



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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MOTORSPORT SOUTH AFRICA

COURT OF APPEAL NO 486

Held virtually on the 31ST July 2024 on Zoom and recorded.

Court composition:	Mr. Steve Harding	Court President
	Mr. Iain Pepper	Court Member
	Mr. Anthony Taylor	Court Member
	Ms. Nthabiseng Motsie	Court Member
Attendance:	Mr. Mark Cronje	Appellant and Father of Noah Cronje
	Mrs. Jacky Billau	Respondent and Mother of Logan Billau
	Mr. Greg Billau	Respondent and Father of Logan Billau
	Mr. Ian Richards	MSA Steward
	Mr. Michael Diener	Club Steward
	Mr. Vic Maharaj	MSA Sporting Services Manager
	Ms. Samantha Van Reenen	MSA Sporting Services Manager – Cars, Karting and Legal
	Mrs. Allison Vogelsang	MSA Circuit Sport Coordinator

INTRODUCTION AND PROCEDURAL MATTERS

1. At the commencement of the hearing, which was heard remotely using the Zoom platform, the Court President indicated that the court was originally comprised of 4 members namely himself, Steve Harding, Mr Iain Pepper, Mr Anthony Taylor and Ms Nthabiseng Motsie. He advised that Ms Motsie was unfortunately not available due to urgent personal circumstances. As the remaining members of the court still constituted a quorum*, the court intended to proceed with the matter.

**see GCR 210*

2. The Court President then enquired as to whether there was any objection to the court as constituted. The mother of competitor 68, Logan Billau, Mrs Billau then objected to the participation as court members of Messrs Harding and Pepper, on the basis that both had served on other Motorsport South Africa courts alongside the Appellant, Mr Mark Cronje,

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MEMBER OF



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Sport, Arts and Culture
REPUBLIC OF SOUTH AFRICA

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Honorary President: R. Schilling

citing by way of example COE 1262 and COA 467 where Mr Harding and Mr Cronje were both court members and COA 442 where Mr Pepper was a member of the court along with Mr Mark Cronje.

3. As a further ground she advanced that as Mr Harding was a well-known former rally competitor and Mr Cronje was involved in rallying there was some relationship between them that would give rise to a perception of bias. Mr Harding pointed out that he had never been a teammate of Mr Cronje and that at the time Mr Cronje started competing in rallying Mr Harding was the permanent Chairman of Stewards of the national rally championship. She contended that this constituted a conflict of interest as contemplated in GCR 209.
4. The court then retired to consider its decision. Both Mr Pepper and Mr Harding indicated that they had in the past and in a variety of capacities, made adverse findings against Mr Cronje. They did not consider that having previously served with him on various MSA courts rendered them in any way incapable of rendering a fair and impartial decision in a matter where Mr Cronje was one of the parties.
5. The officiating and judicial structure of MSA is heavily reliant on a relatively small number of experienced officials who serve voluntarily, giving of their time and expertise to deliver to the best of their ability, fair and impartial administrative and judicial decisions in the interest of the sport. They are compelled to participate in training and write examinations from time to time, they serve as clerks of the course and stewards, and along with experienced competitors, are appointed by MSA to serve on various courts from time to time. It is inevitable that within the relatively small number of such persons they will, particularly as the years accumulate, have a variety of interactions with other members of this small band of officials and court members.
6. For an application for recusal to succeed it must satisfy several requirements, there must be a well-grounded conflict of interest or an apprehension of bias. That apprehension of bias must further be reasonable. This court considers that there is no such conflict of interest or reasonable apprehension of bias in this instance such as to justify the recusal of any of its members. The recusal of court members from courts on the basis of the kind of grounds advanced in this hearing would, in the view of this court, make the administration of MSA's judicial system extremely difficult and is not something to be undertaken lightly.

ADDITIONAL DOCUMENTS SUBMITTED

7. A number of additional documents and video extracts were submitted to MSA by Mr Cronje for submission to the court on the afternoon of the hearing. This in turn prompted the submission of further video by the respondent Mr Billau acting on behalf of his minor son. As a preliminary examination of these documents and video extracts indicated that may relate to incidents other than that which formed the subject of the appeal, the court asked Mr Cronje to address it on why they should be admitted. Mr Cronje indicated that he would not rely on these documents and that the hearing could be confined to the incident in question only.
8. This court would like to express its displeasure at the late submission of additional documents shortly before the hearing. The court members take the time and trouble to prepare themselves by considering the documents submitted by the parties and it is unfair on them

and indeed unfair on other parties to the matter before the court to submit documents at the last minute.

THE SUBSTANCE OF THE APPEAL

9. The court then proceeded to afford the appellant (as father of his minor son Noah competitor number 24 in this instance) the opportunity to address it in regard to the incident in question and he did so utilising video evidence in support of his contentions. He contended that on the basis of this video evidence that the decision of the stewards not to uphold his protest was incorrect and that this court should reach the conclusion that the incident was attributable to an inappropriate manoeuvre on the part of the respondent competitor and that penalties should be imposed for that manoeuvre.
10. The appellant contended that the manoeuvre concerned constituted either a “push out” or an “edge into” manoeuvre prohibited in terms of Article 9 d of the relevant championship regulations* and/or “driving in a manner incompatible with general safety” as contemplated in Article 9 e of those regulations. He also drew the court’s attention to Article 15 f dealing with the safety of children participating in the sport.

**see 2024 MSA Rok National Championship Regulations*

11. The court afforded the respondent the opportunity to reply and this was done by Mr Billau (on behalf of his minor son Logan, competitor number 68). Mr Billau took the court through his version of the incident using, in particular, the same video used by the appellant and still images extracted from that video.
12. The court also heard from Mr Ian Richards, the MSA steward at the event, in regard to the regulations governing driver conduct as contained in Article 9 d of the championship regulation.

COURTS CONCLUSION

13. It is the unanimous view of the court after careful consideration of the evidence and particularly the video that the incident concerned should be treated as a racing incident with no further action taken in regard thereto. The court is of the view that the contact between competitor 24, the appellant’s son Noah, and competitor 68, the respondent’s son Logan, was caused by competitor 24 increasing the steering angle in the turn when competitor 68 was fully alongside, resulting in contact between the left front wheel of kart 24 and the right front wheel of kart 68. The court was of the view that kart 68 had made a legitimate overtake and that kart 24 should have conceded the corner at that point.
14. The court was of the view that neither party was guilty of any of the actions prohibited in terms of Article 9 d of the championship regulations nor of driving in a manner incompatible with general safety as contemplated in Article 9 e.

FINDINGS

15. The circumstances the appeal is dismissed, and the appeal fee declared forfeited.

16. The parties are reminded of their rights in terms of GCR 212 B.

The date of this judgement is 2 August 2024.