MOTORSPORT SOUTH AFRICA

NATIONAL COURT OF APPEAL

NCA 185

MOHAMED WALLY

Entrant for Muhammad Wally — First Appellant

MAYSURAH WALLY

Parent of Muhammad Wally — Second Appellant

and

JOAO OSCAR SIMOES JOHNNY PASCOAL — First Respondent

LISA PASCOAL

Entrant for Gianna Pascoal — Second Respondent

GIANNA PASCOAL — Third Respondent

INTRODUCTION

1. This appeal concerns the response of organised motorsport to an adult's public humiliation of a competitor who was sixteen years old. It also concerns the limits of an appellate sporting tribunal's authority. Effective safeguarding requires meaningful consequences for established misconduct. It equally requires a fair hearing, individual responsibility and sanctions authorised by the governing rules.

2. The appeal arises from Court of Enquiry 1286, heard on 13 August 2025, with judgment deemed delivered on 19 August 2025. That Court found that the first respondent's public booing and related social-media conduct were prejudicial to Muhammad Wally Junior, a minor, and to motorsport. It found a breach of GCR 172 and, in relation to the booing, the MSA Safeguarding Policy. Those findings must be distinguished from the wider allegations advanced by the appellants. (COE paragraphs 10-16; Formulated Appeal, Annexure B)

3. The appellants challenge the adequacy of the sanctions, seek sanctions against the other respondents and challenge the treatment of safeguarding concerns. The respondents, represented by Mr de Waal SC on the instructions of Mr North, dispute standing and appellate competence and contend that the appeal is frivolous, vexatious and brought in bad faith. The appeal has been heard and falls to be decided.

4. The appeal succeeds in relation to the first respondent's sanction. The R20 000.00 fine, a restriction confined to the next ROK National and a wholly suspended wider restriction did not adequately reflect the gravity of the

established misconduct. We substitute a total fine of R200 000.00 (two hundred thousand rand) and a twelve-month national suspension, of which six months are suspended for two years on the conditions set out in the order. In addition, the first respondent is ordered to prepare a written apology as is indicated hereunder under the heading ‘’order”. The previous apology is found to have been flippant in nature and inadequate, fell short of the COE’s order. This is dealt with below.

5. The first respondent must extend the unconditional apology to Mr Muhammed Wally junior wherein he takes full responsibility for his actions, admitting that he acted wrongly and appreciates that he did not set a good example to all the minors present on the day, including, but not limited to the third respondent and to Mr Muhammed Wally junior. The appeal seeking sanctions against the second and third respondents is dismissed. Our reasons follow.

THE RECORD AND THE ISSUES

6. The principal documents are the application for leave dated 27 August 2025, the grant of leave dated 28 August 2025, the Formulated Appeal dated 8 September 2025 and its annexures, the event officials' reports and supporting screenshots, the respondents' four-page submissions, and the correspondence concerning submissions sent after the NCA hearing.

7. The Formulated Appeal includes the signed victim impact statement dated 25 August 2025, the six-page COE judgment, the circulated apology, the Safeguarding Policy and karting conduct materials, extracts from the GCRs, an extract from NCA 184, correspondence concerning team participation and

calendar arrangements, and a transcription of the COE hearing. The later Red Star material concerns separate disciplinary proceedings. Its presence in an annexure does not establish its admissibility or its relevance to liability in this appeal.

8. The COE transcript contains apparent transcription errors in names and some timestamps. We have used the parties' names as set out in the appeal papers and distinguish evidence given during that enquiry from submissions subsequently advanced in the appeal. The distinction between evidence, allegation and argument is material throughout.

9. The issues for determination are jurisdiction and standing; the effect of Muhammad's subsequent majority; the scope of the established misconduct; safeguarding and the impact upon a sixteen-year-old; the appropriateness of the original sanction and the weight of the apology; the NCA's power to increase a penalty consistently with fair notice; the position of the other respondents; and the allegation of a vexatious appeal.

APPLICABLE RULES AND ADMISSIBILITY

10. The conduct and the original decision occurred in 2025. The powers applied in reconsidering the penalty are those contained in the 2025 GCRs, including the power to increase a penalty under GCR 221.

