

**MOTORSPORT SOUTH AFRICA**

**NATIONAL COURT OF APPEAL, NUMBER 174**

**Present: Adv GT Avvakoumides SC (Court President)**

**Adv P Carstensen SC (Court Member)**

**Mr J Geyer (Attorney) (Court Member)**

**Mr V Maharaj (MSA Sporting Services Manager)**

**Mrs A Vogelsang (MSA Sport Coordinator)**

**Mr G Giannocco (Appellant)**

**Mr G Giannocco (Appellant's son)**

**Mr S Swanepoel (Clerk of the Course)**

**Ms T Human (Event Secretary)**

**Ms Z Verster (Event Secretary)**

**Mr H North (Appellant's Legal Representative)**

**Mr M North (Appellant's Legal Representative)**

1. On 21 June 2022 the National Court of Appeal convened to hear the appeal under number 174 against the MSA Court of Enquiry<sup>1253</sup>, lodged by the Appellant. The NCA panel hearing the appeal granted the appellant leave to appeal on 6 May 2022.

2. Prior to the hearing commencing, the members of the National Court of Appeal convened separately and considered the formulated appeal as envisaged in GCR212B and all such members were of the *prima facie* view that the appeal should be upheld.
3. When the proceedings convened, the Court President conveyed to the legal representatives of the appellant that the *prima facie* view of the National Court of Appeal was that the appeal should be upheld. The persons present were requested to make any submissions following such indication from the members of the National Court of Appeal, in the absence of which, the appeal was upheld, and the proceedings were accordingly adjourned.
4. The purpose of this judgment is to formulate the reasons for the National Court of Appeal upholding the appeal. The appeal lies against the penalties imposed upon the appellant by COE1253 and in fact the appellant was not present at the hearing of COE1253.
5. The COE1253 was convened pursuant to race 1 of the G&H Transport Extreme Supercar at the Passion for Speed Event on 29 January 2022. On that day the appellant completed a withdrawal form from the aforesaid race stating that he was not feeling well and that he gave his race car to Leeroy Poulter to drive. He included in the withdrawal form a submission by the appellant that he was not aware that Leeroy Poulter had no MSA license to compete in motorsport.

6. The Court of Inquiry 1253 handed down their finding as follows:
  - 6.1 Leeroy Poulter is excluded from the results of the event;
  - 6.2 Leeroy Poulter is precluded from participation in/or suspended in terms of GCR183 read with GCR184 from all MSA motorsport sanction events for a period of three years dated from the date of the judgment;
  - 6.3 The appellant is suspended from all MSA motorsport sanctioned events, and his license is similarly withdrawn, for a period of three years dated from the date of the judgment;
  - 6.4 The appellant is fined R10,000.00; and
  - 6.5 MSA is directed to hold a further Court of Inquiry into the conduct and the involvement of the Appellant in assisting Leeroy Poulter to compete as set out in the judgment.
7. Leeroy Poulter did not apply for leave to appeal the penalty against him neither did he attend the appeal on 7/4. In the formulated appeal the appellant submitted that there were no discussions between the appellant and Leeroy Poulter on 28 January 2022 and as such, the appellant had no knowledge of any attempts made by Poulter to obtain a competition license or to undergo any medical examination at the race

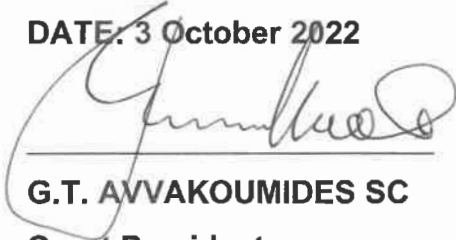
circuit for purposes of obtaining a license.

8. On 29 January 2022, when the appellant became aware that Leeroy Poulter was the driver of the appellant's race car at the event, he assumed (as did various MSA officials and other parties present at the event) that Leeroy Poulter was in possession of a valid MSA competition license, thus entitling him to participate as a driver and competitor in the event.
9. The appellant submitted that at no stage prior to the discovery by the relevant officials at the event that Leeroy Poulter in fact did not hold a valid MSA competition license did Poulter disclose to the appellant that he did hold a valid MSA competition license.
10. Insofar as the Appellant's son is concerned, it was submitted that he did not assist Leeroy Poulter in competing without a valid MSA competition license and all efforts made by Poulter to attempt to obtain the MSA licence on his own were taken to be successful by Gianni Giannoccaro who assumed that Poulter's attempts were successful.
11. Inasmuch as the sequence of events and what actually transpired *ex post facto*, is shocking, to say the least, for the motorsport fraternity, let alone Motorsport South Africa, it is the view of the National Court of Appeal that the appellant was not a party to any arrangement, agreement or attempt to allow any other person to enter the particular

race whilst not holding a valid competition license. Accordingly, insofar as the appellant is concerned, the appeal must be upheld and that the appellant must be reimbursed all monies which he paid for purposes of the appeal, less any administrative costs levied by MSA.

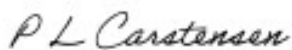
12. It is recommended by the National Court of Appeal that Motorsport South Africa must take adequate and urgent steps to avoid any similar incident at any MSA sanctioned event.

**DATE: 3 October 2022**




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**G.T. AVVAKOUMIDES SC**  
**Court President**



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**P CARSTENSEN SC**  
**Court Member**



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**J GEYSER**  
**Court Member**