

IN THE RACING APPEALS TRIBUNAL

JAY OPETAIA
Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION
Respondent

REASONS FOR DETERMINATION

DATE OF HEARING **29 July 2026**

DATE OF DETERMINATION **3 August 2026**

APPEARANCES

Mr J Leavold for the Appellant

Mr B Gillies for the Respondent

ORDERS

- 1. The appeal is upheld.**
- 2. The penalty imposed at first instance is quashed.**
- 3. In lieu thereof, the Appellant is disqualified for a period of 9 months, commencing on 20 May 2026 and expiring at midnight on 19 February 2027.**
- 4. The appeal deposit is to be refunded.**

INTRODUCTION

1. By a Notice of Appeal dated 25 May 2026, Jay Opeteia (the Appellant) has appealed against a determination of the Greyhound Welfare and Integrity Commission (the Respondent) to impose a disqualification of 12 months for an offence contrary to rr 141(1)(a) and (3) of the *Greyhound Racing Rules* (the Rules). The Appellant pleaded guilty to that offence at first instance and adhered to that plea before the Tribunal.
2. The appeal was heard on 27 July 2026. The parties prepared a Tribunal Book (TB) containing all relevant documentary evidence.

THE FACTS

3. The facts are not in dispute and may be summarised as follows.

The Appellant's history as an industry participant

4. The Appellant was first registered as a greyhound racing industry participant in August 2018 as an Attendant. In August 2021 he was registered as an Owner, and since 22 November 2022 he has been registered as a Public Trainer.¹

The circumstances of the offending

5. On 6 December 2025, the Appellant and Geoffrey Curtale (Curtale) arranged for the greyhound '*Light of Mine*' (the greyhound) to be transferred into the care, control and traineeship of the Appellant. On 24 January 2026, the greyhound was nominated to compete in race 6 at Wentworth Park when it placed second.²
6. A sample of the greyhound's hair were collected for the purposes of analysis by Racing Analytical Services Limited (RASL). On 13 March 2026 RASL issued a Certificate of Analysis confirming that the hair sample was found to contain testosterone propionate (the substance).³

¹ TB 107 – 109.

² TB 67.

³ TB 69.

7. On 19 March 2026, the Respondent's inspectors attended the Appellant's registered kennel address, where a further hair sample was taken from the greyhound. On the following day, RASL confirmed the presence of the substance in the additional hair sample.⁴

The substance

8. The substance is permanently banned pursuant to r 139(1)(t) of the Rules. There is evidence before me⁵ that its use has the capacity to confer an unfair performance advantage by increasing lean muscle mass and endurance, and altering behaviour, in a greyhound.

THE RELEVANT PROVISION OF THE RULES

9. Rule 141 of the Rules is partly in the following terms:

141

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

(a) Nominated to compete in an event;

must present the greyhound free of any prohibited substance.

...

(3) The owner, trainer or person in charge of a greyhound presented contrary to subrule (1) of this rule shall be guilty of an offence.

THE CHARGE AGAINST THE APPELLANT

10. On 5 May 2026, the Respondent forwarded the Appellant a Notice of Charge in the following terms:⁶

1. *That [the Appellant], a registered public Trainer and Owner, presented the Greyhound 'Light of mine' for the purpose of competing in race 6 at the Wentworth Park meeting on 24 January 2026 in circumstances where the Greyhound was not free of any prohibited substance.*
2. *The prohibited substance detected in the hair sample taken from the Greyhound following the event was Testosterone Propionate.*
3. *Testosterone Propionate is a permanently banned prohibited substance under r 139(1)(t) of the Rules.*

⁴ TB 75.

⁵ TB 90.

⁶ TB 82 – 83.

THE DISCIPLINARY HEARING

11. A disciplinary hearing was conducted on 19 May 2026, a transcript of which forms part of the evidence before me.⁷ The Appellant entered a plea of guilty to the charge at the outset of the hearing⁸ at which Curtale gave evidence.⁹

12. Curtale confirmed that he is registered with the Appellant as a trainer and breeder whelpers.¹⁰ His evidence was generally in accordance with his statement below, and was consistent with the Appellant's account of what occurred. Curtale admitted injecting the substance knowing that it was permanently banned. He also admitted that he did not anticipate that there would be a hair sample taken for testing, saying that he tended to the view that the "*hair test was a load of shit*".¹¹

13. Following Curtale's evidence, the following exchange took place between the Appellant and Mr Van Gestel, the Acting Chief Steward:¹²

VAN GESTEL: ... [W]hat measures, if any, did you take to ensure that greyhound was free of any prohibited substances prior to starting that greyhound in your name?

