



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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MSA COURT OF APPEAL 471

HEARING WAS HELD VIA ZOOM ON 3 OCTOBER 2023 AT 18H00

Court:	Adv. Francois van der Merwe Ms Samantha van Reenen Mr Gennaro Bonafede Mr Kelvin van der Linde	Court President Court Member Court Member Court Member
In Attendance:	Mr Tim Bishop Mr Tate Bishop Mr Keegan Campos Ms Arlene Brown Mr Daniel Bright Mrs Allison Vogelsang Mr Vic Maharaj	Appellant – Father of minor competitor Tate Bishop Competitor Competitor Clerk of Course Witness MSA Sporting Coordinator MSA Sporting Manager

JUDGEMENT

Introduction:

1. Mr Bishop, acting on behalf of his minor son ("**the competitor**"), launched an appeal against the penalty imposed on the competitor following an incident during Heat 2 of the Global Touring Car Championship Race ("**the race**"), a part of the extreme festival held at the East London Grand Prix circuit on 22 July 2023.

MOTORSPORT SOUTH AFRICA IS THE ONLY RECOGNISED MOTORSPORT FEDERATION IN 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. In essence, it is submitted by Mr Bishop that the penalty imposed on the competitor resulted from a defective protest that was lodged by Mr Campos following the race and that the protest should have been rejected at the outset.

The relevant facts:

3. Mr Bishop presented evidence showing that after the race, the competitor, along with Mr Campos, was called to the steward's office. The notification shared on the pertinent WhatsApp group did not indicate any protest but instructed the involved parties to report to the office of the COC, specifically Arlene Brown.
4. It is common cause that Mr Campos manually added the word "protest" at the top of the incident report form he handed to the COC. When the COC noticed this, she asked Mr Campos if he intended to submit a protest or just an incident report. Mr Campos admitted he was not clear on the distinction between the two procedures. After the COC clarified the difference, Mr Campos indicated that he meant to file only an incident report. Upon this clarification, the COC crossed out the word "*protest*" and continued with a hearing regarding the reported incident.
5. It is important to note that the incident report form states that "*THIS FORM IS NOT A PROTEST/APPEAL*" under the words "INCIDENT REPORT".
6. During the hearing, both parties were given the chance to present their arguments. Video evidence of the incident was examined with all involved parties present. Subsequently, the COC imposed a 5-second penalty on the competitor, citing a breach of rule 25.4 from the MSA National Sporting SSRs, Global Touring Car and GTC SupaCup Championship ("the SSRs").

the validity of the hearing:

7. The parties were summoned to attend a hearing before the COC. No indication was given in the notice that the hearing was intended to be a protest hearing.

8. The COC needed clarification due to Mr Campos writing "Protest" atop the incident report form. After confirming that no official protest was lodged, the COC appropriately proceeded with the intended hearing. The conduct of the hearing adhered to procedural fairness, with both parties having ample opportunity to present their cases.
9. Despite Mr Campos writing "protest" on the top of the incident report form, it does not transform the nature of the document. The true intent of the form is evident from its printed content and the fact that Mr Campos indicated that he only intended to lodge an incident report.

The INCIDENT:

10. Turning to the incident itself, it was alleged by Mr Bishop that the competitor fairly attempted an overtake on Mr Campos and that he should not be penalised for doing so.
11. SSR 25.4 states the following:

"From the 'apex' out, the inner car will take extra care not to drift wide under power forcing the outer car wide and ultimately off the circuit at the exit. This is exaggerated in front wheel drive cars and those drivers should exercise extra caution. The challenger should exercise extra caution to avoid contact, by applying brakes or taking extreme evasive action. If there is no evidence of evasive action this will certainly count against the challenger."
12. Having reviewed the video evidence, this Court is of the view that the competitor did not adhere to the prescripts of SSR 25.4. Being the challenger and inner car, the competitor had to take extra care not to force Mr Campos wide and ultimately off the circuit at the exit of turn 3. No extra caution was taken by the challenger to avoid contact.
13. It is to be noted that the COC imposed a less severe penalty than the minimum three-place penalty prescribed in SSR 25.6.1.

Conclusion:

14. The hearing by the COC was validly conducted and the penalty imposed was fair and reasonable under the circumstances.

The order:

1. The appeal is dismissed.
2. MSA is directed to retain the appeal fee.
3. All parties are reminded of their rights in terms of GCR 212B.

Dated at Pretoria on 11 October 2023.

163073/158