



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

[www.motorsport.co.za](http://www.motorsport.co.za)

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

## MSA COURT OF ENQUIRY 1266

**HEARING WAS HELD VIA ZOOM ON 8 AUGUST 2023 AT 18H00**

**Court:**

ADV. Francois van der Merwe	-	Court President
ADV. Nomkhosi Nharmuravate	-	Court Member
Ms Samantha Van Reenen	-	Court Member
Mr James Mahope	-	Court Member

**Attendance:**

Mr Mpho Elijah Gumbi	-	Defendant and Entrant of competitor Muziwakhe Thekiso
Mr Lance Shisinwana	-	Defendant and Father of competitor Tshepang Shisinwana
Mrs Mampai Shisinwana	-	Defendant and Mother of competitor Tshepang Shisinwana
Mr Muzi Thekiso	-	Defendant and Father of competitor Muziwakhe Thekiso
Mr Craig Martin	-	Clerk of the Course (13 May 2023 – Formula K)
Mr Eric Scholtz	-	Clerk of the Course (08 July 2023 – Zwartkops)
Mr Ian Richards	-	MSA Steward (13 May and 08 July 2023 – Formula K and Zwartkops)
Mr Brett Spiers	-	Timekeeper (13 May 2023 and 8 July 2023 – Formula K and Zwartkops)
Mrs Jackie Schreiber	-	Administrator (13 May 2023 – Formula K)
Ms Claudia Cornofsky	-	Witness
Mr. Vic Maharaj	-	MSA Sporting Services Manager
Mrs. Allison Vogelsang	-	MSA Circuit Sport Coordinator

## INTRODUCTION

1. Motorsport South Africa (“MSA”) convened a formal enquiry in terms of the provisions of GCR 154 and 211, based on reports submitted to MSA by Mr Lance Shisinwana and Mr Mpho Elijah Gumbi after the regional Rok karting events held on 13 May 2023 at Formula K and on 8 July at Zwartkops Raceway respectively.

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



**sport, arts & culture**  
Department:  
Sport, Arts and Culture  
REPUBLIC OF SOUTH AFRICA

Directors: A. Roux (Chairman), A. Scholtz (Chief Executive Officer), R. Beekun (Financial),  
Mrs. D Abrahams, Mrs. D. Ballington, K. Govender, Ms. T. Human, FC. Kraamwinkel, Mrs. S Labuscagne Jonck, M. Rowe, G. Waberski  
Honorary President: R. Schilling

2. This judgment will firstly deal with the protests filed, and thereafter with the conduct of the parties at both the aforementioned events.

### **THE PROTESTS**

3. On 13 May 2023 at the Northern Regions Rok Karting Championship, Round 3 held at the Formula K Circuit, two separate protests were filed against competitor number 30 in the Mini Rok Class, a minor represented by his father, Mr Shisinwana.
4. The first protest was filed by Squadra Corse Drivers Association (“Squadra Corse”). It is common cause that Squadra Corse is controlled by Mr Gumbi. Mr Gumbi is also the owner and team principal of the Squadra Corse racing team. The protest merely indicated that various parts should be stripped and checked on the vehicle of competitor number 30. No reason for the protest was alleged. In addition, the protest was not signed by any competitor.
5. The first protest was ultimately rejected on the basis that the protest demand was inadmissible as it was not lodged by a competitor from the same class and in the same race.
6. Shortly thereafter, a second protest was filed by a driver of Squadra Corse racing team, who is also a minor represented by his father Mr Muzi Thekiso. The second protest was apparently lodged against the eligibility of the engine of competitor number 30 and requested various parts to be stripped. Similarly, no reason is alleged for the protest. In spite of this irregularity, the protest was accepted, and the engine and carburettor were sealed, impounded and sent to MSA for stripping. It is common cause that these parts were later found to be legal in all respects.
7. The inference is inescapable that the second protest was lodged to overcome the difficulties faced with the admissibility of the first protest. In this regard, Mr Thekiso testified that he was guided by the team principal, Mr Gumbi, and that it was a joint decision to lodge these protests.
8. On the facts contained in the written submissions and the evidence presented during the enquiry, it became evident that the protests were entirely premeditated. Mr Gumbi testified that he was fighting against another team which was influencing his business. In essence, he was unhappy about the fact that his team was being out performed by another team and wanted to protest against all the entrants from that team because same posed a risk to his business.
9. In a text message dated 12 May 2023, the day before the race, Mr Gumbi stated that *“But I’m protesting tomorrow”* and *“We understand he’s clever but he’s messing with some of our business and not just mini but I’m going all classes”*. These messages are indicative of the facts that the protests were premeditated.

10. Any entrant has the right to protest in terms of GCR 197. This right is however not unfettered and can only be exercised within the confines of the rules. Every protest shall be in writing, stating the name and address of the protestor, the grounds for the protest, be signed by the competitor or driver making the protest, be accompanied by the fee laid down in Appendix R, and be lodged within the appropriate time limit as specified below (see GCR 198 (ii)).
11. From the facts it is evident that the grounds for any alleged ineligibility of the vehicle of competitor number 30 was not readily apparent. Accordingly, the protest should have been lodged in terms of GCR 200 which states: *"a protest against the eligibility of any vehicle, or part of vehicle, when the reason for the alleged ineligibility is not apparent, but it is alleged that the vehicle is performing in a manner which suggests that it is ineligible – within 20 minutes of the performance that give rise to the protest."*
12. As we have already indicated, no grounds were alleged in the two protests. Similarly, neither protest contained any allegation that the vehicle of competitor number 30 was performing in a manner which suggests that it was ineligible.
13. The protests originated from Mr Gumbi, with the assistance of Mr Thekiso, in respect of the second protest, and was apparently aimed at a specific team and not at a specific entrant. The strategy Mr Gumbi wanted to employ was to lodge a mass protest against all entrants of a specific team regardless of results or performance. The right to protest was employed by Mr Gumbi against another team to protect his own business interests without having any grounds for lodging such protests. Business interests are not a legitimate ground for a protest to be lodged.
14. We are of the view that the protests were lodged in bad faith, were frivolous and/or vexatious and that same constitutes a breach of the GCR's (see GCR 206).

