

## Reciprocity and Don Meade

By now, it has become standard operating procedure for racing commissions to consider licensing reciprocity as a relic of the past. While some high profile people such as Kieran Fallon have not obtained licenses in the United States, the fact is that reciprocity has become a shell of the past.

This ought to have been obvious based on the Lasky/Warren Hot Wells incident at the Belmont Stakes in 1998. Hot Wells – who had finished fourth in the Preakness – was entered in the Belmont Stakes by his owner Michael Warren Lasky. Mr. Lasky had been for years a selector of race horse winners. In 1982, his license application to own horses in New York was rejected because he was determined to be a tout.<sup>1</sup> Nonetheless, in the interim since 1982, Lasky had been licensed in approximately a dozen states without clearing his situation with New York. When he showed up in New York, he was simply told that he couldn't race until he addressed the 1982 denial. It shouldn't have come as a surprise that Lasky's entry in the Belmont was refused. What should have come as a surprise was that so many jurisdictions had licensed Lasky, even though his owner's license had been denied in New York.

Since that time, the situation has only gotten sillier.<sup>2</sup> Former harness racing icons, such as Herve Filion and Walter Case, were barred from New York but were able to drive in other jurisdictions. David Ingraham – who was involved in the same charges of race fixing involving gambler Danny Kramer as Filion - has been driving in New England for years. Patrick Biancone trained horse in some United States' jurisdictions even when he had been suspended under the trainer responsibility rule for drug positives in Hong Kong.<sup>3</sup> Trainers David Donk, Mark Hennig and Todd Pletcher sued – albeit unsuccessfully – the New York State Racing and Wagering Board – for granting reciprocity to a suspension issued by the State of Florida. Even though the Racing and Wagering Board prevailed in the Donk case, it may have only prevailed because the Board – simply by serendipity – held its monthly meeting at Belmont Park at the time that the suspensions were issued – which allowed the trainers to have an opportunity to present their side of the case.<sup>4</sup>

### Don Meade

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<sup>1</sup> Lasky v. Van Lindt, 115 Misc. 2d 259 (Sup Ct. Special Term NY County 1982)

<sup>2</sup> For a thoughtful discussion of reciprocity, see the speech of Commissioner Cheryl Buley at <http://cals.arizona.edu/rtip/Symposium/2002%20Symposium/2002%20Transcripts/02wedregulatoryissuesrevisited.html>

<sup>3</sup> See Chris McGrath, “Biancone Inspired by Fresh Challenge,” The Times, October 25, 2002.

<sup>4</sup> Donk v. Miller, 365 F.3d 159 (2d Cir. 2004). The court specifically stated “We need not decide whether, in the usual course, an automatic reciprocal suspension in New York, without a hearing, would withstand constitutional scrutiny.” at 164. The possibility that automatic suspension without a hearing might constitute a due process violation will likely cause most racing commissions to provide an opportunity to be heard to licensees who had their licenses revoked or suspended in another jurisdiction.

The current situation is light years away from where it stood in the middle of the 20<sup>th</sup> century. The most intriguing case is that of jockey Don Meade. Don Meade was a tremendously talented jockey in the 1930's and 1940's. He was the leading jockey in the nation in 1939 and 1941. He was regarded at that time as being in the same class of top jockeys with Eddie Arcaro, Ted Atkinson, and Johnny Longden. "He was heralded as being one of racing's all time great jockeys."<sup>5</sup> Unfortunately, Meade consistently had a problem with racing officials. He often was suspended. (It's perhaps fitting to view him as a mid century version of, Manuel Ycaza, Walter Case, and John Rocker.) He was even suspended for a month after he won the Kentucky Derby on Brokers Tip in 1933 for grappled through the stretch with Herb Fisher the jockey on Head Play who finished in second place.

He was the recipient of three lifetime suspensions.<sup>6</sup> The last of these lifetime suspension occurred in 1945. Meade was riding in Mexico City in March of 1945, during the time period where racing in the United States during World War II had been suspended. The stewards announced that he had been suspended for "reprehensible conduct"<sup>7</sup> which did not involve racing integrity.<sup>8</sup> He was apparently accused of "making derogatory remarks about the Mexican people"<sup>9</sup> "using abusive language with the stewards of the Mexico Jockey Club,"<sup>10</sup> and/or simply having a run-in with a steward.<sup>11</sup>

Over the next several years, while the Mexican authorities would occasionally state that Meade had been punished enough,<sup>12</sup> they never gave him back his jockey's license. Under the rules of reciprocity then assumed to be in effect, Meade was not authorized to obtain a jockey's license in the United States.

### Meade Meets Reciprocity

Nonetheless, in late 1950, Meade applied for a jockey's license in Florida. By a vote of 3 -1, the commissioners granted him a one year probationary license. The dissenting vote was made by Leo Edwards, the chairman of the Florida commission who was also the vice president of the National Association of State Racing Commissioners [NASRAC]<sup>13</sup> the umbrella body representing all the nation's racing commissions. Edwards claimed that the grant of the license was a violation of NASRAC's code.

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<sup>5</sup> United Press, "Meade Licensed to Ride in Florida, But 5 Year Ban Stands Elsewhere," New York Times, December 10, 1950 Pg. S1. Sunny Jim Fitzsimmons called him "among the great jockeys of all time." AP, "Miller Rated Among Best," New York Times, December 31, 1950 Pg. S5.