APPELLANT: Ah, no measure.

VAN GESTEL: No measure. Okay. Did you question Mr Curtale once you received that greyhound, question him if the dog had been administered any product?

APPELLANT: No.

VAN GESTEL: Did you receive the treatment records when that dog was transferred to you?

APPELLANT: No.

VAN GESTEL: And you never undertook an elective swab prior to starting that greyhound?

APPELLANT: Ah, no, I wasn't aware that they were available before this day.

⁷ Commencing at TB 91.

⁸ TB 94.

⁹ Commencing at TB 96.

¹⁰ TB 97.

¹¹ TB 100.

¹² TB 104 – 105.

THE APPELLANT'S CASE

The Appellant's evidence

14. The Appellant swore an Affidavit of 19 May 2026.¹³ He was not cross-examined on its contents, which may be summarised as follows.

15. The Appellant is 22 years of age and has been involved in the greyhound racing industry for most of his life.¹⁴ He has been a registered industry participant for approximately 6 years. He has not incurred any disciplinary offences in that time.¹⁵

16. The Appellant is also a licenced plumber by trade, but in August 2025 made a decision to focus on his career as a greyhound trainer. Since then, training greyhounds has been his sole source of income.¹⁶ Prior to being disqualified, he was training up to 10 greyhounds at any one time.¹⁷ It would be fair to say that the Appellant appears to have forged an impressive career as a trainer in a relatively short period of time.¹⁸

17. The Appellant was offered the opportunity by Curtale to train two greyhounds in or around December 2025, which he accepted. *Light of mine* was transferred into the Appellant's name shortly afterwards (along with another greyhound, *Warren Ledger*).¹⁹

18. The Appellant set out the circumstances of the offending²⁰, which are not in dispute. He described²¹ being “*shocked and confused*” by what had occurred,

¹³ Commencing at TB 14.

¹⁴ At [6] – [8].

¹⁵ TB 109.

¹⁶ At [9].

¹⁷ At [11].

¹⁸ At [12] – [15].

¹⁹ At [16] – [17].

²⁰ At [18] – [24].

²¹ At [25].

but expressly acknowledged²² the seriousness of his offending, the fact that the substance is permanently banned, and the need to protect the integrity of the industry.

19. The Appellant said²³ that when he informed Curtale of what had occurred, Curtale disclosed that he was responsible for administering the substance. The Appellant said, and I unreservedly accept, that this had not been disclosed by Curtale previously.²⁴ In particular, the Appellant said:²⁵

If I had of been made away [sic] that the greyhound had been administered the substance, I would not have accepted the greyhound from [Curtale] and would have been in a position where I would have felt obligated to inform the GWIC that he had administered the substance as I understand that this is a serious and significant offence and breach of the rules.

20. The fact that Curtale was responsible for administering the substance, and the fact that the Appellant had no knowledge of what had occurred, is independently corroborated by text messages which were exchanged between them.²⁶

21. Whilst the Appellant denied²⁷ any suggestion that he played any part in knowingly administering the substance, it should be made clear that the Respondent does not advance that case against him. The Appellant is charged with what is generally referred to as a presentation offence, and he expressly accepted that such offence is one absolute liability.²⁸

22. The Appellant explained²⁹ the serious financial impact that any period of disqualification would have upon himself and his partner. I do not need to detail

²² At [26] – [27].

²³ At [29].

²⁴ At [30].

²⁵ At [30].

²⁶ TB 37 – 41.

²⁷ At [33].

²⁸ At [34].

²⁹ At [35].

that impact. It is sufficient to observe that it is, on any view, significant.³⁰ The Appellant has also expressed³¹ concerns about the negative impact that any lengthy sanction would have upon his ongoing career, and his fears that he will never be able to return to the level that he had reached prior to the commission of the offence. Whilst I understand why the Appellant would take that view, the testimonial evidence to which I have referred below tends very much in favour of the conclusion that he continues to be held in high regard within the greyhound racing industry.

