



MOTORSPORT SOUTH AFRICA NPC

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MSA COURT OF APPEAL 475

HEARING HELD ELECTRONICALLY VIA THE ZOOM PLATFORM ON 6 MARCH 2024 AT 18H00

Court composition:	Ms Samantha Van Reenen	Court President
	Mr Jack Cheney	Court Member
	Mr Luan Oelofse	Court Member
In Attendance:	Mr Avron Goodman	Appellant and father of minor competitor Levi Goodman (#999)
	Mrs Ricki Goodman	Mother of minor competitor Levi Goodman (#999)
	Mr Iain Anderson	Defendant / Father of minor defendant Jack Anderson (#3)
	Mr Jack Anderson	Defendant / Competitor (#3)
	Mr Graeme Love	Witness
	Mr Dean Hoffman	Witness
	Ms Karen Weehuizen-Londt	Clerk of the Course
	Mr Callie Steyn	MSA Steward
	Mr Nickie Smit	Club Steward
	Ms Lizelle van Rensburg	MSA Sport Coordinator
	Mr Vic Maharaj	MSA Sporting Manager

JUDGEMENT

Introduction:

1. Mr Avron Goodman, acting on behalf of his minor son, Levi Goodman ("**competitor #999**"), launched an appeal against the findings and sanctions imposed as a result of a protest heard

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



sport, arts & culture

Department:
Sport, Arts and Culture
REPUBLIC OF SOUTH AFRICA

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Honorary President: R. Schilling

by the Stewards on the 3rd February 2024 from the WC Regional & Zone 7 MX event held at Zone 7, Cape Town ("**the race**").

2. In essence, it is submitted by Mr Goodman that the findings and sanctions imposed on competitor #999 be set aside. In that, competitor #999 did not behave in an unsportsmanlike behaviour and that he was victimized by Jack Anderson ("**competitor #3**"), false content regarding the sequence of events leading up to the incident and untrue statements made by a Mr Jaco Rademeyer given at the hearing following the race.

The relevant facts:

3. Mr Goodman presented oral evidence and based his testimony on the '*GCR 172 vij, GCR 172 vi and SSR's 50 ii rules*' by stating that the collision in question was not an accident but rather that competitor #3 intentionally and recklessly collided with competitor #999 in an unsportsmanlike behaviour and thus endangering both. The rumour of "take out" another rider, made against, Mrs Ricki Goodman ("**Ricki**"), mother of competitor #999 was vicious, false, and wrongfully made by Mr Jaco Rademeyer.
4. Mr Goodman named the witness Mr Graeme Love, who would later be called to testify to give his eyewitness testimony of the collision in question between competitor #999 and competitor #3. Mr Goodman went on to state that competitor #999 was completely unaware of competitor #3 who was behind him and that after the collision occurred, competitor #3 continued with his race while competitor #999 could not continue and was taken to hospital due to an injury that had been sustained as a result of the collision.
5. Further in Mr Goodman's oral evidence, he states that the coach of both competitor #999 and competitor #3, Mr Dean Hoffman, has previously stated to Ricki, that competitor #3 has knocked competitor #999 off his bike in practice and that it is common knowledge that competitor #3 has been warned for aggressive and inappropriate behaviour.
6. Mr Iain Anderson, acting on behalf of his minor son, Jack Anderson ("**competitor #3**"), presented oral evidence, on the basis that this was a racing incident and that competitor #3 did not 'T-Bone' competitor #999, but confirms there was contact made during the race. He went on to present evidence that competitor #3 is a hard racer and that he in no way intentionally went for competitor #999. He states, that during practice sessions, he has witnessed the rider's practising block passes and falling over, and he is only aware of two incidents of the statement that competitor #3 intentionally goes for competitor #999. He

reiterates this, by stating that competitor #3 has apologized to competitor #999 on a previous occasion stating that he “was not out to get him” and thus shows that competitor #3 practices “hard” because he is a hard racer.