11. Leave was granted on 28 August 2025. The decision expressly stated that leave did not validate the merits of any particular ground and that the appeal had to be pursued within the GCRs. Leave is an important procedural fact but does not create a substantive power absent from the rules. Equally, it is

wrong to treat the grant as if no application had been considered and no arguable appeal admitted. (Grant of leave, paragraph 1-3)

12. Leave to appeal was granted on 28 August 2025. The Formulated Appeal is dated 8 September 2025, the seventh working day after the grant of leave on the ordinary working-day calculation. The respondents' substantive objections concern standing and the ambit of the appeal. Those objections, rather than an assumed failure of filing compliance, require determination. (Grant of leave; Formulated Appeal; respondents' submissions, paragraphs 1-17)

13. GCR 211 treats the first-instance Court of Enquiry as an MSA Court of Appeal for the onward appeal route. GCR 208(ix) limits that route to the specified exceptional grounds. The pleaded contention that a penalty is wholly inappropriate engages an express gateway; it is not excluded merely because the appellant seeks a more severe penalty. Whether that contention succeeds is a separate question.

14. The alternative allegation of a gross miscarriage of justice requires identification of a serious injustice in the actual adjudication. It is not established by the appellants' preference for maximum penalties or by the fact that another respondent was not punished. An omitted, properly charged material issue or a materially unfair process may require a remedy, but the issue and its effect must be demonstrated. The shortcomings alleged here must accordingly be examined respondent by respondent rather than treated as a collective miscarriage.

15. GCR 208(viii)'s provision for a hearing de novo does not authorise an investigation of every grievance between these families. The subject matter remains the decisions properly brought on appeal and the grounds notified. New evidence requires a fair admission process. A new charge cannot be introduced through a closing submission or through an annexure without a hearing directed to that charge.

16. GCR 221 expressly permits an appellate penalty to be increased. That power answers the abstract suggestion that the NCA can never increase a sanction. It does not answer the anterior questions of an admissible appeal, the appellant's standing, the respondent's amenability to discipline, or fair notice. GCR 211(iii), concerning an NCA sitting as a Court of Enquiry, cannot silently convert this appeal into an unlimited first-instance prosecution.

THE RULES OF THE GAME AND THE SPIRIT OF KARTING

17. NCA 184, delivered on 9 December 2024, explained the place of the GCRs and related regulations within the contractual framework of motorsport and its orderly resolution of disputes. We adopt that approach. Participation carries responsibilities as well as opportunities: respect for the rules binds competitors and those associated with them, including parents. (NCA 184, paragraphs 29-39)

18. That judgment also addressed the Race 'n Respect Code and its commitment to "fair play, fun, friendship, dignity and respect". It emphasised the example adults set and their responsibility to consider the effect of their

behaviour upon young competitors. (NCA 184, paragraphs 38.1, 38.2, 38.6 and 79-82)

19. Those principles have a direct application here. Disappointment with a result must be addressed through the available procedures. Publicly humiliating the successful child does not become acceptable because a parent thinks the outcome unfair. Equally, respect for officials permits properly pursued protests and appeals; it does not require unquestioning acceptance of an adverse decision.

20. Fun is not an incidental benefit which may be sacrificed to adult rivalry. A young competitor should be able to enjoy racing and celebrate an achievement without apprehension of ridicule. The responsibilities attached to participation extend to prize-giving and to conduct on social media connected with the event. Winning does not excuse disrespect, and losing does not justify humiliation of another competitor.

21. The sanction must uphold these standards while remaining proportionate to the misconduct proved. We draw on NCA 184's reasoning for that purpose, not as a substitute for the findings required in this appeal or as a tariff fixing its penalty.

JURISDICTION AND THE RESPONDENTS' STANDING OBJECTION

22. Mr de Waal SC correctly distinguishes a decision of the Stewards under GCR 215(i) from this appeal against COE 1286. GCR 215(iii) is also not applicable. The right in this case must be located in the provisions governing a COE decision, read with GCR 215(ii), the exceptional grounds in GCR 208(ix), and leave under GCR 212. It is unnecessary to stretch GCR 215(i)

to perform work for which it was not framed. (Respondents' submissions, paragraphs 5-13)

23. The principal contention is that neither parent nor Muhammad is *subject* to any decision because punishment was imposed on Mr Pascoal alone. Counsel submits that an effect on championship points or position could supply the necessary connection, but dissatisfaction with another person's punishment cannot do so. This is a substantial textual argument and cannot be dismissed by invoking safeguarding in the abstract. (Respondents' submissions, paragraphs 11-17). Consequently, it was argued that the appellants have no right of appeal, taking into account the express wording of GCR 215(ii).