23. Finally, the Appellant expressed³² his genuine respect for the industry, and spoke of the deep distress that he has suffered as a consequence of his offending. I accept that these expressions of remorse are entirely genuine. That conclusion is independently supported by the testimonial of the Appellant's partner, Courtney Power.³³

The evidence of Curtale

24. A statement from Curtale forms part of the evidence before me and is in the following terms:³⁴

I Geoffrey Curtale got the greyhound Light of mine back from Tim Britton after her last start for Tim in Queensland on 18.10.2025.

After her arriving back at my property at [xxx] I decided to give her 2 -3 weeks off in the spelling yard. On the day of 04.11.2025 I noticed a small amount of blood/fluid on her and thought she was coming on season. I asked a few old trainers, and they said to give her a few shots of testoprop to stop her from coming on season. I did ask about it swabbing and they said you are not racing her for a while so it would be fine. So on the 04.11.2025 and 06.11.2025 unbeknown to Jay Opetaiia I gave her 0.5 ml of testoprop and it did stop her from coming on season. I never told Jay about this because I never thought it would be an issue. I know 100% it's a barred substance but when I gave it to her on 04.11.2025 – 06.11.2025 I didn't even know if she would race again let alone being trained by Jay Opetaiia, as I only sent her to Jay when I went on holidays in December 2025. I could have said nothing and blamed Jay or even Tim

³⁰ See the documents at TB 41 – 43; see also the testimonial of the Appellant's partner, Courtney Power, at TB 50.

³¹ At [37] – [39].

³² At [39].

³³ TB 50.

³⁴ TB 44.

Britton but that is not the person I am. I am not going to blame someone else for my stupidity. I know I am guilty but I swear on the bible it was definitely not for race enhancement and surely you know Jay wasn't racing her on testoprop as she got swabbed week in and week out while in Jay's care. She only got the positive reading off a hair test which is actually a history test. I fully admitted to giving her the testoprop at the first opportunity. I actually admitted to Jay while he was getting raided by the GWIC stewards. I swear on the bible and would also be prepared to take a polygraph test to prove all of the above is the absolute truth.

Evidence of the Appellant's good character

25. As I have previously noted, the Appellant has no disciplinary record whatsoever, after approximately six years in the industry.³⁵ Over and above that, he relies upon a series of testimonials to establish his positive good character. He is variously described in those testimonials (which are unchallenged) as:

- (a) hardworking, a person of integrity, and a person who has earned a significant level of respect from many experienced industry participants;³⁶
- (b) trustworthy and reliable;³⁷
- (c) a respectful and dedicated industry participant who has consistently demonstrated integrity, professionalism and a commitment to the welfare and performance of the greyhounds within his care;³⁸
- (d) honest;³⁹
- (e) someone who has “poured his heart and soul” into the industry;⁴⁰
- (f) a person who displays discipline and maturity, and who learns from challenges;⁴¹
- (g) a person who demonstrates honesty, integrity and a willingness to learn, who is well regarded, and who enjoys a good reputation within the industry;⁴²
- (h) trustworthy and respectful, and someone who demonstrates a strong work ethic;⁴³

³⁵ TB 109.

³⁶ Testimonial of Danny Micallef at TB 45.

³⁷ Testimonial of Peta Harris at TB 46.

³⁸ Testimonial of Rebecca Baker at TB 47.

³⁹ Testimonial of Dominic Redden at TB 48.

⁴⁰ Testimonial of Scona Thompson and Holly Thompson at TB 49.

⁴¹ Testimonial of Kristy Sultana at TB 51.

⁴² Testimonial of Mark Gatt at TB 52.

⁴³ Testimonial of Mark Wicks at TB 53.

- (i) a person for whom the present offending is entirely out of character;⁴⁴
- (j) someone who strives to make positive choices;⁴⁵
- (k) a person whose work ethic is exceptional, and who is honest with the owners of the greyhounds he trains;⁴⁶ and
- (l) dependable, dedicated, and well-respected by both owners and fellow industry participants.⁴⁷

THE APPELLANT'S LEVEL OF CULPABILITY

26. The sole issue on the present appeal is that of penalty. Whilst I am asked by the parties to consider a range of circumstances in that respect, fundamental to an assessment of penalty is a determination of the Appellant's level of culpability.