<sup>6</sup> Lifetime suspensions in horse racing tend not to last a lifetime. This isn't like the 1919 Chicago Black Sox who were perpetually kept out of baseball. For example, Hall of Fame trainer Lucien Lauren received a lifetime suspension in 1938 for using a battery when he was a jockey. Thankfully for Lauren and Secretariat, the suspension lasted for two years. The revocation of Eddie Arcaro's jockey license in 1942 wound up being a one year suspension.

<sup>7</sup> AP, "Jockey Meade Suspended," March 25, 1945 New York Times Pg. S2.

<sup>8</sup> Id.

<sup>9</sup> AP, "Mexico Forgives Meade," New York Times, December 16, 1945 Pg. E8.

<sup>10</sup> See note 5 supra.

<sup>11</sup> AP, "New Rule Adopted on Turf Violators," New York Times, January 26, 1951 Pg. 38.

<sup>12</sup> See note 9 supra and AP, "Meade Punished Enough," New York Times, October 19, 1949.

<sup>13</sup> NASRAC is now known as the Association of Racing Commissioners International [ARCI].

According to Edwards, “This is the first time that any member of the association has not lived up to the rulings of other members. That we the members of the association reciprocate with each other is the backbone of the association.”<sup>14</sup>

All hell soon broke loose. The Florida Attorney General called the decision to license Meade “unfortunate” and “regrettable.”<sup>15</sup> “Howls of protests came from other state commissions.”<sup>16</sup> NASRAC which had scheduled its annual convention for Miami Beach in January of 1951 threatened to move the conference to New Orleans.<sup>17</sup> Miami Beach hotel owners got involved to keep the convention in Miami Beach.<sup>18</sup> There were plans made to expel Florida from NASRAC, and Edwards had planned to resign as Vice President of NASRAC.<sup>19</sup> With so much pressure being placed on Meade and Florida, Meade withdrew his license application, taking the “Florida State Racing Commission off an uncomfortably hot seat of its own creation.”<sup>20</sup>

Meade may have thought that by withdrawing his application he would be given more sympathetic treatment when the NASRAC convention came to Miami Beach in January of 1951.<sup>21</sup> That did not come to pass. Instead rather than act on Meade’s reinstatement, NASRAC passed a motion stating that reinstatement was only possible at the scene of the incident.<sup>22</sup> It indicated that New York should hear Meade’s reinstatement, but it was not made clear whether New York would need to follow Mexico’s lead on reinstatement.<sup>23</sup>

Meade would apply periodically for a license after January 1951, but he would routinely be turned down because of reciprocity.<sup>24</sup> It wasn’t until the summer of 1964 that Meade was granted a jockey’s license in Mexico.<sup>25</sup> By that time, he was Meade was in his early 50’s and too old to work effectively as a jockey. Since, however, he had become licensed in Mexico, he was able to obtain a trainer’s license.<sup>26</sup> The New York Racing Commission found that Meade was only licensable after he had been reinstated in Mexico.

Meade was not particularly successful as a trainer, and he had other careers including being a grocer in California and the owner of a pub in South Florida. He died in

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<sup>14</sup> See note 5 supra.

<sup>15</sup> AP, “Law Official Concerned,” New York Times, December 19, 1950 Pg. S4.

<sup>16</sup> AP, “Meade Will Apply Again for License,” New York Times, January 21, 1951.

<sup>17</sup> AP, “Meade Rejects License to Ride in Florida and Ends Racing Turmoil,” New York Times, December 15, 1950 Pg. 48.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> AP, “New Rule Adopted on Turf Violators,” New York Times, January 26, 1951 Pg. 38.

<sup>23</sup> Id.

<sup>24</sup> AP, “Meade’s Bid Rejected,” New York Times, February 15, 1955 Pg. 36; “Meade Loses Fight for Racing License,” New York Times, October 16, 1951 Pg. 39.

<sup>25</sup> New York Times, August 1, 1964 Pg. 17.

<sup>26</sup> “Meade, a Former Jockey, Gets a New York Trainer’s License,” New York Times, October 10, 1964 Pg. 24.; “Don Meade Jr. Is Last in Debut On a 202-1 Shot at Suffolk,” New York Times, June 29, 1969.

relative obscurity in 1996 at age 83 in South Florida.<sup>27</sup> If he is known for anything it's winning the Kentucky Derby in 1933 and engaging in a pitched battle with the jockey of the second place horse during the race.

Had he been suspended in 2005 rather than in 1945, all would have turned out differently for him. Berating the stewards in 2005 would have gotten him a fine rather than a suspension. In a recent case where an owner severely berated the stewards in New York, the penalty was a fine of \$3,000.<sup>28</sup> Even if he had received a lifetime suspension in Mexico for berating a steward, it's unlikely that many racing commissions would have honored the suspension. They would have looked at it as an excessive penalty imposed by a foreign jurisdiction that could be waived.<sup>29</sup> How do you end up serving 20 years for basically cursing at a steward? And it's for certain that if a jurisdiction gave Meade a license to ride, the other racing commissions would not have threatened retaliation against the commission that licensed Meade. Nobody threatened a commission for licensing Walter Case or Herve Filion. If much of life is timing, Don Meade's timing on his mounts may have been exquisite, but the timing of his suspensions was all wrong.

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<sup>27</sup> Bill Hirschman, "Don Meade, 83, Set Records as a Victorious Horse Jockey," Sun-Sentinel, December 23, 1996 Pg 7B.

<sup>28</sup> Perez v. Hoblock, 368 F.3d 166 (2d Cir. 2004). In 1989, jockey Angel Cordero received a \$1,000 fine for cursing out one of the stewards. Steven Crist, "Angry Cordero Suspended," New York Times, August 28, 1989 Section C Pg. 1.

<sup>29</sup> See note 3 supra.