

or cuts which are about 30 to 35 centimetres long. There are some also on the near side. These photographs are about 19 days after the incident.

The Appellant submitted he should not be convicted because it may adversely affect his prospects of obtaining a licence in an overseas jurisdiction. Whilst this may be so, it is in my view more relevant to penalty than guilt or innocence.

It is clear this horse suffered significant injuries as a result of an over-zealous use of spurs. Whilst there may be mitigating circumstances surrounding the Appellant, by reason of his youth and inexperience, I am not convinced that this abrogates from the offence.

In the result the appeal is dismissed.

Turning then to the question of penalty, I embrace the view of the Chairman of Stewards where at page 31 of the transcript he remarks that "it is important that we send a message to the community that racing is responsible towards the welfare of horses".

Whilst the appellant is young, just 17 years, and relatively inexperienced, and the spurs that were used were not illegal, he has used them excessively and in the result caused the horse significant injury.

Weighing these factors together I cannot suspend the whole of the fine as urged upon me by his representative, Mr Jon O'Connor. Striking a compromise between what I consider to be the prospects of this young man re-offending and sending the right message to the community, I think it appropriate to impose a fine of \$500, and a further \$500 suspended for a period of 12 months from the date of the offence to be of good behaviour, and not to commit an offence relating to cruelty in that time-frame.

The appellant is entitled to a refund of his bond.

Lastly, I wish to thank my Assessor, Mr Jim Johnson for his assistance today, but more particularly for his assistance for the whole of the time he has sat on the Tribunal, a period in excess of 10 years. Throughout which time he has provided a great service to Deputy Presidents and Presidents as well as those who preceded me. On Behalf of the Tribunal and the industry I wish him the best in his move to Melbourne.