

BEFORE THE CALIFORNIA HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of:

Appeal of the Board of Stewards Official
Ruling #14, Hollywood Park Racing
Association, dated May 13, 2010

Case No. SAC 10-0031

CHRISTIAN SANTIAGO REYES
CHRB License #302068
Appellant

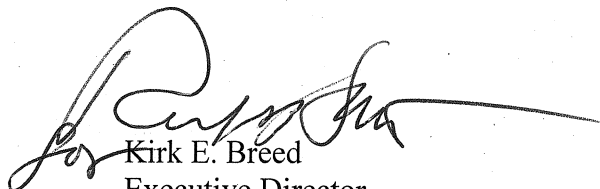
DECISION

The attached Proposed Decision is hereby adopted by the California Horse Racing Board as its Decision in the above-entitled matter.

The Decision shall become effective on September 28, 2010.

IT IS SO ORDERED ON September 23, 2010.

CALIFORNIA HORSE RACING BOARD
Keith Brackpool, Chairman


Kirk E. Breed
Executive Director

**BEFORE THE
CALIFORNIA HORSE RACING BOARD
STATE OF CALIFORNIA**

**In the Matter of the Appeal of Stewards')
Official Ruling Number 14, Hollywood)
Park Racing Assoc., dated May 13, 2010)
)
CHRISTIAN SANTIAGO REYES)
CHRB License # 302068)
Appellant.)**

Case No. SAC 10-0031

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PROPOSED DECISION

This appeal was heard by attorney Steffan Imhoff, an Appellate Judge designated under Rule 1414 by the California Horse Racing Board (CHRB), at the Executive Offices- Del Mar Race Track, Del Mar California, on July 24, 2010.

Bill Westermann, Supervising Investigator, represented the CHRB.

Stewards Tom Ward and Kim Sawyer also represented the CHRB.

Safety Steward Luis Jauregui was present for the CHRB

Attorney Bing Bush represented the Appellant, Christian Santiago Reyes.

Mr. Santiago Reyes was present and testified on his own behalf.

Raul Ramirez testified for the CHRB.

The proceedings were transcribed by Barbara Weinstein, Hearing Reporter.

Daniel Trigueros acted as interpreter for Santiago Reyes.

The appeal was submitted for decision on July 24, 2010.

PROCEDURAL BACKGROUND

This Appeal concerns Appellant's race riding during the running of the second race at the Hollywood Park race track on May 12, 2010. Because the Stewards detected

potential irregularities in that ride he was called in for a Film Review/Hearing which took place on May 13, 2010. Following that hearing the Stewards issued the following ruling:

Pursuant to California Horse Racing Board rule #1900 (Grounds for Suspension or Revocation), Apprentice Jockey **CHRISTIAN SANTIAGO REYES** is suspended for **10 (TEN) RACING DAYS (MAY 19, 20, 21, 22, 23, 26, 27, 28, 29, and 30, 2010)** for violation of California Horse Racing Board Rule #1489(g) (Grounds For Denial or Refusal of License-intemperate act which exposes others to danger) while riding “Too Pink” in connection with the second race at Hollywood Park on May 12, 2010.

The ruling was unanimous and was signed by Stewards Chaney, Ward and Sawyer and dated May 13, 2010. The Stewards explained their decision in their notes for that date:

This ruling was issued after a film review and discussion pertaining to Mr. Reyes’ ride in the second race. Jockey valet Raul Ramirez interpreted for him and verified that he pulled the rein of the #3 horse. It was translated that Mr. Reyes stated “he was just kidding around and meant no harm, it was all in fun”. He was told this kind of behavior was unacceptable in this industry. At the end of the hearing Mr. Reyes fully understood the seriousness of his action and apologized before he left the office.

Appellant, through counsel, has filed a timely notice appealing Order LATS #014. A request for a Stay was denied by the Board. However the suspension has been stayed by Judge Robert O’Brien of the San Diego County Superior Court-North, pending resolution of this appeal.

The hearing on appeal of Order LATS #014 (SAC 10—0031) was conducted in Del Mar, California, at the Del Mar Race Track Executive Offices on July 24, 2010.

This Appeal to the CHRB is authorized by Rule 1761.

Appellant has the burden of proof on appeal under Rule 1764.

The focus of the hearing was whether or not the films of the race showed that Appellant pulled on his foe's reins, or whether he accidentally got his whip tangled in those reins. In addition, the case presents the issue of whether Appellant's actions constituted "an intemperate act which exposes others to danger" and thus subjected him to a suspension under Rules 1489 (g) and 1900.

Under the provisions of Business and Professions Code Section 19517, the CHRB may overrule a Stewards' Decision if a preponderance of the evidence shows either that the Stewards mistakenly interpreted the law, new evidence of a convincing nature is produced or the best interest of racing may be better served.

DISCUSSION

A) Summary of Evidence

The second race at Hollywood Park on May 12, 2010 was a low level claiming race for fillies and mares 3 year old and up at a mile and a sixteenth on the all weather track. The race was won by odds on favorite Super Sophie ridden by Rafael Bejarano and trained by Mike Mitchell. Too Pink was ridden by Santiago Reyes and Daniella Roth was piloted by Silvio Amador.

Appellant testified and was the only witness offered on his behalf. In essence he denied intentionally doing anything to disrupt Amador's mount. Appellant insisted that he accidentally made contact between his whip and the reins. For a moment his whip became tangled with Daniella Roth's reins. Appellant then forcefully pulled on the whip and freed it from the entanglement.

