



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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## MSA COURT OF APPEAL 467

**HEARING WAS HELD VIA ZOOM ON 4 JULY 2023 AT 17H30**

<b>Court:</b>	Mr Steve Harding	Court President
	Mr Mark Cronje	Court Member
	Mr Reghard Roets	Court Member
<b>In Attendance:</b>	Mr Shameer Variawa	Appellant – Father of minor competitor Saood Variawa
	Mr Saood Variawa	Competitor
	Mr Robert Wolk	Competitor
	Ms Arlene Brown	Clerk of the Course
	Mr Freddie Pretorius	Team Member
	Mr Andrew Shillinglaw	MSA Steward
	Ms Amanda Coetzee	Club Steward
	Mrs Allison Vogelsang	MSA Sporting Coordinator
	Mr Vic Maharaj	MSA Sporting Manager

1. These are the findings of a court of appeal, which was held virtually, using the Zoom platform. At the outset of the hearing the parties were asked whether there was any objection to the court as constituted. No such objection was received and the matter proceeded.
2. It is an appeal brought on behalf of driver of GTC number 3, Saood Variawa, against the findings and penalties imposed on the driver, and the driver of GTC number 1, Robert Wolk by the clerk of the course and confirmed by the stewards of the Extreme Festival event held at Zwartkops Raceway on 20 May 2023. It should be noted that when the appeal was made the driver of Car 3 was a minor. At the hearing the driver of Car 1 objected to the representation of competitor Saood Variawa on the basis that he had turned 18, 3 days prior to the hearing and was therefore a major. Mr Saood Variawa then elected to represent himself.
3. The protest was against the findings and penalty imposed by the clerk of the course on the appellant for a transgression of Article 25.2 of the MSA National Sporting SSRs for GTC and GTC Supacup championships, and against the penalty imposed on competitor 1 for a contravention of Article 25.0. These 2 penalties arose from an incident during the first lap of race 1 at the said

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Directors: A. Roux (Chairman), A. Scholtz (Chief Executive Officer), R. Beekun (Financial),  
Mrs. D Abrahams, Mrs. D. Ballington, K. Govender, M. Hashe, FC. Kraamwinkel, C. Oates, S. Themba, G. Waberski  
Honorary President: R. Schilling

race meeting between the 2 competitors at turn 2, and a second incident between turns 2 and 3. The first incident involved the left front of car 3 hitting the right rear of car 1 on the entry into turn 2. The second incident involved a number of side on side impacts between the 2 cars between turns 2 and turn 3.

4. The penalty form issued by the clerk of the course to the driver of car 3 describes the offence as a transgression of article 25.2 in T2, lap 1, race 1, by bumping car 1 wide and imposes a 3 place penalty in terms of article 25.6.
5. The penalty form issued by the clerk of the course to the driver of car 1 describes the offence as “driver conduct - deliberately bumping into competitor #3 after T2 of lap one of race one, no position gained or lost but not desirable driver conduct” thus contravening article 25.1. The penalty imposed by the clerk of the course comprised a warning and observation at round 4 of the championship (or the next GTC event competed in by the driver of car 1).
6. Neither of these incidents resulted in any positions being gained or lost, nor did they have any serious consequences to either car. In many other championships, governed by other sets of regulations, these incidents may both have been adjudged to be racing incidents. It is free to the championship controllers and the governing body responsible for the approval of the regulations, in this instance MSA, to decide the level of robustness in driving conduct which will be tolerated in any specific event, championship or series.
7. Article 25.1 of the championship regulations expressly records in regard to driver conduct that:-  
“Contact of any nature, including so-called rubbing, is highly undesirable during racing in the series.”  
The clerk of the course is mandated by the regulations to strictly monitor driver behaviour.

Articles 25.2, 25.3, and 25.4 give specific instructions in respect of driver conduct in relation to corners and describe in great detail what is required of drivers challenging for position in different phases of the corner.

Article 25.6.1 mandates at least a 3 place penalty for any competitor found guilty of a first offence in relation to driving standards and conduct infringements.

8. At the hearing of this matter the appellant strongly argued that the initial contact in turn one was merely rubbing, resulted in no prejudice to the driver of car 1 and that accordingly the penalty was inappropriate. He also advanced the argument that in contrast the driver of car 1 had been found to have deliberately bumped him and that the sanction of a warning and observation was therefore inappropriate.
9. It is not for this court to decide what is and is not acceptable for any race series or championship. That is for the championship controllers to decide and our function, like that of the clerk of the course and the stewards, is to give effect to the regulations, and to impose penalties as prescribed by the regulations whether or not we agree with them.
10. The regulations in this instance, and particularly Art 25.6.1 mandate a minimum penalty of 3 places for driving standards and conduct infringements.

11. The clerk of the course correctly determined that in the case of the first incident the driver of Car 3 had contravened the driver conduct guidelines imposed by the controllers of the series. She correctly imposed the mandated penalty on the appellant, the driver of car 3, and the stewards confirmed her treatment of both the offence and the penalty imposed.
12. The appellant however also protested the penalty imposed against the driver of car 1 for the bumping which took place during the 2<sup>nd</sup> incident. We have carefully examined the video footage made available to us of this incident and particularly the footage shot from the car of Michael van Rooyen which provides a clear view of the 2<sup>nd</sup> incident from behind. It is our considered opinion that the incident does not justify the conclusion of deliberate conduct on the part of the driver of car 1.
13. In our analysis we are of the view that both cars moved towards one another and that both drivers took appropriate action when contact was made between the 2 vehicles. It should be borne in mind that given that, car 3 was on the inside of the bend and car 1 was on the outside of the bend, the lateral forces in operation required very little steering input on the part of the driver of car 3 for his car to drift towards car 1, while the driver of car 1 needed to steer more aggressively to overcome the same lateral forces in order to move his car towards car 3. In our view this is simply a case of 2 drivers attempting to occupy the same piece of track and both taking appropriate evasive action as contact was made.
14. GCR 177 provides a scale of penalties ranging from a reprimand as the least severe. It makes no mention of a warning or placing a driver under observation. A warning is by its nature less severe than a reprimand, and coupled with the action of placing the driver under observation merely indicates to the competitor that the clerk of the course will be looking closely at his future conduct. Mr Wolk indicated that he accepted this warning and we can see no reason to interfere with it.
15. The only question which remains is to deal with the costs relating to this appeal. Inasmuch as the appeal is unsuccessful MSA is directed to retain the appeal fee.

The competitors are reminded of their rights as per GCR 212 B

These findings were issued and handed down on 28 July 2023