



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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MSA COURT OF APPEAL 436

HEARING HELD IN THE MSA BOARDROOM AT 17:00 ON TUESDAY 5th FEBRUARY 2019

Present:	Tony Taylor	-	Court President
	Richard Leeke	-	Court Member
	Vic Maharaj	-	Court Member
	Andrew Shillinglaw	-	MSA Club Steward
	Vaughn Williams	-	Appellant – Entrant for Bradley Liebenberg
	Bradley Liebenberg	-	Competitor
	Corrie Liebenberg	-	Father of Bradley Liebenberg
	Ed Murray	-	Rotax Series Promoter
	Arnold Neveling	-	Defendant
	Hector North	-	Observer
	Michael North	-	Observer
	Cameron Prenter	-	Observer
	Dick Shuttle	-	MSA Karting Commission President – Observer
Apologies:	Arlene Brown	-	MSA Steward
	Wayne Robertson	-	MSA Technical Consultant
In attendance:	Allison Atkinson	-	MSA Scribe
	Poka Lehapa	-	MSA Intern
	Adrian Scholtz	-	MSA CEO

INTRODUCTION

The court members and attendees were introduced and no objections were raised against the composition of the court.

THE HEARING

The appeal, brought by Mr Vaughn Williams as entrant for Mr Brad Liebenberg, is against the decision of the Stewards at the National Rotax Karting event held on the 29th September 2018. Said decision related to the use of a non-compliant spark plug in the Kart driven by Competitor Neveling.

A secondary consideration has been brought by Competitor Neveling wherein he claims that Mr Vaughn Williams had no right to seek leave to appeal or to pursue an appeal on behalf of competitor Liebenberg.

Having heard from all parties the Court has decided to make a finding in two parts, part 1 will deal with the handling by the stewards of the use by Mr Neveling of the non-compliant spark plug and part 2 will deal with Mr Neveling's contention that Mr Williams should not have been permitted to pursue the Appeal in the first instance.

MOTORSPORT SOUTH AFRICA IS THE ONLY RECOGNISED MOTORSPORT FEDERATION IN SOUTH AFRICA



Department: Sport and Recreation South Africa
REPUBLIC OF SOUTH AFRICA

Directors: A. Scholtz (Chief Executive Officer), A. Taylor (Financial), F. Alibhai, D. Easom, G. Hall, A. Harri, E. Murray, M. Rowe, R. Schilling, Ms M. Spurr, S. Themba, S. Van der Merwe

FINDINGS

Part 1

1. There is no dispute as to the non-compliance of the spark plug, the plug used was a NGKGR8DI whilst the RMC technical Regulations 2018 article 6.7 specify the use of spark plug NGKGR9DI.
2. Article 11 of the National Karting Regulations in item ii) where it states “notwithstanding there having been no advantage gained, a competitor found using ANY component which is non-compliant will be liable for automatic exclusion.
3. Mr Wayne Robertson, the appointed Technical Consultant to the event, contacted telephonically, confirmed that in his opinion the spark plug used definitely gave an advantage to competitor Neveling.
4. The Stewards in their deliberations accepted the submission by Mr Ed Murray, promoter of the series, that no advantage was gained and applied the leeway granted in GCR176 and converted the exclusion to a monetary fine.
5. The Stewards, prior to this hearing, submitted a statement, which was read out by the Club Steward acknowledging their error in failing to call the Technical Consultant to the hearing, accepting the submission by Mr Murray and that “the penalty applied was not strictly in accordance with the Karting rules” . The Stewards, in this submission go further and state that the current process whereby the Stewards assume the responsibility for applying all penalties placed the Stewards under a “huge amount of pressure”.

Therefore:

- Competitor Neveling is excluded from the results of Heat 1 of the DD2 event. In terms of article 11 ii) of the National Karting Regulations the spark plug used was not compliant with the RMC Technical Regulations item 6.7 specifying the use of a specific spark plug. Article 4 of said regulations specifies “anything which is not expressly allowed in the technical regulations is forbidden”. The Technical Consultant confirmed advantage gained hence GCR176 i) b) applies.
- The Stewards are severely reprimanded for:
 - a) Having failed to consult the Technical Consultant on the question of advantage,
 - b) Having failed to apply the rule regarding exclusion correctly.
- MSA are encouraged to revisit the provisions of MSA National Karting Circular 4 of 2018 Section A, 9 Officials in that it effectively removes the right of a competitor to protest and makes Appeals almost automatic. The court feels that it would be preferable for there to be a Disciplinary Committee of two experienced persons to hear issues and apply penalties in conjunction with the Clerk of the Course, which would still allow the Clerk of the Course to “get on with running the event”. Protests could then still be heard by the Stewards on the day.
- Administration charges of R1000.00 are levied against the Appellant in terms of the provisions of Appendix R, with the balance of the appeal fee to be refunded to the appellant.

Part 2

1. Mr Williams is the holder of an entrants licence and there is no limit as to how many adult competitors he may represent. The limitation on numbers is specifically related to minors. Mr Liebenberg is no longer a minor.
2. The entry form presented to Mr Williams at documentation did not provide for an entrants signature as envisaged by the GCR's and Mr Williams signed opposite his name which in the opinion of the court was sufficient to meet the requirement of the entrant signing the entry form.

3. In this particular instance, the practice of having the Stewards of the meeting handling all penalties does not allow for a competitor or entrant to protest such decisions. The competitor or entrant, as the case may be, then has to approach MSA for leave to appeal. The contention that an entrant may not apply for leave to appeal, if it were correct, would be a fundamental miscarriage of justice.
4. MSA are urged to point out to Promoters, organisers and secretariat that they need to ensure that entry forms are fully compliant with the GCR requirements.
5. The fact that Mr Liebenberg had not signed the entry form is of no consequence as Mr Williams's status as Entrant is not affected by such omission.
6. That Mr Neveling was permitted to have Messrs Hector and Michael North in attendance is a contravention of GCR 210 vi and this should be avoided at all costs.

The court is therefore satisfied that the appeal by Mr Williams, as entrant on behalf of Mr Brad Liebenberg, is valid.

All parties are advised of their rights in terms of GCR 212 B.

These findings are distributed via email on 28 February 2019 at 16:00

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