24. In our view, there are two answers to this challenge. Firstly, the argument gives insufficient weight to the nature of the proceeding and the relationship between its participants and its outcome. This was not a complaint by a stranger seeking to police the sport generally. The first appellant was the complainant and entrant; Muhammad was the identified competitor against whom the misconduct was found to be prejudicial; and both parents participated in the enquiry concerning that treatment. The decision determined how MSA would respond to that very complaint and whether a sanction would be imposed on persons associated with the rival entry.

25. The COE expressly found prejudice to both the complainant and Muhammad. Its order included an apology for the behaviour that caused that prejudice. Its paragraph 14 expressly decided against penalising Gianna for her parent's behaviour. These were determinations of the subject matter placed before the Court, with an immediate connection to the complainants'

participation in a protected sporting environment. A purely financial or points-based interest is not the only direct interest in such a determination.

26. Reading the appeal provisions together, a participant in a COE whose complaint of misconduct against an identified minor was adjudicated is subject to that disposition in the relevant sense. The interpretation does not grant any competitor a general right to demand punishment of any other person. The connection here is specific: the complaint, the proven conduct, its identified subject, and the particular disposition under challenge. The exceptional appeal gateways and leave requirement remain significant limits.

27. The second reason why the right to appeal challenge cannot succeed is on a proper interpretation of GCR 215 read with GCR 208. GCR 215 grants particular categories persons/entities a express and specific right of appeal. It has been pointed out above that GCR 215(i) and (iii) are not applicable. GCR 215(ii) states *"any person or body subject to a decision of MSA has the right to appeal against such decision, subject to the provisions of GCR 208 (ix).* Although the GCRs, in our view deal separately with "MSA" and the "National Court of Appeal" and it is apparent that this GCR refers to MSA and not the National Court of Appeal, however, not in our view necessary to determine this issue definitively at this stage. It is however clear that on a proper interpretation of GCR 208 and GCR 215, that GCR 215 does limit or restrict GCR 208. GCR 208 is under the heading of jurisdiction and this challenge related directly to jurisdiction, but more importantly GCR 208 (ix) expressly states: *Notwithstanding anything to the contrary in any GCR, no appeal shall lie from a judgement or order of an MSA Court of Appeal to the National Court of Appeal (Subject to the provisions of GCR 212), except: -*

a)where it is alleged that a gross miscarriage of justice has occurred; and/or b) where it is claimed that the penalty is wholly inappropriate for the offence. Consequently, in light of the phrase "*Notwithstanding anything to the contrary in any GCR"* where it is claimed that the penalty is wholly inappropriate, any limitation or restriction contained in GCR 215 is not applicable. For this reason, the "right to appeal" challenge cannot succeed

28. The objection that there is no appealable decision whatsoever is therefore rejected. The particular relief sought against each respondent remains subject to the separate requirements discussed below. Neither leave nor our standing conclusion supplies a missing charge, finding, hearing or sanctioning power.

29. The first respondent is personally susceptible to discipline. He was involved at the event as the parent of a minor competitor. The deeming provisions in GCRs 19 and 22, read with individual responsibility under GCR 116 and the disciplinary reach of GCR 173, do not permit him to avoid responsibility merely because his wife was identified as entrant. The sanction imposed below was imposed upon him for his own conduct. Our replacement suspension likewise operates upon him personally; it is not a suspension of Gianna's licence.

MAJORITY AND THE CONDUCT OF THE APPEAL

30. The respondents state that Muhammad attained majority on 20 September 2026. That date postdates the incident, COE hearing, leave application and Formulated Appeal. The subsequent change in capacity does not retrospectively invalidate steps competently taken while he was a minor. Nor

does it remove the original entrants' status in relation to the event and proceedings at the material time. (Respondents' submissions, paragraphs 1-4)

31. The parties agreed that the hearing should proceed notwithstanding Muhammad's attainment of majority. This in our view is a further reason why this challenge cannot succeed. Mrs Wally was permitted to read her submissions. That practical arrangement resolved the manner in which the case would be presented. We give effect to it without suggesting that agreement can create substantive jurisdiction which the GCRs do not confer. That jurisdiction exists for the reasons already given.

