



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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COURT OF ENQUIRY 1233 HEARING HELD AT SASCOC AUDITORIUM ON 01 NOVEMBER 2019

Present:	Steve Miller	-	Court President
	Zamile Qwemesha	-	Court Member
	Nomkhosi Nharmuravate	-	Court Member
	Iain Pepper	-	Court Member
	Michael North	-	Club Steward
	Denise Abrahams	-	Mother of competitor Mika Abrahams
	Farouk Abrahams	-	Father of competitor Mika Abrahams
	Cheryl Adams	-	Mother of competitor Troy Snyman
	Tinus Snyman	-	Father of competitor Troy Snyman
	Maysurah Wally	-	Mother of competitor Muhammad Wally
	Muhammad Wally	-	Competitor
	Mike Morrell	-	Father of competitor Matthew Morrell
	Malaika Motlekar	-	Mother of competitor Ghazi Motlekar

In Attendance:	Allison Atkinson	-	MSA Scribe
	Adrian Scholtz	-	MSA CEO
	Anton Roux	-	MSA Chairman
	Vic Maharaj	-	MSA Sporting Services Manager

INTRODUCTION

1. Court of Enquiry number 1233, took place in Johannesburg on the 1st of November 2019.
2. The court of enquiry convened for the purposes of investigating a complaint by Mr Farouk Abrahams that he was requested by Mr Wesleigh Orr to procure that his son assists competitor Troy Snyman to hinder competitor Wally at the National Rotax Karting event on 22 September 2019 at Zwartkops.
3. Secondly, whether such conduct by Mr Wesleigh Orr constitutes a breach of the GCR's and SSR's and/or SR's.

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. Beekum, FC. Kraamwinkel, G. Hall, A. Harri, Dr G. Mills, E. Murray, M. Rowe, R. Schilling, Ms M. Spurr, S. Themba, S. Van der Merwe

4. The court of enquiry took place in accordance with the provisions of GCR 220.

BACKGROUND

5. The Complainant, Mr Abrahams, was present with his wife Mrs Denise Abrahams, who was also there in her capacity as a witness to the events of the 22nd of September 2019.
6. Mr. Abrahams alleges that Mr Wesleigh Orr came up to him, looking nervous, and requested that he (Mr Abrahams) procure his son to assist Troy Snyman by hindering competitor Wally. He further informed the enquiry that he was also asked by Mr Wesleigh Orr what tyre pressures he was running on that day.
7. Mr Abrahams then informed Mr Wesleigh Orr that he will ask Arnold (his team boss) about such a request. Mr Wesleigh Orr at that moment then left and he did not come back. Mr Abrahams did not see where or which direction he took.
8. Mr Abrahams also informed the enquiry that he is not friends with Mr Wesleigh Orr and he is not sure why he made such a request to him as he has never spoke to him before. He even added that it was the first time he ever spoke to Mr Wesleigh Orr.
9. Mrs Abrahams, who was a witness to the events, also came in to inform the enquiry the same facts to corroborate the events as related by her husband who is the complainant herein.
10. There was no rebuttal from Mr Wesleigh Orr as he was not present. Mr Wesleigh Orr did not inform the office of MSA of his reasons for being absent.
11. However, present was his representative, who wanted to represent him in absentia and answer to the allegations. This was objected to by Mr Abrahams. This objection was also confirmed by the court of enquiry as the rules of MSA are clear on such issues.
12. Therefore, this decision is made in his absentia.

THE GENERAL COMPETITION RULES

13. GCR 220 under the heading "Hearings" states that:

"All parties concerned shall be given adequate (generally a minimum of seven working days) notice of the hearing, and they shall be entitled to call witnesses. Every notice summoning an individual to a hearing shall state the capacity (e.g. defendant, witness, etc.) in which he/she is being required to attend. The hearing may proceed to judgement in default of appearance by any party or witness. In case of an appeal to a MSA Court, the parties concerned shall state their cases personally. Representation by fellow competitor in the same event or a committee member of the MSA affiliated club/association of which the defendant is a member is allowed, but such person may not be a practicing attorney or advocate or be entitled to be admitted as either....."

14. It is clear that attendance is crucial in such a hearing and non-attendance amounts to a judgment by default. Mr Wesleigh Orr did not report his reasons for being unable to attend to MSA. Further, he did not file a sworn statement which could be read to form part of his testimony.

15. The allegations made against Mr Wesleigh Orr are serious and they fall within the ambit of GCR 172 iv) under the heading "Breach of Rules" which states that:

"Any proceeding or act prejudicial to the interest of MSA or of motor sport generally shall be deemed a breach of the regulations and disciplinary action may be taken against offenders.

By way of clarification, it is confirmed that the following shall be included in the definition of 'prejudicial acts' as per the above:

.....

- *Acts [including comments and or gestures] which would reasonably be considered by the general public to be offensive or inappropriate.*

It is stressed that the above list is not exhaustive, and that each case will be treated on an individual basis."

16. The comments and/or request made by Mr Wesleigh Orr towards Mr. Abrahams are in breach of GCR 172 (iv). Such a request in the circumstances was inappropriate and brings motor sport into disrepute and should not go unsanctioned.

THE FINDINGS

17. The court of enquiry finds that:

- 17.1 There was no reason apparent that Mr Abrahams could make such serious allegations against Mr Wesleigh Orr if, on the balance of probabilities, it was not true;
- 17.2 The fact that Mr Wesleigh Orr did not present himself to the court of enquiry to answer to such allegations by inference means he is aware; and
- 17.3 It can further be inferred that he did indeed make such a request by his conduct in being absent during the inquiry.

18. PENALTIES IMPOSED

- 18.1 The Court therefore imposes the following penalty:
- 18.2 Mr Wesleigh Orr is banned/forbidden from attending any MSA-sanctioned motor sport events (including all National, Regional and circuit events) for a period of 3 (three) months. This sanction is, however, suspended for a period of 6 (six) months on condition that Mr Wesleigh Orr is not found guilty by any MSA-appointed court of any further contravention of GCR 172 during the period of suspension of the sanction.

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

These findings are distributed via email on 6 November 2019 at 15h00

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