27. In *McDonough v Harness Racing Victoria*⁴⁸ his Honour Judge Williams, sitting as the Racing Appeals Tribunal of Victoria, attempted to categorise the various levels of culpability in so-called "*presentation offences*". His Honour's analysis has been consistently adopted by this Tribunal as a guide to the assessment of penalty in matters of the present kind. The essence of his analysis may be summarised in the following propositions.

28. Firstly, the ability of an industry participant to demonstrate that they lack culpability because they did not administer the substance themselves, or are not otherwise responsible in any way, is a significant factor in terms of penalty.

29. Secondly, the evidentiary onus in that regard is on the participant.

30. Thirdly, cases of this kind will generally fall into one of three categories, namely:

⁴⁴ Testimonial of Mal Cheney at TB 54.

⁴⁵ Testimonial of Josefa Lasagavibau at TB 55.

⁴⁶ Testimonial of Anthony Orley at TB 56.

⁴⁷ Testimonial of Trent Anderson at TB 57.

⁴⁸ [2008] VRAT 6

1. where, through investigation, admission, or other direct evidence, the Regulator can establish a positive culpability on the part of the participant, for example, by proving that the participant administered the drug themselves, or proving that the substance was administered at their direction, or otherwise in circumstances which demonstrate that they were instrumental in the commission of the offence.
2. where, at the conclusion of the evidence, the Tribunal is left in the position of having no real idea as to how the substance came to be in the animal.
3. where the participant provides an explanation which the Tribunal accepts, and which demonstrates that they had little or no culpability at all.

31. Fourthly, in terms of gradation:

1. the first category of case, where there is positive evidence of culpability, is the worst from the point of view of the participant, and high penalties would be likely to follow.
2. the second category of case may or may not end up being similar to the first category in terms of penalty, although every case must depend on its own individual facts.
3. the third category would be likely to attract penalties to reflect the absence, or the low level, of culpability. The category may include cases in which a Tribunal deems that it is not appropriate to impose a penalty which expresses denunciation, or one in respect of which general deterrence has no role to play. It may also include cases where a determination is reached that it is not appropriate to impose any penalty at all.

32. It is necessary to emphasise that the categories identified by his Honour, whilst obviously helpful, are not a fixed formula. They are a guide to assessing

culpability. The circumstances of the present case demonstrate the importance of that distinction, and the importance of the use to which such guide can be put. The circumstances of the present case demonstrate, in particular, that the objective circumstances of an offence may place it into the third of the categories identified in *McDonough*, but the level of culpability may still be significant.

33. Both parties in the present case agreed that the circumstances of the Appellant's offending fell within the third category identified by his Honour in *McDonough*. That is because the evidence clearly establishes that:

- (a) the substance was administered by someone other than the Appellant, namely Curtale; and
- (b) the Appellant had no knowledge of, and played no part in, that administration.

34. However, the parties also agreed that this was not a case in which there was no culpability, or in other words no blameworthiness, on the Appellant *at all*. The issue is where that level of culpability falls. The Appellant puts that culpability at a lower level than the Respondent, an issue which reflected in the submissions summarised below.⁴⁹

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

35. As to the issue of culpability, it was submitted on behalf of the Appellant that even if he had made relevant enquiries of Curtale it could reasonably be expected that Curtale would not have disclosed the fact that he had administered the substance. It was submitted that in these circumstances, the end result would have been the same, and that this was a factor which reduced the Appellant's level of culpability.⁵⁰ That said, it was not submitted that this operated to reduce the Appellant's culpability completely.⁵¹ Further, whilst it was accepted that the

⁴⁹ Transcript 2.15 – 3.20.

⁵⁰ Transcript 3.24 – 4.45.

