

# **DECISION**

**Of**

## **Queensland Racing Integrity Commission Stewards**

**Regarding**

### **Mr Daniel McGillivray**

<b>Delivered on:</b>	24 September 2025
<b>Date of hearing:</b>	18 September 2025
<b>Panel:</b>	Mr Paul Zimmermann (Chairperson), Mr Joshua Adams and Mr Alexander Dowsett
<b>Appearances:</b>	Mr Daniel Mc Gillivray. Mr Corey Cullen (Solicitor) Mr Thomas Cicchini (Solicitor)
<b>Charge:</b>	<p>Australian Rule of Racing 139 Offences where riders use banned substances. (1) A rider breaches these Australian Rules if: (a) a banned substance under AR 136(1) is detected in a sample taken from the rider.</p> <p>AR 136 Banned substances in relation to riders.</p> <p>(1) Unless otherwise stated in these Australian Rules, the following substances and/or their metabolites, artefacts and isomers are specified as banned substances in riders when detected in a urine sample at a concentration above the respective threshold level:</p> <p>(g) All stimulants, including but not limited to: (viii) Cocaine.</p>
<b>Particulars of Charge:</b>	Mr Daniel McGillivray a licensed Jockey with the Queensland Racing Integrity Commission

On Sunday 24 August 2025 at the Kilcoy Racecourse, provided a urine sample to Stewards which upon analysis was found to contain a banned substance, namely Benzoylecgonine and Ecgonine Methyl Ester in breach of AR136(1)(g)(viii) (Metabolites of Cocaine).

**Plea:** Guilty

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### **Penalty Submissions:**

Stewards were presented with detailed written submissions from Mr Cullen on behalf of Mr McGillivray.

1. Mr McGillivray consumed a small amount of cocaine the night prior while socialising.
2. Mr McGillivray felt fine the next morning but accepts the risks posed to others by deciding to ride.
3. Mr McGillivray has engaged with SMART Recovery (one session completed and further sessions booked).
4. Mr McGillivray has experienced significant personal matters.
5. Mr McGillivray has ongoing financial commitments (rent, living expenses, car repayments).
6. Mr McGillivray has otherwise of good record, and this is his first offence of this nature.
7. Character references attesting to reliability and remorse were provided.

### **Stewards Finding on Penalty:**

The Stewards give weight to Mr McGillivray's early guilty plea, cooperation, remorse, character material and the initial rehabilitation steps outlined in his submissions. Stewards also note the absence of prior like offending. Presenting with a banned stimulant (cocaine metabolite) contravenes AR 139(1)(a) and is an objectively serious integrity and safety breach. The banned substance rules are in place to ensure participants are fit to ride in a high-risk environment, and electing to ride in those circumstances elevates risks to riders and horses.

In Maynes (Racing NSW Appeal Panel, 4 November 2024), which concerned benzoylecgonine, the Panel affirmed that "riders can expect lengthy suspensions or disqualifications" because they "expose not only themselves but others to additional and

unnecessary risks,” and accepted that a nine-to-twelve-month starting range is generally appropriate for first offending under AR 139(1).

The aggravating fact is that Mr McGillivray used cocaine the night prior and elected to maintain his riding engagements at Kilcoy on 24 August 2025, thereby knowingly elevating risk to other riders and horses for monetary gain, a factor that distinguishes this case from authorities where the rider did not proceed to ride after use or whereby the breach followed from riding trackwork.

Balancing the seriousness of a stimulant positive coupled with riding at a race meeting, the specific aggravation of riding for remuneration after recent use, the need for general deterrence and to protect public confidence, and the mitigation (early plea, cooperation, remorse, rehabilitation steps and otherwise good record), the Stewards are satisfied that a disqualification is the appropriate sanction, with a measured reduction for mitigation.

In respect of comparative authorities, Stewards are satisfied that the appropriate penalty framework is one of disqualification. This is consistent with penalties imposed in cases involving positives following race rides:

- *Brooker* (2019): 9 months disqualification banned substance at a race meeting.
- *Bannon* (2021): 9 months disqualification banned substance at a race meeting.
- *Scorse* (2023): 12 months suspension banned substance at a race meeting

## Human Rights

In considering this matter, proper consideration is required in respect of human rights, and it is necessary to act compatibly with human rights in accordance with the *Human Rights Act 2019* (Qld). The Stewards acknowledge that any penalty imposed upon Mr McGillivray may limit or prevent a person from earning a living from the racing industry and subsequently that the imposition of such a penalty may limit a person’s human rights to own property (namely a licence), as well as the human right of privacy and reputation. The Stewards further acknowledge that a limitation upon a person’s ability to participate in the racing industry, and earn income from that participation, may only be imposed where it is reasonably necessary to achieve the purpose of taking disciplinary action and there is no less restrictive and reasonably available way to achieve the purposes listed above, than to suspend a licence, disqualify a person from holding a licence, or warn a person off.

In the circumstances of this case, Stewards are satisfied that there is no lesser penalty that could be imposed that enables the purposes of taking disciplinary action against a licensee for a contravention of the rules of racing, which are to:

- Maintain public confidence in the racing of animals in Queensland for which betting is lawful;
- Ensure the integrity of all persons involved with racing or betting under the *Racing Integrity Act 2016* or the *Racing Act 2002*; and
- Safeguard the welfare of all animals that are or have been involved in racing under the *Racing Integrity Act 2016* or the *Racing Act 2002*.

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**Penalty:**

Stewards are of the view that a disqualification is warranted in the circumstances. A disqualification for a period of nine (9) months reduced to seven (7) months in relation to Mr McGillivray's disciplinary history and guilty plea, effective from the date of this decision commencing 24 September 2025 concluding 24 April 2026.

Stewards order that if Mr McGillivray provides evidence that he has completed a recognised drug and alcohol awareness course, the final two months of Mr McGillivray's period of disqualification will be altered to a suspension of his license to ride in races and official trials.

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Further, stewards draw to the attention of Mr McGillivray Australian Rule of Racing AR 263 and the prohibitions on persons and their conduct while disqualified.

Mr McGillivray is also advised that he would be required to provide a clear urine sample prior to returning to riding.

Against this Stewards decision Mr McGillivray is advised of his rights to appeal this decision to the Racing Appeal Panel.