7. Testimony by competitor #3 stated that there are three lines into the corner (inside, middle, and top line) where the incident occurred. Competitor #3 stated that he took the middle line into the corner. The outside and the middle line converge just before Zone 7 thus creating one exit point.
8. Mr Anderson stated that they took the findings of the protest very seriously against competitor #3 and kept him away from any MX activities for three weeks to ensure he understood the seriousness of being found guilty of unsportsmanlike behaviour.
9. The first witness, Mr Graeme Love was called to present his oral evidence. Mr Love made it very clear that he was in no way affiliated in any way to competitors #3 and #999 and that he was a spectator on the race day. He presented testimony that competitor #3 should have been black flagged due to the aggressive nature he was showing while he was more or less half a lap ahead of the second-place rider and that he should have led the race safely considering he was not battling for race position. He confirmed that both competitors #3 and #999 tangled and went down, which in his view was uncalled for. He later went on to state that competitor #3’s race demeanour changed after the incident had occurred from one of aggressive riding to coasting the last few laps of the race.
10. Mr Dean Hoffman was called to give his oral testimony, and he confirmed that he is the coach of both competitor #999 and competitor #3. He stated that he did not see the racing incident. The information he wished to put forward was that there has been a history between himself and competitor #3, in which he has had to discipline competitor #3 for his aggressive behaviour and poor attitude towards other riders. He confirmed that competitor #3 has taken out competitor #999 during practice sessions. He further stated that he has picked up animosity from competitor #3 towards competitor #999 on two occasions whereby at one practice session, competitor #3 was laughing, whispering in his friends’ ears, and pointing at competitor #999.
11. Mr Jaco Rademeyer was not present at the electronic hearing, but a letter was received on 07/02/2024 apologising for the false statement he made at the protest against Ricki.
12. The MSA Steward, Mr Callie Steyn, testified that he did not see the accident as he was at the start line. He recalled that he only saw one bike down and the medics attending to competitor #999. He stated that he received the protest after the race in the boardroom

from Mr Goodman and Mr Anderson and that the Clerk of the Course, (“COC”) was not present. From there he and the Club Steward heard from the witnesses and findings were handed down.

13. The Club Steward, Mr Nickie Smit, testified that he got a call from Romanda Marais, the WC Regional MX Representative (Event Secretary for MX events at Zone 7), that he was needed in the boardroom as there was a protest regarding the accident. It is noted here, that after evidence was given by the Andersons, they asked “Is it worth mentioning that Ricki was overheard saying that competitor #999 must take out #3 when he laps him”. The Andersons stated that they had three witnesses, two minors and Mr Jaco Rademeyer who could attest to this statement. He confirmed Mr Goodman’s evidence above and that the findings against competitor #999 were made as a result of Mr Jaco Rademeyer’s statement.
14. The COC, Karen Weehuizen-Londt, testified that she saw the end of the incident, whereby both bikes of competitors #3 and #999 were down, and only competitor #999 stayed down. She made her way to the scene, where the medics were attending to competitor #999. Once returning to the offices, she saw that Mr Goodman and the Stewards were in the boardroom dealing with Mr Goodman’s protest. She did not go inside but rather remained outside checking on the medical status of competitor #999.
15. Ricki Goodman (“**Ricki**”), mother of competitor #999, gave her testimony by stating that competitor #3 was way ahead of competitor #999 and that the accident occurred on the 180 bends. She had a permit to run on to the track and did so when she saw competitor #999 was not getting up. She further stated that Mr Goodman and competitor #999’s brother moved him off the track and not the medics. She testified that competitor #999 was aware that competitor #3 was behind him but did not know where he was and that competitor #3 was way ahead in terms of the position of any other competitor. She denied the rumour against her in its entirety and confirmed that Mr Jaco Rademeyer had sent an apology letter out to MSA and herself.
16. The court was concerned why a parent and a sibling went to move an injured rider and not the medical staff. Mr Goodman stated that there was no assistance and that they waited for a long period for the medics to attend to competitor #999. There was a lady present who tried to pick up competitor #999 but was unable to move him, and thus Mr Goodman and competitor #999’s brother moved him to the bench.

The validity of the hearing:

17. The parties were summoned to attend a hearing before the MSA Steward and the Club Steward. The evidence from the parties was obtained via a call made to Mr Love on his mobile, Mr Rademeyer's Statement. Mr Goodman was on his mobile and Mr Anderson and competitor #3 were present in the boardroom.
18. Mr Jaco Rademeyer was called in and gave his statement. The Club Steward asked Mr Jaco Rademeyer if he heard Ricki's statement or if it was hearsay. Mr Jaco Rademeyer confirmed that he heard it.
19. The Stewards based their findings against both competitors #3 and #999 to be reprimanded and put under observation for the next 3 events at Zone 7 that they both compete in for unsportsmanlike behaviour on the evidence they were presented with at the protest hearing.

The INCIDENT:

20. Turning to the incident itself, it was alleged by Mr Goodman that competitor #3 intentionally and recklessly went for competitor #999, which caused competitor #999 to be injured and unable to race further. Competitor #3 got up and continued to race.
21. Mr Anderson, disputes the above on behalf of competitor #3, in that, the competitor did not intentionally take out competitor #999, but rather that he passed competitor #999 aggressively in a race situation. Competitor #3 performed a block pass, he did not T-Bone competitor #999 but rather his rear tyre made contact with competitor #999's front tyre and as a result they both fell. It is stated that competitor #3 took a lower line as he came into the corner and the two lines converged in the corner as a result competitor #3 could not slow down in time to prevent the collision.
22. Mr Love stated that competitor #3 caught competitor #999 in the corner way too fast, way too aggressively which was unnecessary.
23. The Club Steward stated from the evidence he was given by Mr Love, was, both competitors #999 and #3, were coming down the mineshaft going through the S bend towards the backstep up and competitor #3 was on the inside of competitor #999 and as they came out of the corner the collision occurred. Competitor #3 stated that competitor #999 was riding cross track trying to block competitor #3 off and they were side by side when the incident

occurred. Competitor #3 felt the incident was a racing incident, where a front wheel takes out a back wheel and two lines into a corner become one at the exit.

