



## Appeal Result

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**FROM** : Registrar – Racing Appeals and Disciplinary Board

**DATE** : 19 January 2009

**SUBJECT** : APPEAL HEARING RESULT: JOCKEY – BEN SMITH

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At an adjourned inquiry on Monday, 5 January 2009, jockey Ben Smith pleaded guilty to a charge of misconduct resulting from an incident in the vicinity of the jockey's room after Race 2 *The Glen Erin Group Maiden Plate* at Hanging Rock on Thursday, 1<sup>st</sup> January 2009. The misconduct being that he struck apprentice jockey Nick Mehmet in the face with a portion of his arm resulting in severe facial injuries to Nick Mehmet.

Mr Smith had his licence to ride in races suspended for a period of six months, to commence midnight 7<sup>th</sup> January 2009 and to expire midnight 7<sup>th</sup> July 2009

A Notice of Appeal against **the severity of the penalty** was lodged on Monday, 5<sup>th</sup> January 2009.

A stay of proceedings was granted until midnight on Sunday, 18<sup>th</sup> January 2009.

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**DECISION:** **Appeal allowed.**

Penalty varied.

Period of suspension of six months to have commenced midnight 7<sup>th</sup> January 2009, with two month's of the six month suspension to be suspended for a period of two years and activated if the appellants is found guilty of a similar offence during the two year period.

**Georgie Curtis**

Registrar  
Racing Appeals & Disciplinary Board

**TRANSCRIPT OF  
PROCEEDINGS**

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**RACING APPEALS AND DISCIPLINARY BOARD**

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman  
MR J. BORNSTEIN  
MR B. KNIGHTS**

**EXTRACT OF PROCEEDINGS**

**DECISION**

**JOCKEY: BEN SMITH**

**MELBOURNE**

**MONDAY, 19 JANUARY 2009**

MR J. OGILVY appeared on behalf of the Stewards

MR R. INGLIS appeared on behalf of the Appellant

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CHAIRMAN: In this appeal, the question becomes what is the appropriate period of suspension, having regard to all the circumstances of the case. In the Board's opinion, the stewards were correct in arriving at a period of suspension of six months, based upon the information which was presented at the hearing and adjourned hearing.

On this appeal, evidence was presented relating to the personal circumstances of the appellant, in particular hardship which would occur should he be suspended for a period of six months.

Further, the victim, Mr Mehmet, was not called and there was no further evidence put to the Board in relation to any effect his injuries may have had upon him.

These further considerations have led the Board to conclude that a period of the suspension of six months should be suspended. The appeal is allowed to the extent that it is varied so that a period of suspension of six months is imposed, commencing at midnight on 7 January 2009 and ending at midnight on 6 July 2009. However, it is ordered that two months of that period is suspended. The period of operation of the order is two years. That means that should the appellant commit a similar offence within that period of two years, the period of two months held in suspense will be activated.

The Board is disturbed about two aspects which have arisen in this case. First, a growing tendency of jockeys engaging in aggressive behaviour following the running of a race, sometimes leading to actual violence to the person. The Board wishes to make it clear that future incidents of this kind will receive significant penalties.

Secondly, the Board is concerned that there exists a culture amongst jockeys not to be forthcoming when clearly they have witnessed a serious assault such as this. The Board believes that it is incumbent on stewards to deal with this problem and if necessary, in an appropriate case, to take further action under one of the provisions of Australian Rule of Racing 175.

**END OF EXTRACT**