

DANIEL GILLIS,
Appellant,
v.
NEW JERSEY RACING COMMISSION,
Respondent.

Decided February 20, 1980

Initial Decision

SYNOPSIS

Gillis appealed a determination of the Board of Judges at the Meadowlands Race Track that he had violated *N.J.A.C.* 13:71-20.6(a)8 by allowing his horse to impede the progress of another horse during the course of a race.

Based on testimony and a review of videotapes of the race, the administrative law judge found that Gillis had twice allowed his horse to swerve towards another horse in the homestretch and that the second swerve was severe enough to impede the progress of the other horse causing him to break his stride.

Accordingly, the judge ordered that Gillis's license as a driver and trainer be suspended for three days and that none of the money from the race's purse be paid to Gillis.

Daniel Gillis, *Pro Se*

Harold G. Handel, Deputy Attorney General, for Respondent (John J. Degnan, Attorney General of New Jersey, Attorney)

CLANCY, ALJ:

The Board of Judges at the Meadowlands (later upheld by State Steward, Edmund J. Marian) concluded that appellant had violated *N.J.A.C.* 13:71-20.6(a)8 by allowing his horse to impede the process of another horse. The penalty assessed was a three day suspension and the forfeiture of purse money.

N.J.A.C. 13:71-20.6(a)8 reads in pertinent part as follows:

Although a leading horse is entitled to any part of the track except after selecting his position in the home stretch, neither the driver of the first horse nor any other driver in the race shall: . . . commit any act which impedes the progress of another horse or causes him to 'break'.

The issue presented for resolution is whether appellant violated this rule.

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Cite as 1 *N.J.A.R.* 78

An administrative judicial proceeding was held on January 7, 1980, at which time it was established that on May 31, 1979 appellant drove a horse named Harry Marvel in a race which also involved a horse named "Our Angelo," driven by Harold Kelly. Driver Kelly testified that coming down the homestretch there were three horses abreast and he was in the middle. Appellant's horse was on the outside and swerved toward him. He thought they might collide, so he "snatched" his horse back, causing the horse to break stride. As best he could remember, there was no contact between the horses.

Driver Gillis indicated that although his horse had swerved towards Kelly's horse, there had been no contact between the two. In addition because Kelly's horse was very tired from having run on the outside most of the race and was known to have broken stride in the past when other horses pulled abreast, it was Gillis contention that Kelly's horse would have broken stride any way.

Multi-angled videotapes of the race were viewed no less than 21 times. These tapes showed that appellant's horse swerved towards Kelly's horse in the homestretch *twice*. On the second occasion, the swerve was severe enough (as seen in a front view) as to cause the inside wheel of appellant's rig and the outside wheel of Kelly's rig to either align, one behind the other, or to become crossed. When this happened, Kelly's horse then broke stride and headed toward the inside of the track.

Based on the foregoing, and most especially the testimony of Harold Kelly and the videotape replays, I **FIND** that the actions taken, allowed or suffered to occur by the appellant in the race under scrutiny impeded the progress of another horse and caused him to "break". I **CONCLUDE**, therefore, that respondent violated *N.J.A.C.* 13:71-20.6(a)8.

Accordingly, I affirm the decision of the Board of Judges at the Meadowlands which was upheld by State Steward Edmund J. Marian, and I **ORDER** that appellant license as a driver and trainer be suspended for three days. I also **ORDER** that none of the purse monies presently held in escrow with regard to this matter be paid to appellant.

After reviewing this Initial Decision, the New Jersey Racing Commission on April 1, 1980 issued the following Final Decision:

The New Jersey Racing Commission at its meeting on March 28, 1980 unanimously affirmed the decision of administrative law judge, who upheld the suspension of Mr. Daniel Gillis for three days for violation of *N.J.A.C.* 13:71-20.6(a)8.