



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

<http://www.motorsport.co.za>
e-mail pa@motorsportsa.co.za

First Floor, No. 9 Monza Close (Formerly 108), Kyalami Park, Midrand. P.O. Box 11499 Vorna Valley, 1686
Telephone (011) 466-2440. Fax: (011) 466-2262 National Number: 0861 MSA MSA (0861 672 672)

FINDING OF COURT OF ENQUIRY 1082 HELD TO INVESTIGATE THE ALLEGED CONTRAVENTION OF GCR 172 (x) BY VARIOUS PARENTS AT A REGIONAL MOTOCROSS EVENT HELD AT DIRT BRONCO TRACK ON 10TH SEPTEMBER 2011. HEARING HELD IN THE MSA BOARDROOM ON THE 27th SEPTEMBER 2011 AT 18H30

PRESENT:

Mr. Alan Kernick	- Court President
Mr. Dick Shuttle	- Court Member
Mr. Craig Hart	- Court Member
Mr. Robin De Vrye	- Parent of Competitor De Vrye
Mr. Leon Venter	- Parent of Competitors Venter
Mr. Gerrie Kok	- Witness
Mr. Chris Boshoff	- Organiser
Mr. Steven Kruger	- Assistant Clerk of the Course
Mr. Tony Jones	- Motocross Representative
Mr. Allan Wheeler	- MSA Non Circuit Sporting Manager
Mrs. Carmen Hill	- MSA Non Circuit Sport Co-ordinator

APOLOGIES:

Mr. Glenn Rowden	- Court President
Mr. Forget Mahlahla	- Security Guard – Chris Policing Security Services
Mrs. Claudia Venter	- Parent of Competitors Venter
Mr. Glen Brydges	- Witness
Mr. Gary Hutton	- Parent of Competitor Hutton

A Court of Enquiry was convened on the 27th September 2011, to investigate an incident at the Regional Motocross event held at the Dirt Bronco Track on the 10th September 2011, wherein an altercation between the parents of various competitors and a security guard, provided by Chris Policing Security Services, occurred.

The President introduced himself and the Court Members. There were no objections to the composition of the Court. The Court President apologised for the delay in the commencement of the Court of Enquiry, and for the absence of Mr. Glenn Rowden, who was to have assumed the role of Court President.

The Court held the view that the representatives of the competitors should be afforded the opportunity of addressing the Court on the alleged incident, such incident which constituted contravention of GCRs 172 (iv) and 172 (x). Furthermore, the Court takes cognisance of the Motocross Regulations, specifically SSR 257, which states:

“Each rider is responsible for the actions of his family and pit crew. Consumption of alcohol in the pits, or in the circuit area is strictly forbidden and any unnecessary trouble caused by these individuals may result in the exclusion of the rider concerned for the day. Each competitor is responsible for the actions, acts or omissions of any and all of his or her supporters, irrespective of the title under which they attend such events.”

The Court was informed that the witness, Mr. Forget Mahlahla, had tendered his apologies and informed the Court Scribe that he could not attend the hearing, as he had travelled to the incorrect venue for the hearing.



Circumstances of the Incident

The Court was presented with statements from the witnesses as well as those involved in the incident. Written statements were, in addition, provided by Mr. Tony Jones, and also by Mr. Christopher Witbooi, on behalf of the security guard, Mr. Forget Mahlahla.

Mr. Tony Jones stated that two incidents had occurred after the event, after the conclusion of prize-giving. Mr. Jones stated that a number of children, approximately 10 to 12 in number, were playing in the area below the prize-giving venue. The security guard, Mr. Forget Mahlahla, was specifically tasked by the organizer of the event to watch over sound equipment and trophies in the area below the prize-giving venue.

A commotion had ensued wherein some of the children had raised attention to an altercation that was happening in the area below the prize-giving venue. Concerns about a firearm were raised. Mr. Chris Boshoff and Mr. Steven Kruger immediately went downstairs to where the altercation was happening, and found Mr. Leon Venter standing with his wife, Mrs. Claudia Venter, Mr. Forget Mahlahla, Mr. Robin De Vrye and several children. According to Mr. Jones, Mr. Venter appeared calm, and when asked by Mr. Jones to leave, did so without argument.

