁸
7. The Appellant had expressed unequivocal remorse,³⁹ and the testimonial evidence established that he is a person of good character, committed to both his greyhounds and the industry as a whole.⁴⁰

Submissions of the Respondent

21. The Respondent's submissions encapsulated the following propositions:

1. The explanation advanced by the Appellant as to how the substance came to be present in the hair samples (i.e. through ingestion of food) was speculative at best.⁴¹
2. A conclusion that the source of the substance was food fed to the greyhounds was rendered even more improbable by the fact that positive samples were recorded in three separate greyhounds, across distinct time periods.⁴²
3. The seriousness of presenting a greyhound with a permanently banned substance in its system was self-evident, and called for the imposition of a significant penalty.⁴³
4. This is a case in which the circumstances, and the proper application of the totality principle, warrant the total accumulation of the penalties.⁴⁴

³⁶ At [21].

³⁷ At [23].

³⁸ At [26] – [28].

³⁹ Transcript 6.25.

⁴⁰ At [29].

⁴¹ At [30].

⁴² At [31]; Transcript 7.21 – 8.7.

⁴³ At [33].

⁴⁴ At [36] – [37].

5. The second and third offences were more serious, as they occurred after the Appellant had been put on notice of the first positive result.⁴⁵
6. The objective seriousness of the overall offending was high, particularly in circumstances where it involved a permanently banned substance.⁴⁶ It followed that general deterrence was of paramount importance.⁴⁷
7. Personal deterrence also remained a relevant consideration, particularly given the number of offences.⁴⁸
8. The penalty imposed at first instance was consistent with achieving the statutory objectives of the Respondent.⁴⁹
9. The objective seriousness of charge 3 was not reduced by the fact that it is not a presentation offence. The offence was committed in of out-of-competition testing. That circumstance did not alter the fact that a permanently banned substance was detected.⁵⁰
10. The need for an appropriately significant penalty was not extinguished by the Appellant's subjective circumstances, including his financial loss.⁵¹ Further, whilst the Appellant's prior good character was accepted, that did not outweigh the principal objectives of the Respondent to maintain public confidence in the integrity of the greyhound racing industry.⁵²
11. In all of the circumstances, neither the penalties imposed at first instance, nor their wholly cumulative structure, should be disturbed.⁵³

CONSIDERATION

22. One issue raised in the course of submissions may be disposed of at the outset. Although Dr Karamatic considered it likely that the substance found its way into the greyhounds' system by injection, it is not the Respondent's case, and the

⁴⁵ At [37].

⁴⁶ At [43].

⁴⁷ At [46] – [47].

⁴⁸ At [48].

⁴⁹ At [38] – [39].

⁵⁰ Transcript 8.28 – 8.37.

⁵¹ At [52] – [55].

⁵² At [56].

⁵³ At [59].

evidence does not support the conclusion, that the Appellant intentionally administered the substance to any one of the three greyhounds.

23. The Appellant has advanced the proposition that the substance came to be present as a consequence of the food that he was feeding the greyhounds. In my view, when the evidence is viewed as a whole, that proposition is speculative at best. On a fair assessment, Dr Karamatic viewed such a proposition as being, in effect, possible but unlikely. Dr Robertson considered it possible.

24. For the purposes of considering the proposition raised by the Appellant as to the source of the substance, the Tribunal does not deal in possibilities. The evidence falls short of establishing, *on the balance of probabilities*, that food was the source. For the purposes of determining the Appellant's culpability, and the appropriate penalty, I am left in the position of not being able to determine how the substance entered the system of any of the greyhounds, other than to repeat that it is not suggested that the Appellant deliberately administered it.⁵⁴

25. That said, the offending is obviously serious. The substance is permanently banned for good reason. As Dr Karamatic put it:⁵⁵

Australian racing prides itself on having a zero tolerance approach to permanently banned prohibited substance use in racing animals ... This is what the public expects of racing codes. ...[T]here is no reason testosterone propionate should be present in a greyhound, let alone administered. Permanently banned substances do not belong in racing greyhounds.

26. One of the fundamental reasons that the substance does not belong in racing greyhounds is that, for the reasons explained by Dr Karamatic, it has the capability of giving a greyhound which has it in its system a competitive advantage. It is not without significance that *Tomorrow Wendy* and *Lumina Bell* won their respective races. The playing field, as it were, was not level. Those circumstances, in turn,

⁵⁴ *McDonough v VRAT* 24 June 2008.