The Steward's case relied primarily on the Declaration and testimony of Jockey Valet Raul Ramirez. Ramirez was Appellant's interpreter at the Stewards' Hearing on May 13, 2010. He testified that Santiago Reyes told him in Spanish that he (appellant) was just "playing around" when he "grabbed" Daniella Roth's reins. Ramirez conveyed

that translation to the Stewards at the Hearing. On cross, after reviewing the film, Ramirez conceded that the whole incident could have been an accident.

Jockey Amador' Declaration was ruled inadmissible as he was not available for cross examination

On rebuttal Appellant denied the "playing around" statement and reiterated that his whip had become accidentally stuck in his foe's reins for a moment before he was able to get it free.

The film of the race tends to support Santiago Reyes' testimony. The best view is the head-on from the 7/8 pole. As he approaches the finish line Appellant is in 5th place traveling on the rail. Amador's mount is relatively even with Too Pink and a few feet out from the rail. As Appellant begins to use a right handed whip his mount begins to drift outward. Each stroke of the whip has the same trajectory. However, when Appellant gets right next to Daniella Roth it seems that his whip instead of striking Too Pink, gets momentarily caught up in Daniella Roth's reins. Appellant immediately pulls the whip free from the reins simultaneously pulling Daniella Roth's head toward the inside.

The whole incident appears to be an accident and certainly does not substantiate the allegation that Santiago Reyes was either playing around or grabbing his rivals' reins.

B) *Controlling Law*

1) RULES 1489 (G) AND 1900

Because this action was brought under Rules 1489(g) and 1900, and because we have determined that Appellant's actions in this case were not intentional, we are left facing the issue of whether these specific rules encompass unintentional misbehavior. Rule 1489 in general, is obviously aimed and preventing unsavory characters from obtaining CHRB licenses and thus protecting the integrity of the sport. It is entitled

Grounds for Denial or Refusal of License and most sub sections focus on ferreting out an applicant's past criminal behavior.

Section (g) allows a denial or refusal of a license to anyone:

“Who has committed an act of moral turpitude, or intemperate act which has exposed others to danger, or acts in connection with horse racing and/or a legalized gaming business which were fraudulent or in violation of a trust or duty.”

Rule 1900 merely states that “(a)ny provision of any rule which is grounds for denial of a license is also a ground for a suspension or revocation of a license.

So a finding under Rule 1489 is a condition precedent for a suspension under Rule 1900.

Here the specific allegation under 1489 (g) is that Santiago Reyes committed an intemperate act which exposed others to danger. The ruling hinges, in part, on the definition of intemperate. Intemperate is a 14th century Middle English term derived from the Latin intemperatus. It's primary meaning is an excessive behavior fueled by alcohol. In the context of 1489(g) no alcohol is implied and the secondary meaning of extreme, immoderate or unbridled behavior attaches. We are unable to reconcile those definitions with the apparent accidental behavior depicted in the film of the race in question. As to Appellant's supposed statements it seems likely that there was either a problem with the translation or Mr. Santiago Reyes was telling the Stewards what he imagined they wanted to hear. In either case the films simply don't support a finding of intentional misconduct as required by the pertinent portion of Section 1489(g).

2) RULE 1699 Riding Rules

The fact that we have found that Appellant's actions cannot be punished under Rules 1489(g) and 1900 does not mean they cannot be punished. We find that while not intentional Appellant's race riding that resulted in his whip getting entangled in his

opponen's reins and resulted in Daniella Roth's head being violently pulled to the side was extremely careless and dangerous.

Under Rule 1699(e) a "Jockey shall not willfully strike, or strike at another horse or jockey so as to impede, interfere, intimidate, or injure. Since this requires "willful" behavior it may not be applicable to this case. On the other hand under Rule 1699 (d) a "Jockey shall not ride **carelessly**, or willfully, so as to permit their mount to interfere with or impede any other horse." (emphasis added) A violation of this rule allows a Jockey to be suspended. Rule 1699 (f).

We find that Rule 1699 Careless Riding offences are lesser included offences to those delineated in Rule 1489(g) (Penal Code Sec.654) and that Appellant may be suspended under that rule.

We are aware that Rule 1699 applies to offences committed during a race. To that end we have carefully studied the film and listened to the simultaneous call of the race, and are convinced, and so find, that the "entanglement" took place near the wire but before the actual finish line.

In addition, and as an alternative holding, the Stewards have general authority and supervision over all licensees, including licensed jockeys such a Mr. Santiago Reyes. (Rule 1527) That authority includes their ability to impose a fine or suspension. (Rule 1528). We find that relying on Rules 1527, 1528 and 1699(d) there is substantial evidence to support a Decision to suspend Appellant for *careless* riding. *Shapiro v. San Diego City Council*, (2002) 96 CA4th 904, 912; *San Diego Union v. San Diego City Counsel* (1983) 146 CA2d 947, 952. The degree of carelessness and the danger created by Appellant's negligence requires that a suspension of **5(five)** days be imposed.

ORDER

Official Ruling Number 14, Hollywood Park Racing Association, dated Mat 13, 2010 imposing a 10 day suspension on Appellant Christian Santiago-Reyes, Lic. # 302068 for violating Racing Rules 1489(g) and 1900 in the second race at Hollywood Park on May 12, 2010 while riding "Too Pink" is hereby MODIFIED. The modified order imposes a 5 day suspension on Jockey Santiago Reyes for careless riding under Rules 1527, 1528 and 1699 while riding "Too Pink" in the 2nd race at Hollywood Park on May 12, 2010.

The Stewards shall specify the days that the suspension will be effective.

DATED: 8-23-10



STEFFAN IMHOFF
Designated Appellate Judge