Messers Kruger, Boshoff and Jones then spoke with the security guard, Mr. Mahlahla, who claimed to have been assaulted, albeit looking calm and uninjured. Mr. Jones believed the situation to have been brought under control, and Messers Kruger, Boshoff and Jones returned to the social area.

Some 30 minutes later, a second incident occurred, wherein competitor Grant Hutton, and his father, Mr. Gary Hutton, were involved in an altercation with the same security guard, Mr. Forget Mahlahla. Messers Kruger, Boshoff and Jones again went down to the scene of the disturbance, and found Mr. Hutton and competitor Hutton being verbally abusive toward the security guard. The Hutton family members were asked to leave, and the situation again brought under control.

Mr. Boshoff stated to the Court that he believed the security guard had caused both incidents. Mr. Boshoff also stated that he had spoken with the security guard later, after the incidents, and that the security guard displayed no injuries.

Mr. Jones attested to the fact that the children playing in the area below the prize-giving venue were, in his words, "wild", and were hitting one another with large sticks and poles. Mr. Gerry Kok confirmed that this was in deed happening at the time, and that the children are known to be unruly and wild.

Furthermore, Mr. Kok stated that parents of the children, viz. Mrs. Phelps and Mrs. Kok, had requested the security guard in question to remove the sticks and poles from the children.

Mr. Kruger also confirmed to the Court that the children, playing in the area where the security guard was tasked with watching equipment, were wild, unruly and hitting one another with large sticks and poles.

Mr. Leon Venter gave testimony to the Court as to the circumstances that led to the altercation. Mr. Venter stated that his 12-year-old son had come to him complaining that the security guard in question had assaulted him. Mr. Venter proceeded downstairs to investigate this accusation, and claims to have observed the security guard chasing his 5-year-old son with a baton. Mr. Venter, by his own admission, then engaged in a physical altercation with the security guard. Mr. Venter stated that the security guard had then attempted to strike him with the baton, in retaliation, whereupon Mr. Venter struck the security guard.

Mr. Venter further stated that a struggle then ensued wherein the firearm the security guard was carrying in a side holster, became dislodged, and fell to the floor. The security guard was claimed to have made an attempt to retrieve the firearm, whereupon Mr. Venter physically restrained him in an attempt to prevent him from doing so.

Mr. Robin De Vrye stated to the Court that during the evening in question, after prize-giving, he had heard a number of children crying, and had proceeded downstairs to investigate. He approached from a different angle. Mr. De Vrye stated that he found Mr. Venter embroiled in a physical altercation with the security guard. Mr. De Vrye noticed

that the security guard was attempting to get to a certain point whereupon he retrieved an object from the floor. Mr. De Vrye noted that Mr. Venter was restraining the security guard's arms. Mr. De Vrye stated he then saw the firearm in the hands of the security guard.

Unfortunately the security guard in question was not present or available to present his version of the events. Mr. Christopher Witbooi, a representative of Chris Policing Security Services, provided a written statement, on behalf of the security guard.

The statement, read to all present, confirmed that the security guard was requested to watch over sensitive sound equipment and trophies after prize giving. Children were playing in the area he was responsible for. When he informed the children to cease playing in the area or near the equipment, two men assaulted him. The assault resulted in his firearm falling to the ground. The matter was resolved by the event officials. No reference is made to a second incident.

Court Deliberations

The Court considered the evidence presented by Mr. Tony Jones. The written statement provided by Mr. Tony Jones differed somewhat from the verbal evidence given. The Court wishes to note that the written evidence, as presented by Mr. Jones, was in effect unchallenged.

The Court makes note of the fact that Mr. Venter, by his own admission, physically struck the security guard.

The Court accedes that the security guard, Mr. Forget Mahlahla, has led no evidence.

None of the accused, nor witnesses for the accused, either questioned or objected to the contents of the letter read to them.

