



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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COURT OF APPEAL 448

HEARING HELD IN SHED 1 AT ZWARTKOPS RACEWAY ON TUESDAY 25 AUGUST 2020 AT 15H00

| | | | |
|----------------------------|-------------------|---|--------------------------------------|
| Present: | Tony Taylor | - | Court President |
| | Mark Cronje | - | Court Member |
| | Tasmin Pepper | - | Court Member |
| | Malaika Motlekar | - | Appellant (Mother of Ghazi Motlekar) |
| | Ghazi Motlekar | - | Competitor |
| | Cheryl Adams | - | Defendant (Mother of Troy Snyman) |
| | Tinus Snyman | - | Defendant (Father of Troy Snyman) |
| | Troy Snyman | - | Competitor |
| | Karin Britton | - | MSA Scribe |
| | Vic Maharaj | - | MSA Sporting Services Manager |
| | | | |
| Attending via Zoom: | Eldrid Diedericks | - | Clerk of the Course |
| | Roger Stephen | - | MSA Steward |
| | | | |
| Apologies: | Hennie de Beer | - | Club Steward |
| | Hilton Nell | - | Flag Marshal |

INTRODUCTION

The court members and attendees were introduced, and no objections were raised against the composition of the court nor the Clerk of the Course and MSA Steward attending the hearing via Zoom.

THE HEARING

The appeal is against the Stewards' decision in connection with the Regional Rotax Karting event held at the FK Track on 29th February 2020.

The appeal is based on the following factors:

1. In the view of the Appellant (Mrs Malaika Motlekar) several incidents of dangerous and reckless driving by Kart 544 (Troy Snyman) against Kart 565 (Ghazi Motlekar) took place.
2. These incidents were reported during the race in question to the Clerk of the Course by the flag marshal (Hilton Nell).
3. The Clerk of the Course issued an instruction whereby the driver of Kart 544 (Troy Snyman) was shown the black and white diagonal flag but no further action was taken.
4. The Appellant (Mrs Malaika Motlekar) subsequently protested the driving conduct of Kart 544 (Troy Snyman).
5. The Stewards found that there was no evidence of any wrong doing by competitor Snyman.

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



Directors: A. Roux (Chairman), A. Scholtz (Chief Executive Officer), A. Taylor (Financial), F. Alibhai, R. Beekun, FC. Kraamwinkel, G. Hall, A. Harri, Dr G. Mills, E. Murray, M. Rowe, R. Schilling, Ms M. Spurr, S. Themba, S. Van der Merwe

6. The Appellant (Mrs Malaika Motlekar) then lodged an appeal with MSA against the Steward's decision.

The defendant, Mr Tinus Snyman, asked the court not to hear the appeal as, in his opinion, it was defective for various reasons:

1. The original request was for an enquiry,
2. This was subsequently changed to an appeal and
3. Payment was made late.

MSA Sporting Services Manager (Mr Vic Maharaj) informed the Court that the CEO of MSA (Mr Adrian Scholtz) condoned the late payment and undertook to provide the court with documentation to support the contention. The relevant documentation was provided and the Court is satisfied that the Appeal was valid and Mr Snyman's request was declined.

FINDINGS

Having heard the Appellant, the Defendant, the Clerk of the Course, the MSA Steward and viewed the relevant footage the court finds as follows:

1. The Clerk of the Course confirmed that a black and white diagonal flag had indeed been shown to competitor Snyman. Competitor Snyman failed to report to the Clerk of the Course immediately after the race in question as envisaged by appendix H clause 6. The Clerk of the Course, in turn, failed to follow up on competitor Snyman's failure to report to him as envisaged in terms of Appendix H clause 6. When questioned, the Clerk of the Course responded that competitor Snyman would have been busy readying himself for his next heat so the Clerk of the Course chose not to follow up. It is the Court's opinion that showing a competitor a black and white diagonal flag for unsportsmanlike behaviour is of a sufficiently serious nature that the Clerk of the Course has failed woefully to follow up on his duties in respect thereof.
2. Having reviewed the video footage and asked for explanations from the competitors the court is of the opinion that hard, defensive driving is acceptable but at minute 09:51 and again at 10:09 Kart 544 (Troy Snyman) moves in the braking zone. The move at 09:51 constitutes an infringement as determined in clause 11(d) of the 2020 National Karting Championship Regulations and Specification V5 i.e. Push Out.
3. Competitor Snyman has contravened Clause 6 of Appendix H by failing to report immediately after the race in question to the Clerk of the Course after having been shown a black and white diagonal flag. The 2020 National Karting Championship Regulations and Specifications V5 clause 11(c) (iv) determines that the penalty for contravention of a flag signal during Race – black / yellow would attract a three place penalty however clause 11(d) states that if a flag signal is disregarded the penalty is exclusion.

The court, however, is inclined to give the competitor the benefit of the doubt as neither of the relevant clauses mention the black and white flag specifically.

Competitor Snyman is therefore severely reprimanded and cautioned to ensure that, going forward, he makes himself aware of and complies with all the rules regarding flagging.

4. Competitor Snyman has infringed clause 11(d) of the 2020 National Karting Championship Regulations and Specification V5 i.e. Push Out.

The relevant clause carries two possible penalties i.e. five seconds if no advantage gained and a five place penalty if an advantage was gained. In the opinion of the Court no advantage was gained and the Court therefore levies a penalty of five seconds on competitor Snyman. The penalty must be added to competitor Snyman's race time and the result altered to give effect to this sanction.

5. The Clerk of the Course (Mr Eldrid Diedericks) has not abided by the provisions of Appendix H of the 2020 GENERAL COMPETITION RULES (GCR's), CIRCUIT RACING SSR's, AND APPENDIX H (FLAG SIGNALS) due to the fact that he is required to take action against a competitor who fails to report to him following the display of a black and white diagonal flag.

The Clerk of the Course's reason for not insisting that the competitor report to him after the heat in question is not acceptable. The court reads the rule as one where the Clerk of the Course has the opportunity to address the errant behaviour immediately and failure so to do is a tacit condonation of such behaviour.

Had the issue received the correct attention at the time, the subsequent protest and this appeal court could have been prevented.

The Clerk of the Course is therefore severely reprimanded and instructed to ensure that he familiarises himself with the rules and applies them. Mr Diedericks is reminded that failure to apply the rules as written in either the GCR's, SSR's, SR's, category SSR's and any appendix or addendum thereto could result in his Clerk of the Course licence being withdrawn.

6. Given that the appeal is successful the appeal fee paid is to be refunded to the appellant.

General

All parties are reminded that every competitor has the right of protest and, if necessary, to appeal the findings of such protest and officials should ensure a fair hearing is granted to one and all.

The Court finds it pertinent to restate the provisions of GCR 151 (ii) "the function of the Stewards, acting as a body and not as individuals, is to constitute an impartial judicial body and, in so doing, to see that the organisers deal fairly with the competitors and that the competitors respect the organisers".

However the old adage applies "respect can only be earned and not demanded". It is a concern that the Officials had sufficient trust in the flag marshal to warrant a competitor being shown a black and white flag but thereafter taking no further cognisance thereof does not create an atmosphere where any form of trust and / or respect can be engendered.

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

These findings are distributed via email on 4th September 2020 at 09h10

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