⁵¹ Transcript 4.5

Appellant had made no enquiries with Curtale, it was submitted that the Appellant's lack of knowledge of the availability of an elective swab was the fault of the Respondent for failing to provide proper education to industry participants.⁵²

36. In terms of the Appellant's subjective case, it was submitted that the evidence supported a conclusion that he was unlikely to reoffend.⁵³ Reliance was also placed on his youth, his blemish-free history as an industry participant, the character evidence tendered on his behalf, the financial ramifications of a lengthy period of disqualification, his insight, remorse and contrition, and his candour towards, and co-operation with, the investigation.⁵⁴

37. It was accepted by the Appellant that general deterrence was an important consideration on penalty, that the objective seriousness of the offending was high, and that some period of disqualification was appropriate.⁵⁵ The Appellant's ultimate position was that in all of the circumstances, the appropriate penalty was "*time served*" with the imposition of an additional financial penalty.⁵⁶

Submissions of the Respondent

38. The Respondent's overarching submission was that whilst the circumstances of the present case fell broadly within the third of the categories identified in *McDonough*, the Appellant's level of culpability was still significant. The Respondent submitted that such a conclusion was supported by the fact that in circumstances where the greyhound had come into the Appellant's care from another participant, the Appellant had a responsibility, but had completely failed, to satisfy himself that the greyhound was free of any prohibited or permanently banned substance by making various enquiries that were available. Those available enquiries were identified as:

⁵² Transcript 5.24 – 6.15.

⁵³ Transcript 7.4.

⁵⁴ Transcript 8.45 – 9.30; Written submissions at TB 5 – 6.

⁵⁵ Transcript 6.20 – 7.4.

⁵⁶ Transcript 4.9 – 4.14.

1. making an enquiry of Curtale;
2. obtaining the treatment records pertaining to the greyhound;
3. taking the opportunity to have the greyhound undertake an elective swab prior to racing.⁵⁷

39. In these circumstances, it was submitted that this was not a case of the Appellant making an unwitting mistake.⁵⁸

40. The Respondent accepted⁵⁹ that had the Appellant (for example) made an enquiry of Curtale and been informed that the greyhound had no prohibited or banned substance in its system, it would have been open to conclude that his (i.e. the Appellant's) level of culpability was reduced. However, it was submitted that the fact that he did not do so simply highlighted the fact that his level of culpability remained substantial.⁶⁰

41. The Respondent also accepted the essence of Appellant's subjective case.⁶¹ However, it was submitted that there was an obvious need to balance that case against the objective seriousness of the offending, the fact that such offending involved the presence of a permanently banned substance, and the need for any penalty to reflect considerations of both general and personal deterrence.⁶² In these respects, it was submitted that the offending was fundamentally at odds with maintaining the integrity of, and public confidence in, the greyhound racing industry.⁶³ Whilst it was accepted that the Appellant's youth may be a relevant consideration, the Respondent submitted that it remained the case that the Appellant was the holder of the highest category of licence available, which necessarily carried with it significant obligations and responsibilities.⁶⁴

⁵⁷ Transcript 10.44 – 11.44; Written submissions at [21] – [24]; TB 21 – 25.

⁵⁸ Transcript 12.33 – 12.38; Written submissions at [25] – [27]; TB 10 – 11.

⁵⁹ Transcript 12.1 – 12.11.

⁶⁰ Transcript 12.6; 13.30.

⁶¹ Transcript 14.10 – 14.13.

⁶² Written submissions at [32] – [33] at TB 11; Transcript 14.15 – 14.23.

⁶³ Written submissions at [29] at TB 11.

⁶⁴ Transcript 14.35 – 14.45.

CONSIDERATION

42. The offending is, by its very nature, objectively serious, involving as it does a permanently banned substance which, on the evidence, has the capacity to enhance performance. As a consequence, it has the clear capacity to adversely affect the integrity of, and public confidence in, the greyhound racing industry. Put simply, any offending involving a permanently banned substance is a blight on the industry. For that reason alone, and as was accepted by the Appellant, general deterrence is an important consideration when determining penalty.

43. I accept that it is likely that Curtale would not have been forthcoming about what he had done had the Appellant asked him. I also accept that in that event, the offence might still have been committed. In that sense, the end result might well have been the same. However, I am not persuaded that this has the significance for which the Appellant contended. Whilst it is relevant, it remains the case that an assessment of culpability has, as its *primary* focus, the extent of the blameworthiness of the Appellant's conduct, rather than the outcome of that blameworthiness.