#### **THE CONDUCT OF MRS SHISINWANA**

15. The complaint lodged against Mrs. Shisinwana pertains to her actions on 13 May 2023 at the Formula K Circuit, where she is alleged to have intimidated certain minors present. Additionally, she is accused of verbally assaulting Mr. Gumbi in the COC's office during the time he was registering his second protest, as detailed above.
16. Mrs Shisinwana testified that she arrived at the racetrack at around 14:00 and found that her child's kart was impounded. She stated that she saw Mr Thekiso and went walking up towards him to greet him and give him a hug, as they were friends. As, she was attempting to do this, Mr Thekiso, put his hands up and said to her *"It wasn't me, I didn't file the protest."*

17. She further admitted that she confronted and verbally assaulted Mr Gumbi in the COC's office. She stated that her reaction and the profanity used towards Mr Gumbi was a knee jerk reaction, as she thought of him as a friend and her emotions of disappointment and betrayal were at an all-time high. It is of importance to note that both complainants stated that emotions were running high on the said date. In this regard, Mr Gumbi is commended for keeping a calm demeanor at all relevant times.
18. Irrespective of the circumstances, Mrs. Shisinwana's actions are wholly unacceptable. Conduct of this nature is inappropriate around minor children, especially at a Motorsports event situated in a public area. The profanity used and actions of Mrs Shisinwana are in breach of GCR 172(iv).
19. Mrs Shisinwana admitted that her conduct was unacceptable and showed remorse for her actions.
20. Based on the testimony presented by both Mr. Thekiso and Mr. Gumbi, the court concludes that there is no compelling evidence to suggest that Mrs. Shisinwana directly, indirectly, or in any other manner, intimidated the minor children.

#### **THE CONDUCT OF MR THEKISO:**

21. Mr Shisinwana testified that Mr Thekiso verbally assaulted him at Zwartkops Raceway on 8 July 2023 and that he stated, *inter alia*, that Mr Shisinwana's son was a dirty driver. Ms Claudia Cornofsky confirmed the incident and testified that she witnessed the incident and saw Mr Thekiso screaming at Mr Shisinwana, threatening him with violence and referred to him as a short "*shit*" just like his son. She further stated that Mr Thekiso used negative hand gestures by showing Mr Shisinwana the middle finger.
22. Mr Thekiso did not successfully counter the testimony provided by Ms Cornofsky or Mr Shisinwana. While he acknowledged that emotions were heightened on the day in question, he struggled to recall many of the day's events or the specific incident. Given the context, Mr. Thekiso's evasiveness rendered him an unreliable witness. It is clear that Mr Thekiso showed no remorse for the incident.
23. As we have already indicated, and irrespective of the circumstances, Mr Thekiso's actions are wholly unacceptable and inappropriate especially at Motorsport events which are held in public. The profanity used and actions of Mr Thekiso are similarly in breach of GCR 172(iv).

#### **FINDINGS OF THIS ENQUIRY:**

24. As we have already indicated, we are of the view that the protests were lodged in bad faith, were frivolous and/or vexatious and that same constitutes a breach of the GCR's (see GCR 206). In the premises, both Mr Gumbi and Mr Thekiso are ordered to pay a fine in the amount of R7,000.00 each, for their breach of the GCR's in this regard.

25. The profanity used and actions of Mrs Shisinwana are in breach of GCR 172(iv). She admitted that her conduct was unacceptable and showed remorse for her actions. Mrs Shisinwana is suspended for 6 months from all MSA sanctioned events. Her suspension in this regard is further suspended for a period of 6 months on condition that she does not contravene any of the provisions of GCR 172 within the aforementioned 6-month period. Mrs Shisinwana is further ordered to pay a fine in the amount of R5,000.00.
26. The profanity used and actions of Mr Thekiso are similarly in breach of GCR 172(iv). Mr Thekiso showed no remorse for his actions and did not apologise. Mr Thekiso is suspended for 12 months from all MSA sanctioned events. His suspension in this regard is further suspended for a period of 12 months on condition that he does not contravene any of the provisions of GCR 172 within the aforementioned 12-month period. Mr Thekiso is further ordered to pay a fine in the amount of R3,000.00 in addition to the fine as set out above.
27. The aforementioned suspensions do not prevent the minor competitors mentioned in this judgment from participating in MSA sanctioned events.

**ORDER:**

In the premises, the following order is granted:

1. Mr Gumbi is ordered to pay a fine in the amount of R7,000.00.
2. Mrs Shisinwana is suspended for 6 months from all MSA sanctioned events, which suspension is suspended for a period of 6 months on condition that she does not contravene any of the provisions of GCR 172 within the aforementioned 6-month period.
3. Mrs Shisinwana is ordered to pay a fine in the amount of R5,000.00.
4. Mr Thekiso is suspended for 12 months from all MSA sanctioned events, which suspension is suspended for a period of 12 months on condition that he does not contravene any of the provisions of GCR 172 within the aforementioned 12-month period.
5. Mr Thekiso is ordered to pay a fine in the amount of R10,000.00.

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

The findings are issued by email 5 September 2023.

**Ref: 163066/098**