



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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## COURT OF ENQUIRY

of

## MOTORSPORT SOUTH AFRICA

In re:

## MOTORSPORT SOUTH AFRICA COURT OF ENQUIRY NO 1285

Held virtually on the 19<sup>th</sup> of June 2025.

**Court composition:** Adv. Francois v d Merwe Court President

Mr Neville Townsend Court Member

Mrs Karen Weehuizen-Londt Court Member

**Attendance:** Mrs. Maysurah Wally Complainant and Mother of competitor #99

Mr Muhammad Wally Complainant and Competitor #99

Mr Robert Franco Complainant and Competitor #69

*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), V. Maharaj (Chief Executive Officer), P. Zeelie (Financial),  
Mrs. D Abrahams, Mrs. D. Ballington, K. Govender, Ms. T. Human, Mrs. S Labuscagne Jonck, D. Ramchander, M. Rowe, G. Waberski,  
Honorary President: R. Schilling

Mr Dawie van der Merwe	Competitor #30
Mr Christopher Pretorius	Team Manager – Bucketlist Racing
Mr Freddie Pretorius	Entrant – Muhammad Wally
Mr Luan Oelofse	MSA Steward
Ms Samantha Van Reenen	MSA Sporting Services Manager
Mrs Allison Vogelsang	MSA Sporting Coordinator
Mr Rashaad Monteiro	MSA Safeguarding Officer

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## JUDGEMENT

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### Introduction:

1. Motorsport South Africa (“**MSA**”) convened a formal enquiry in terms of the provisions of GCR 154, 211 and the MSA Safeguarding Policy based on reports submitted to MSA following an incident that occurred in *Parc Fermé* after Race 2 of the South African Touring Cars (“*SATC*”) and SATC SupaCup during Round 2 of the National Extreme Festival held at Kyalami Grand Prix Circuit on the 12 April 2025.
2. The enquiry was convened to investigate whether any party is guilty of breaching, *inter alia*, GCRs 172 iv), vi) and/or any part of the MSA Safeguarding policy (“**the Policy**”).
3. Mrs Wally appeared with her minor son (“*the Competitor*”), who was 16 years old at the relevant time. It appears that there was an altercation between the Competitor and Mr Robert Franco (“*Mr Franco*”) following Race two.

4. This Court received two videos relating to the altercation. These videos were introduced as Exhibit “A” and “B” respectively. In addition, Mrs Wally sought to introduce new video evidence on the day of the hearing.
5. At the outset, Mr Robert Franco (“*Mr Franco*”) applied for a postponement of the enquiry premised on the following two grounds:
  - 5.1. that he was prejudiced in his preparation for the hearing; and
  - 5.2. that he was not able to review the video footage which Mrs Wally belatedly sought to introduce on the day of the hearing.
6. Upon questioning by this Court, Mrs Wally indicated that she no longer wanted to rely on the video footage which she belatedly sought to introduce.
7. That only left the question of Mr Franco’s alleged prejudice in his preparation for the enquiry. The complaint was that he was only provided with copies of Exhibits A and B two days prior to the hearing, and that he did not have an opportunity to consult with his attorney in relation thereto, nor to prepare properly for the hearing
8. It is common cause that Mr Franco viewed the original video evidence with an attorney approximately three weeks before the enquiry. No advanced notice was given by Mr Franco that his legal representative would be attending the private viewing with him at Kyalami. Mr Franco’s assertions during the hearing that the attorney was not acting on his behalf were disingenuous. There would have been no other reason for the attorney to attend the viewing if he was not acting for Mr Franco.

9. All parties were provided with the same opportunity to view Exhibits A and B at the private viewing. Mr Franco was assisted during the viewing by an attorney who also viewed the videos.
10. We accordingly found that there was no prejudice to Mr Franco and refused the postponement.
11. Mr Franco indicated that he would proceed with the enquiry despite his earlier indications that he would withdraw from the inquiry should the postponement not be granted.

**The evidence presented:**

12. The relevant evidence presented to this Court relating to the altercation itself appeared to be largely uncontested. We accordingly only intend to highlight the relevant parts of the evidence herein.
13. The Competitor testified that after race two and whilst still standing in *Parc Ferme*, he was approached by Mr Robert Franco ("*Mr Franco*"), who said to him that he has got more money than the Competitor's father and that the Competitor does not know how to drive. At that stage, the Competitor had no knowledge of the identity of Mr Franco. The Competitor told Mr Franco to please go away.
14. The Competitor stated that Mr Franco was really aggressive and that he felt intimidated. The Competitor testified that this was his first race on main circuit, having competed in Karting before.
15. Mr Franco confirmed that he made the statements set out above to the Competitor.
16. Mr Franco denied shouting, intimidating, or physically threatening the Competitor, emphasising that he is not a confrontational person. He stated that the exchange

lasted approximately six seconds and that he was unaware that the Competitor was a minor or that there were safeguarding rules prohibiting such interactions with juniors. He conceded that, had he known the Competitor's age, he would not have approached him.

17. He claimed his intent was to address what he perceived to be disrespectful and unsafe conduct between the Competitor and another driver, which he found disturbing. Mr Franco explained that his intervention was motivated by concern for his own son's safety following previous on-track incidents and injuries. He said he told the Competitor he was a bad driver in the hope that it would prompt reflection and improved behaviour on track.
18. Mr Franco expressed regret that his actions had caused distress, stating that he did not intend to intimidate or upset the Competitor. He offered an apology during the hearing to the Competitor and to the Competitor's family. He said he wished he had been able to apologise personally sooner and acknowledged that he should not have confronted a minor driver.
19. He undertook not to approach junior drivers in future and confirmed that if any issue arises, he would raise it with the parents or officials instead. He repeated that his actions were driven by emotion and concern for safety and not by malice or intent to harm.

**Evaluation of the evidence:**

20. This Court finds the conduct of Mr Franco to be completely unacceptable.
21. The fact that Mr Franco was unaware of the Competitor's age is no excuse for his conduct.

22. To the extent that Mr Franco had any concerns or complaints about the driving of the Competitor, it was open to him to follow the correct procedures as outlined in the GCR's.
23. The conduct of Mr Franco is clearly in breach of GCR 172 (iv) and (vi).
24. Similarly, the conduct of Mr Franco constitutes "*Harassment*", "*Psychological abuse*" and "*Discrimination*" as defined in the Policy. As per paragraph 6 of the Policy, infringements of the policy by any party subject to the jurisdiction of MSA may be treated as a breach of the GCRs governing South African motorsport and may result in action being taken against offenders in terms of Parts VIII, IX and X of the MSA Handbook.
25. Interaction between adults and minors, as happened in this instance, should be strongly discouraged.
26. This court also finds that Mr Franco did not deny his actions before this enquiry and showed remorse and offered an apology during the hearing. As far as this Court was able to establish, Mr Franco has not previously been involved in an incident of this nature in over 40 years of racing. These facts were taken into account in the Court's findings.

**Findings of this enquiry:**

The Court accordingly makes the following finding:

1. Mr Franco is found to have breached GCRs 172 (iv), (vi) and the MSA Safeguarding Policy.
2. Mr Franco is suspended in terms of GCR 177, read with GCR 184, for a period of 6 months for a first offence.

3. The sanction outlined in prayer 2(two) is suspended for a period of 6 months, provided that Mr Franco does not breach GCR 172 (iv), (vi) or the MSA Safeguarding Policy within the suspension period.
4. Mr Franco is ordered to pay a fine in the amount of R30,000.00 in terms of GCR 177.

The date of this judgment is deemed to be 30 June 2025.