



APPEAL DECISION

MICHAEL POY *and* RACING VICTORIA STEWARDS

Date of Hearing: 1 February 2019

Heard By: Judge Bowman (Chair)

Appearances: Rob Montgomery appeared on behalf of the Stewards.
Michael Clark appeared on behalf of Mr Poy.

At Caulfield on Saturday 26 January 2019, rider Michael Poy was found guilty to a charge of careless riding (under the provisions of AR 137(a)), on his mount *Vengeur Masque (IRE)* in Race 7 the Ladbrokes Handicap (2000m).

The particulars of the charge being, "that near the 1800m he permitted his mount to shift in thereby taking *Al Galayel (IRE)* in onto *Second Bullet* which was tightened for room and had to be steadied."

Michael Poy had his permit to ride in races suspended for a period of 8 meetings commencing midnight Saturday 2 February and expiring midnight Saturday 9 February 2019.

In assessing penalty Stewards took into account his guilty plea and that the carelessness was in the low range.

A Notice of Appeal against the decision and severity of the penalty imposed was lodged on 28 January 2019.

A stay of proceedings was not requested.

DECISION: Appeal against decision dismissed.
Appeal against severity allowed.

Penalty varied to a severe reprimand.

**Grace Gugliandolo
Registrar
Racing Appeals & Disciplinary Board**

TRANSCRIPT OF PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE J. BOWMAN, Chairman

EXTRACT OF PROCEEDINGS

DECISION

MICHAEL POY

- and -

RACING VICTORIA STEWARDS

RACING VICTORIA CENTRE, FLEMINGTON

FRIDAY, 1 FEBRUARY 2019

MR M. CLARKE appeared on behalf of Mr M. Poy

MR R. MONTGOMERY appeared on behalf of the RVL Stewards

CHAIRMAN: Mr Michael Poy, you have pleaded not guilty to a charge of careless riding, in that in race 7 over 2000 metres at Caulfield on 26 January 2019, it is alleged that near the 1800-metre mark, you permitted your mount, Vengeur Masque, to shift in, thereby taking Al Galayel, ridden by Craig Williams, onto Second Bullet, ridden by Damien Oliver, which was tightened for room and had to be steadied. Another horse of possible relevance is Kiwia, ridden by Ethan Brown, which was on the inside of Second Bullet. The Stewards found the charge proven and imposed a penalty of suspension of eight meetings. You are appealing against both the decision and the severity of the penalty.

I have viewed the video several times. There is no completely head-on view, as the interference to Second Bullet occurred at or close to the turn at the 1800-metre mark. However, the earlier of the videos shown, which commences with a head-on view of the start, seems to be of more assistance than that taken from the carpark which is at a greater angle than the head-on. Damien Oliver certainly had to steady his mount.

The issue then becomes what caused this. Overall, I am of the view that the principal reason for this came from the outside rather than from Ethan Brown on Oliver's inside, although having viewed the videos again, it does seem to me that Ethan Brown did shift out to a modest degree.

In the Stewards' room after the race, Stephen Baster, who was assisting you, made the following comment:

Look, I don't think there's a lot in it. Obviously from Craig's and Damien's evidence, Craig was originally going to let him go, then he changed his mind and dug back up inside his heels. Damien is up, trying to hold his ground, and it just bottlenecks a little bit, but I don't think there's too much in it.

Craig Williams then said:

Yeah, I'd agree with Stephen's summarisation and my evidence as well. Like I said, I was happy to go (indistinct) but his horse didn't have the speed to go, and I had a second bite at it and then I did work up inside of him. But he would have been in his rightful mind to think that he was going to be clear; he just didn't have the horse to go, and then I did change my mind.

Earlier, Mr Williams had said, before viewing the film:

Yes, sir. We were anticipating - it was a funny-run race - to be forward but I thought that my horse didn't begin that well and I would have said that we'd made the decision to go forward, and I felt that Michael Poy stayed away from me well enough. He looked a couple of times but by the time when they went to go, I had changed my mind and I'd got up inside of him. Then just as he's coming across, I don't think all of us had sorted ourselves out so

much in there and basically from then on, we just got taken into that - and also coming up to that bit of a tight turn as well. He did look a few times but when he first initially went to go, I have no doubt that he was clear enough to go, but I changed my mind and I worked up inside of him.