⁵⁵ TB 195.

have a direct, and potentially adverse, effect, upon the integrity of, and public confidence in, the greyhound racing industry. Section 11 of the *Greyhound Racing Act 2017* (NSW) includes, as part of the Respondent's principal objectives, safeguarding and maintaining both of those interests. It follows that general deterrence is an important consideration in determining penalty.

27. Whilst the need for any penalty to incorporate an element of personal deterrence is not entirely extinguished, I am satisfied that it reduced to some degree in the present case. That is so for two reasons. The first, is that the Appellant has not come under notice for offending of this precise nature before. The second, is that it is plain from the Appellant's Affidavit, and the unchallenged testimonial evidence, that he is significantly chastened by these events. Bearing that in mind, and his effective undertaking to revise his husbandry practices, I am satisfied that his risk of re-offending is low. Those matters support the conclusion that specific deterrence has a reduced role to play.

28. Accepting that the real question in this appeal is that of penalty, the principal issue that arises revolves around the principle of totality, and how it ought be applied. With that in mind, the following matters appear to me to be relevant.

29. To begin with, although there are three separate offences, this is not, for the purposes of assessing penalty, a case of what is often referred to as repeat offending. Repeat offending occurs when a person commits an offence *after committing, and being penalised for, prior offences*. That is not the case here. Even if it is accepted that the Appellant was advised of the result of the analysis of the sample taken from *Tomorrow Wendy* before the sample was taken from *Lumina Bell*, it does not follow that the substance found its way into the system of *Lumina Bell* during the intervening period. As I have outlined above, the preponderance of the expert evidence of both Dr Karamatic and Dr Henderson supports the conclusion that it is simply not possible to pinpoint the timeframe within which the substance may have been administered. Moreover, there is nothing to suggest that the mechanism through which the substance came to

enter the system of any of the greyhounds (whatever that mechanism might have been) was any different across the three offences.

30. Given all of those circumstances, the offending should be viewed as having been committed a single, although perhaps continuous, episode. It follows that whilst the fact that there are multiple offences must obviously be reflected in the penalty, this is not a case in which wholly cumulative sentences are appropriate.⁵⁶ They should at least be partially concurrent. It is not the case that penalties must be wholly cumulative in order to constitute an appropriately stern regulatory response which reflects the objective seriousness of the offending.

31. I accept that charge 3 is of less objective gravity than charges 1 or 2. That is because it did not involve the actual presentation of the unnamed greyhound. However, I am unable to accept the submission advanced on the Appellant's behalf that charge 3 can properly be dealt with by way of the imposition of nothing more than a monetary penalty only. The mere fact that it involves the detention of a permanently banned substance, without more, supports the conclusion that some period of disqualification is warranted.

32. The Appellant has a subjective case of some weight. He has little in the way of prior offending, in circumstances where he has been an industry participant over a long period of time. He has pleaded guilty, and has expressed what I consider to be genuine remorse. People speak highly of him, and their views support the conclusion that his offending represents something of an aberration. He has suffered financial loss, although that is an inevitable consequence of offending of this kind. He is entitled to have all of those factors taken into account in his favour. At the same time, I must be mindful of the fact that a subjective case, no matter how powerful, cannot result in the imposition of a penalty which is disproportionate to the objective seriousness of multiple offences which involve the presence of a permanently banned substance. The penalty that I have

⁵⁶ See generally *Cahyadi v R* [2007] NSWCCA 1 at [27] per Howie J.

determined is appropriate remains a significant one, and strikes the necessary balance between objective and subjective factors. Consistent with application of the totality principle, I am satisfied that the penalty is just and appropriate having regard to all of the circumstances.

CONCLUSION AND ORDERS

33. For the reasons I have given, I make the following orders:

1. The appeal is upheld.
2. The findings of guilt are confirmed.
3. The penalties imposed at first instance are quashed.
4. In lieu thereof, the following penalties are imposed:
 - (i) Charge 1 – a disqualification of 12 months commencing on 12 September 2025 and expiring on 11 September 2026.
 - (ii) Charge 2 – a disqualification of 12 months commencing on 12 June 2026 and expiring on 11 June 2027.
 - (iii) Charge 3 – a disqualification of 8 months commencing on 12 January 2027 and expiring on 11 September 2027.
5. The aggregate penalty is a disqualification of 2 years commencing on 12 September 2025 and expiring on 11 September 2027.
6. The appeal deposit is to be refunded.

THE HONOURABLE G J BELLEW AM SC

26 June 2025