32. GCR 220 regulates participation and representation. The parents' capacities at the material time, their own direct interest in the disposition of the complaint, and the agreed manner of presenting this pending appeal must be distinguished from a general proposition that a parent may always represent an adult child. We decide no such general proposition. The objection that the birthday extinguished the pending appeal is rejected.

33. The late postponement request did not prevent the agreed continuation and completion of the hearing. It is unnecessary to discuss Mrs Wally's medical condition or to revisit the procedural arrangement under which she read her submissions. The matter is ready for judgment, and no further postponement or hearing is directed.

SUBMISSIONS AFTER THE HEARING

34. Mr North's emails distinguish the respondents' requested written record of arguments made at the hearing from what he says were additional

allegations in Mrs Wally's notes. Mrs Wally disputes the implication of impropriety: she says the document was her prepared oral submission, part was not read because of the postponement discussion, and she deleted argument concerning the pending Carmo Novela matter. The correspondence establishes a dispute about the scope of the submissions, not the truth of the disputed allegations.

35. A distinction must be drawn between the written record of an argument already advanced and a new factual case introduced after argument. We have not treated unread or disputed allegations in oral notes as proof. The determination of liability and sanction rests on the established prize-giving and social-media misconduct, the admitted documentary record and the arguments relevant to those matters.

36. The same approach applies to both sides. The respondents' written submissions are considered as their legal argument, not as evidence establishing contested facts. Their objection to additional allegations does not amount to an admission of those allegations. No finding of a new offence, conspiracy, threat or breach of the apology order is made through the post-hearing correspondence.

ESTABLISHED MISCONDUCT AND THE LIMITS OF THE FINDINGS

37. The COE found public and audible booing of Muhammad, intent to cause harm, and prejudice both to him and to his father. It rejected the work-related explanation for the schooling message and found that the timing and context connected the message to the racing events. It also rejected the benign

explanation for obliterating the first podium position. (COE paragraphs 10-13)

38. The distinction concerning the photograph matters. The COE accepted that Muhammad himself was not in the photograph when it was taken. He had not yet occupied the first-place position. The finding concerned the meaning of crossing out that position and thereby undermining his achievement, not the digital removal of his photographed body. The screenshots in the CoC annexure are consistent with that distinction.

39. The COE transcript records the respondents' explanation that the booing was directed at the father, the claimed work connection, and the claim that crossing out first place celebrated Gianna. Those explanations were considered and rejected in the COE's stated findings. They do not become uncontroverted facts merely because counsel later advances a jurisdictional objection. Equally, silence on factual merits in the four-page NCA submissions should not be misdescribed as a fresh admission of all the appellants' allegations.

40. Muhammad himself told the COE that being booed on the podium before approximately fifty or sixty people embarrassed him. His signed impact statement describes humiliation, anxiety at events and fear of further intimidation. The overlap supports a finding of experienced humiliation and distress. The incident does not need a clinical diagnosis before it can be treated as serious. (COE transcript, approximately 42:20-42:49; Formulated Appeal)

41. The impact statement establishes Muhammad's account of humiliation and apprehension about further intimidation. We do not make a clinical diagnosis or attribute all distress mentioned in the papers to this first respondent. The statement refers to earlier treatment by another adult. Our sanction is for the misconduct established in this case and its demonstrated impact, not for the conduct of others or an unproved medical consequence.

42. The allegations against Lisa Pascoal concerning the pre-grid exchange are disputed. The transcript records materially different versions of who spoke, who was present and what was said. The word "we" used in defending a social-media post does not, without contextual evaluation, prove joint authorship or a conspiracy. Allegations concerning criminal history, threats, racism, team pressure or a wider campaign require separate proof. They are not additional findings in COE paragraphs 10-16.

43. The CoC and Stewards' reports corroborate the reporting and referral of the prize-giving incident, rather than independently adjudicating every allegation. The COE judgment and Stewards' report identify the relevant event in June 2025. An apparent July date entry in the CoC form does not displace that identification. The incident with which we are concerned occurred on 28 June 2025.