When asked by the Court, Mr. Venter acknowledged the content of the letter to be correct.

The Court is perturbed by the simplicity of the statement in that it fails to capture any of the salient points surrounding the event and, more importantly, also fails to provide evidence in respect of the sequence of events, the circumstances that had resulted in the altercations or the identity of the persons that had assaulted him.

The Court considered the statements of Messers De Vrye, Kok, Kruger and Boshoff.

The Court is reluctant, *ex audi alteram partem*, to rely solely on the written testimony of a witness without that witness being present to defend the statement brought in evidence.

Significant testimony was given by several of the witnesses, as well as the accused, that the children of the persons involved, were behaving in a manner considered to be wild and unruly, and in addition, were known for such behavior.

Furthermore, the Court notes that Mr. Venter, by his own admission, physically struck the security guard in question, and was engaged in a physical altercation.

The Court has taken into account, after extensive deliberation, the aggravating and mitigating circumstances in respect of the parties concerned that resulted in the altercation, as well as the actions taken by all parties involved in the altercation.

The Court is concerned with the behavior of competitor Hutton, and the family of competitor Hutton, and that such behavior which will go without consequence. The failure of Mr. Hutton to appear before the Court of Enquiry requires further investigation and action.

Court Findings

The Court, in coming to a finding, is cognisant of the fact all Motorsport competitors, irrespective of their age, also enter into a contract by which they agree to be bound by the rules of the sport. Such rules are clearly defined in all GCRs, SRs and SSRs.

The Court is of the view that all competitors, and the direct responsibilities of all competitors, as defined in Motocross SSR 257, are ambassadors for Motorsport SA, and that their behavior should be in keeping with the expected principles associated with the responsibility, irrespective of whether an event is deemed completed. Such behavior should, at the least, be conditional until a competitor physically leaves an event location.

Resultantly, the Court upholds the requirements in terms of GCR 113 (ii), GCR 113 (xiv), GCR 115, GCR 116, GCR 172 (iv) and GCR 172 (x).

The Court also wishes to stress to the Organizer the moral obligation to ensure that the behavior of all competitors and their direct responsibilities should be in accordance with the relevant GCRs.

Furthermore, the Court believes firmly that all Officials involved in an event, as determined by GCR 143, irrespective of their perceived or deemed level of importance, are to be treated with the respect the position demands. A security guard is deemed an Official, as supported by GCR 143.

The Court views the contravention of GCR 172 (x) in a very serious light. Since the majority of Officials act for Motorsport SA voluntarily, the abuse of an Official by a competitor can under no circumstances be entertained. Penalty for such abuse, if found guilty, is suspension for a period of up to six months, or up to six events (whichever is more appropriate) for a first offence.

The involvement of a firearm in a Motorsport event, in particular where children are present, is of grave concern to the Court.

The Court finds that, in accordance with MX SSR 257, the competitor Venter is held responsible for the actions of, in this case, the parent, Mr. Leon Venter.

As such, and given the evidence presented, in terms of GCR 172 (x) the Court applies the recommended maximum penalty for such inappropriate actions. The Court also takes cognisance of the latitude GCR 172 (iv) provides in applying a penalty. Competitors Dalton Venter (licence no 02780) and Jordan Venter (licence no 02785), are herewith suspended for 12 months, effective 27th September 2011.

Since the Venter family have two entrants for the event, and no distinction can be made as to which competitor should bear the penalty, the Court has no option but to apply the penalty to all two competitors.

However, given the emotional aspect of the involvement of children in the cause of the altercation, the aggravating and mitigating factors applicable to both components of the incidents, the Court believes a level of reasonability needs to be applied without detracting from the seriousness of the actions of the competitors. As such, the Court suspends the penalty imposed on both competitors for a period of 24 months, effective 27th September 2011.

In accordance with GCR 196, costs in the amount of R500-00 are awarded against Mr. Leon Venter.

All parties are reminded of their right of appeal to the MSA National Court of Appeal.

Findings distributed on the 30th September 2011

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