Damien Oliver said as follows at page 4:

Yeah. I think both Craig's points and Stephen's points are certainly relevant. As Michael is coming along, he's coming in, and even out there, I felt Craig was going to let him go and then as Craig said, if he changed his mind, it changed the complexion of the whole incident when Craig then went forward again. It appears that Michael has come in a little bit on him but then released the pressure quickly, and I felt just on that one I asked you to show me, the film before the car, there does appear on that angle to be always daylight between Michael and Craig's mount. Basically my horse wasn't able to hold his position and I've just steadied, you know.

Later, Damien Oliver said the following:

Okay. Yeah, when I was out there, as I said, I was riding my horse to try to hold a position. He was responding but not getting there as quick as I would have liked and then he - as my fellow riders

have iterated and even Craig, in his evidence - changed his mind, because I felt he was back sort of level with me, and then when he changed his mind, he gave it a squeeze and was able to get the better of me and inside of Michael's heels. That's sort of where the trouble kind of started. I felt Michael was certainly taken advantage of in the circumstances of the race and after viewing the film, my opinion hasn't changed and I just feel that someone, like, with Michael's experience certainly deserves the benefit of the doubt in this circumstance. I never really felt in any danger at the time, although I did have to take hold, but as an experienced rider, I can see what Craig was doing. He didn't want to be caught wide and he saw an opportunity to get up inside Michael and has taken it.

I might say that Stephen Baster was critical of Craig Williams as follows - and I think he was referring to Craig Williams:

We don't want riders riding like that. I told Craig we don't want that. That's silly, because he's the one that can look after the boys and he's the one that put them in that position. He's the one that's dug up on the inside of heels.

My overall conclusion, based on these remarks, and my viewing of what I might describe as the first film, was that you did move in, albeit briefly, when not sufficiently clear of Craig Williams. He certainly contributed significantly

to what occurred by reason of his change of mind and unexpectedly kicking up on your inside. I accept from the video that you did have a couple of looks to your inside before the incident occurred. As stated, I am also of the view that there was some minor contribution from Ethan Brown.

The bottom line is that it is still your responsibility to be the appropriate distance clear before crossing a horse to your inside. I find that ultimately, briefly, this did not occur and that you were sufficiently clear, and I find that you were unaware of the change of mind by Craig Williams. However, as stated, the responsibility rests with you.

Accordingly, I find the charge of careless riding to be made out, but I also say now that, unlike in many of these cases, there are major contributing factors that come from others, and from the circumstances generally. I refer to Damien Oliver yet again. He concluded in one answer late in the interview as follows:

It's difficult for him to pre-empt what Craig was doing, particularly when he changed his mind, and he's volunteered that. So that's why I think Michael should be given the benefit of the doubt here in this incident.

I shall hear what the parties have to say in relation to penalty, but repeat that there were contributing factors of quite some significance, and that is not a statement that I often make.

DISCUSSION RE PENALTY

This is a somewhat unusual case, I might say. It is rare that I read excerpts from what those in the Stewards' room had to say. To some considerable extent, I consider you were a victim of circumstances, perhaps largely contributed to by the change of mind on the part of Craig Williams, but nevertheless you have had a couple of looks. Perhaps the timing of it was most unfortunate, but the obligation is still there.

In the circumstances, I am going to accede to what has just been said about a severe reprimand. I also appreciate what Mr Montgomery said, in that the Stewards gave a penalty of two meetings off because of treating the reserved plea as a plea of guilty, but this is an unusual case. Again, maybe if the drone shot was there, we would all have a different view of the incident and of the outcome, but I have looked at it eight times now at least and I am satisfied that there was a movement in. The conclusion I have come to is that nevertheless there is a responsibility from the horse coming across from the outside. But I am prepared to impose, by way of penalty, a severe reprimand. I am prepared to vary the penalty in this case because of all the circumstances that existed, and I quoted at length what your fellow colleagues had to say because that seemed to me to be, in this particular case, of considerable relevance.
