



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

www.motorsport.co.za

2nd Floor, Meersig 1, Cnr. Upper Lake Lane & Constantia Boulevard, Constantia Kloof, Roodepoort
e-mail: msa@motorsport.co.za Telephone (011) 675 2220

MSA COURT OF ENQUIRY 1254

HEARING HELD AT KILLARNEY INTERNATIONAL RACEWAY AND ELECTRONICALLY VIA
ZOOM ON THURSDAY 17th MARCH 2022 AT 17h30

Present:	Steve Harding	-	Court President
	Adv. Thembelani Mayosi	-	Court Member (via Zoom)
	Jackie Schreiber	-	Court Member
	Chantal Baeza	-	Court Member (via Zoom)
	Jack Cheney	-	Clerk of the Course (via Zoom)
	Arlene Brown	-	MSA Steward
	Complainant		
	Mother of Complainant		
	Stepfather of Complainant		
	Friend of Complainant (intended as a witness)		
Not present:	Jeff (JC) Chandler	-	Defendant
In Attendance:	Lizelle van Rensburg	-	MSA Sport Coordinator
	Vic Maharaj	-	MSA Sporting Services Manager
	Carmen Hill	-	MSA Sport Coordinator Non-Circuit Motorcycles (via Zoom)
	Neville Townsend	-	MSA Motocross Commission President (via Zoom)

1. Court of Enquiry 1254 was convened by Motorsport South Africa in terms of the provisions of GCR's 154 and 211, to investigate whether Mr Jeff (JC) Chandler conducted himself inappropriately towards the complainant or in any way that infringed upon her rights and dignity while Mr Chandler was acting as a race official at the 2022 MSA South African National MX championship event held on 19th of February 2022 at Zone 7.
2. Despite due and proper notice to attend this court of enquiry the defendant, Mr Chandler, failed to appear and the court exercised the right conferred upon it in terms of GCR 220 to proceed to judgement in the absence of Mr Chandler.

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



Directors: A. Roux (Chairman), A. Scholtz (Chief Executive Officer), R. Beekum (Financial), Mrs. D Abrahams, A. Harri, M. Hashe,
FC. Kraamwinkel, Dr G. Mills, C. Oates, R. Schilling, S. Themba, G. Waberski

3. For reasons which will become self-evident in these findings we have chosen not to name the complainant or provide information which would otherwise identify her in the interests of sparing her any further indignity or humiliation.
4. The hearing was conducted in a hybrid format, and we have indicated above which parties attended remotely via Zoom. The remainder of the parties were physically present.
5. At the commencement of the court hearing the President asked if there was any objection to the constitution of the court and no objection was received.
6. The complainant was stationed at the finish to display the last lap board and the chequered flag near to the defendant who was the flag marshal on duty at that point. The complainant left this post approximately three quarters of the way through the MX race meeting because of the conduct of the defendant and handed in an incident report to the secretary of the meeting.
7. In this incident report she complained that the defendant, called her sexy, tapped/poked at her buttocks with the flagstick. Repeatedly made the remark "Jy het lekker boudjies". Played with her hair and touched her face. He knew that she was a minor as she had told him that she was 17. The complainant confirmed the contents of this report, in which she had asked that Motorsport South Africa take appropriate action.
8. The complainant in answer to several questions from members of the court, confirmed that this conduct continued for the whole period for which she was working alongside the defendant. She confirmed that the advances of the defendant were unwelcome. She confirmed that she asked him to stop repeatedly and that he did not take her seriously but chose rather to joke about the fact that she was blushing. The final straw for her was the comments which were made and the defendants tapping her buttocks with the flagstick.
9. She further confirmed that she had no prior or subsequent association with the defendant. She also confirmed that the defendant is substantially older than her. The court has established from the date of birth reflected on the official's licence of Mr Chandler that he is 43 years of age.
10. The court considers the defendants conduct complained of to be a clear breach of the provisions of GCR 172 which reads, in part, as follows:-

GCR172. BREACH OF RULES

Any of the following offences in addition to any other offences specifically referred to previously or thereafter, shall be deemed to be a breach of these rules.

...

iv) Any proceeding or act prejudicial to the interests 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:

- Intimidation, either on track or off track.

- Verbal and or physical abuse.

...

- 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.

...

vi) Misbehaviour or unfair practice.

11. Similarly, the defendant's conduct represents a clear contravention of MSA's code of conduct which requires MSA's representatives to act professionally. To quote from such code of conduct

MSA's representatives

- *acknowledge that MSA carries on the business of providing fair, safe and socially responsible motorsport, an activity which is therefore vulnerable if it's media, public or professional image is tarnished in any way;*
- *agree to act professionally and represent MSA in a professional manner at all times;*
- *respect the rights, dignity and worth of everyone involved in any event;*
- *must serve as positive role models for those they come into contact with in the sport;*
- *should treat other officials with courtesy ...*

(Our underlining for emphasis.)

12. Having found the defendant in breach of the relevant regulations and code of conduct the court was faced with a decision as to an appropriate sanction. After deliberation this court is of the view that the only appropriate sanction is the suspension of the defendant from acting as an official for an appropriate period. (This court is not empowered to prescribe a sentence of disqualification, which would involve the permanent loss of the right of the defendant to take part in any manner in any competition whatsoever, as GCR 187 reserves this right to the National Court of Appeal). This court was also forced to consider the circumstances in which it may be appropriate to issue the defendant with a licence after the conclusion of the period of suspension without placing other minors or women at risk of similar conduct from the defendant in the future.
13. After due consideration the court is of the view that the official's licence of the defendant should be suspended in terms of GCR 184 with immediate effect and that the period of such suspension should be a period of 3 years from the date on which an acceptable and satisfactory written apology addressed to the complainant, but delivered via MSA, is received. The issue of whether such apology is acceptable and satisfactory shall be at the sole discretion of MSA. In addition, given the extreme gravity of the offence the court directs that the suspension shall operate internationally.
14. The court further directs that at the conclusion of the period of suspension no new official's licence shall be issued to the defendant until the defendant has produced to MSA a report of a suitably qualified professional obtained by the defendant at his own cost certifying that the defendant has undergone counselling, is remorseful of his actions giving rise to this finding and is unlikely to be guilty of similar conduct in the future.

15. The court notes that the code of conduct does not expressly prohibit any act of harassment including sexual harassment although such prohibition can be clearly inferred. The court recommends that MSA amends its code of conduct to specifically address this issue.
16. The defendant is further directed in terms of GCR 196 to make payment of a contribution towards costs of the sum of R2,000.

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

These findings are distributed via email on 25th March 2022.

Ref. 162751/098