24. The COC stated that the incident occurred when both competitors #3 and #999 were coming down the mineshaft, over the big jump and the turn was a right turn 180 back on itself and it was in this turn that the accident occurred. It appears that competitor #999 was taking the outside line and competitor #3 had a bit of the inside line towards the middle line and that is where they collided.
25. Ricki stated that competitor #999 was on the outside line and very high up. The entire track was available to any competitor wishing to pass. The collision occurred in the middle of the bend, and not at the exit.

Conclusion:

26. The hearing by the Stewards was validly conducted and the penalty imposed against both competitor #3 and competitor #999 was fair and reasonable under the circumstances at the time.
27. After all the testimony was heard, and after deliberation between court members, we conclude the following:
 - a. The sport lends itself to being one of more contact in nature rather than that of other motorsport racing, in that competitors do bump and come together a lot more.
 - b. The accident that occurred can be seen as a racing incident.
 - c. However, it is clear that competitor #3, has a history of lacking respect and a bad attitude towards other competitors due to his lack of discipline. The court imposes the following on competitor #3:

“Competitor #3 is found guilty in terms of GCR172. We impose a three-month ban. Should competitor #3 be found guilty of bad sportsmanlike behaviour and breach of GCR172, within the next six months towards any fellow competitor or any racing official, then the three-month ban will be implemented with immediate effect.”
 - d. The findings handed down by the Stewards against competitor #999, for bad sportsmanlike behaviour and being placed under observation for the next 3 events at Zone 7, be rescinded with immediate effect because they were only imposed on him due to the false statement made by Mr Jaco Rademeyer.

- e. The court was concerned with the fact that Mr Goodman and competitor #999's sibling moved him to the bench. This is the sole job of the medics present on the track, as they are the ones that will be able to assess the seriousness of the injuries sustained by a competitor. The MSA National Standing Supplementary Regulations for Motocross, section 248 (iii.a); (iv.a) and (vi) states as follows:

“iii) Pick-up marshals (Only valid for MX 50cc, MX 65cc and MX 85cc classes)

a) All MX 50cc, MX 65cc and MX 85cc competitor's mechanics (with registered armbands / wristbands), will be allowed access to the track during their respective heats / practice to assist competitors who cannot pick their bikes up.

iv) Outside Assistance

a) Competitors receiving any outside assistance is only permitted in the designated mechanics area and any assistance along the track, except for a Flag marshal or designated pick-up marshal, is considered outside assistance and subject to exclusion.

vi) Any disregard to the outlined procedure and rule above will be viewed in an extremely serious light and may result in the removal of access armband/wristband and a fine of R1 000.00.”

In the days following the hearing, the court was notified that neither Mr Goodman, Mrs Goodman nor the sibling of competitor #999 had wristbands and that the rider's armbands were signed for by the mechanic.

Considering the above information, the court sees this as a complete disregard to the rules set out above as well as the fact that it is the duty of the medic to assess the injured competitor. Thus, the court imposes a R5 000.00 fine, against the appellant, half (R2 500.00) to be paid immediately over to MSA upon receiving these court's findings and the remainder (R2 500.00) to be suspended for 12 months.

- f. With respect to Mr Jaco Rademeyer, and his false and wrongful testimony and subsequently apologizing and retracting his statement in its entirety. The court does not take this lightly and we are of the opinion that a suspended fine in the amount of R5 000.00 be imposed against him which is suspended for six months. Should Mr Jaco Rademeyer, give false evidence in any way forward from the date of these findings and within the next six months he will be required to pay the amount of R5 000.00 immediately.

The order:

1. The appeal is successful.
2. The findings against competitor #999 must be removed in its entirety.
3. A fine of R5 0000.00, half (R2 500.00) to be paid immediately by the appellant because of the disregard to the rules pertaining to the wristbands and the fact that a medic is the only personnel on duty to assess and move an injured competitor. The remainder (R2 500.00) is to be suspended for 12 months.
4. Competitor #3 is guilty in terms of GCR172. We impose that competitor #3 receives a three-month ban which is suspended for a period of six months, provided that the competitor does not violate GCR 172 within this suspension period.
5. Mr Jaco Rademeyer receives a suspended fine for six months in the amount of R5 000.00 for falsifying evidence.
6. The costs of this Appeal be refunded to the Appellant, less 10% for administration costs.
7. All parties are reminded of their rights in terms of GCR 212B.

Dated at Cape Town on 28th March 2024.

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