44. I accept the submission of the Respondent that the Appellant's culpability lies in his failures to:

1. make an enquiry of Curtale;
2. undertake other enquiries which were open, such as obtaining the greyhound's treating records; and
3. avail himself of an elective swab.

45. As to the last of those matters, I do not accept the proposition advanced on behalf of the Appellant that there is any fault attributable to the Respondent. Those who are registered as industry participants bear the responsibility of educating themselves about relevant rules, regulations and procedures. Moreover, even if the Appellant was not aware of the fact that a swab could be made available through the Respondent, he could have arranged for such testing to be carried out

on his own accord. Further, and but for the fact that the Appellant was not aware of the availability of elective swabs, there is little explanation of why it was that he did not pursue the first and second avenues which were obviously available to him.

46. The fact that there were multiple avenues of enquiry available, none of which were taken, necessarily reflects a not insignificant degree of culpability on the part of the Appellant. The clear lesson to be learned from this case is that there is a responsibility on industry participants to carry out what might be described as due diligence when the circumstances demand it. Those circumstances will include, but will certainly not be limited to, instances in which greyhounds come into the care of a participant in circumstances where nothing is known of their background.

47. At the same time, and in terms of an assessment of culpability, it is necessary to balance those factors against the fact that the Appellant is only 22 years of age. That factor supports a conclusion that the Appellant's culpability should be viewed as less than that of a more mature offender (in the context of this case, a trainer with more experience).⁶⁵ Whilst this appeal proceeds *de novo*, the Appellant's youth does not appear to have been a factor considered when the original penalty was imposed.⁶⁶

48. The Appellant presents as strong a subjective case as one could imagine. Whilst he is entitled to have that case given full weight, it has been observed on a number of occasions that subjective circumstances cannot result in the imposition of a penalty which fails to reflect the objective seriousness of the offending. The task of the Tribunal is to balance, and give appropriate weight to, all relevant factors. I have taken into account the Appellant's early plea of guilty, his blemish-free disciplinary history, and his obvious (and genuine) contrition. He has clearly

⁶⁵ See *Shehade v R* [2026] NSWCCA 107 at [28]; [34]; see also *Sarhene v R* [2022] NSWCCA 79 at [22].

⁶⁶ TB 89.

learned from this offending, and the evidence supports a conclusion that he is not likely to re-offend in this way. For all of those reasons, personal deterrence has little role to play in determining an appropriate penalty.

49. Whilst I accept that any period of disqualification will have a significant financial impact on the Appellant, and whilst I have taken that factor into account, it is one to which limited weight can be attached. That is for the simple reason that it such an impact is an almost inevitable consequence of any disciplinary breach.

50. I do, however, place considerable weight on the unchallenged testimonial evidence, from which two matters of real significance emerge. Firstly, a number of the testimonials were provided by participants in the industry (including, in one case, from a person who holds an official position). Secondly, many of them specifically referred to the Appellant's honesty and integrity. Those are personal attributes which are of particular significance in light of the nature of the present offending. They support the conclusion that the offending should be regarded as an aberration.

51. It was accepted on the Respondent's behalf that a disqualification is inevitable. I am unable to accept the submission that the period of disqualification which has been served to date would be a sufficient penalty, coupled with a fine. Such an outcome would fail to properly reflect the objective seriousness of the offending. In that regard, previous determinations of the Tribunal in *Duncan v Greyhound Welfare and Integrity Commission*⁶⁷ and *Lee v Greyhound Welfare and Integrity Commission*⁶⁸ were included in the Tribunal Book. I was not taken to either of those decisions by either party in the course of submissions, but the circumstances of each of those cases were markedly different from those of the present case. Neither determination provides any support whatsoever for the outcome urged by the Appellant.

⁶⁷ 12 February 2024.

⁶⁸ 23 December 2024.

CONCLUSION AND ORDERS

52. For the reasons given I make the following orders:

1. The appeal is upheld.
2. The penalty imposed at first instance is quashed.
3. In lieu thereof, the Appellant is disqualified for a period of 9 months, commencing on 20 May 2026 and expiring at midnight on 19 February 2027.
4. The appeal deposit is to be refunded.

THE HONOURABLE G J BELLEW AM SC

3 August 2026