44. In COE at paragraph 23, warns generally against contrived or magnified complaints used to secure a competitive advantage and asks MSA to monitor such behaviour. It does not identify Muhammad as having been found guilty of manipulating the championship. His missed round, travel arrangements, understanding of drop scores and sporting achievements therefore need not be adjudicated to undo a finding that was not actually

made. To avoid unfair reputational consequences, we make explicit that paragraph 23 is not a disciplinary conviction of Muhammad or his parents.

45. The team correspondence and calendar messages explain the appellants' concern about suggestions of championship manipulation. They do not establish that the respondents orchestrated an unlawful exclusion from a team. We make no such finding. The established misconduct is sufficiently serious to require an effective response without treating every wider allegation as proved.

SAFEGUARDING AND AGE

46. Muhammad was sixteen at the time of the incident. On the majority date advanced by the respondents he was not on the verge of turning eighteen that weekend. In any event, neither maturity, championship success nor physical confidence removes a child from a safeguarding policy applicable to children. The relevant age for characterising the original treatment is his age when it occurred.

47. Section 28(3) of the Constitution defines a child by reference to an age below eighteen. Section 28(2) gives paramount importance to a child's best interests in matters concerning the child. These provisions inform the interpretation and application of sporting rules directed at the welfare of children; they do not grant this NCA an otherwise absent jurisdiction or an unlimited sentencing power.

48. The Safeguarding Policy included in the appeal protects physical, emotional and social welfare and addresses harassment and psychological abuse. Its definitions and reporting framework must be applied to the proven acts, not

treated as a licence to attach every form of abuse to them. An adult's deliberate public humiliation of a child at a prize-giving is within the protective concerns identified by the COE. (Formulated Appeal, Annexure D)

49. There is no basis in the policy material to reduce protection progressively to nothing as a child's eighteenth birthday approaches. Age, development, the power relationship and the actual effect can inform a proportionate response. They cannot justify a presumption that an accomplished sixteen-year-old must tolerate conduct which would otherwise constitute a safeguarding breach.

50. Majority at the appeal stage changes procedural capacity and may affect the form of prospective protective measures. It does not retrospectively convert misconduct against a child into misconduct against an adult. Nor does administrative delay extinguish the sporting interest in determining the complaint. The policy's concern for a safe and respectful environment also extends beyond minors, although the particular vulnerability of children remains material here.

51. The protection afforded to Muhammad must be applied consistently when considering Gianna. Her position as a young competitor and the notice she received cannot be disregarded in an effort to vindicate another child's rights. Safeguarding does not justify collective punishment of a family.

THE SANCTION CHALLENGE

52. The complete original sanction comprised a R20 000 fine; a ban on attending the next ROK National in South Africa following publication; a six-calendar-month ban on attending all MSA-sanctioned events, suspended for

six calendar months on the stated condition; and a formal written apology within forty-eight hours, to be sent to MSA for distribution through karting management. (COE paragraphs 17-20)

53. The sanction must be assessed as a whole. The first restriction was a ban on attending the next ROK National, not a suspension of Gianna's licence or a penalty confined to a particular race. The wider six-month attendance ban was wholly suspended for six months. Its immediate protective effect was therefore limited. We have taken account of the respondents' submission that the original penalties have already been served. The respondents were invited to address the appropriateness or inappropriateness of the sanction during the hearing, on the basis that the NCA might disagree with the locus standi and right of appeal challenges, however the respondents chose not to to provide any factual or evidential basis why the sanction was inappropriate or otherwise and dealt with the matter only on the basis of general principles and concluded that the sanction was appropriate. In addition, the respondents did not address this aspect in their subsequent submissions.

54. The threshold is a wholly inappropriate penalty, not merely the sanction this panel would have preferred at first instance. The assessment concerns the proven misconduct, its seriousness and consequences, the offender's circumstances, relevant mitigation, deterrence, rehabilitation and the need for a safe sporting environment. The combination must be proportionate. The maximum permissible fine is a ceiling, not a starting point or a tariff.

55. The aggravating features established by the COE are substantial. An adult used an official celebration of a child's success to humiliate him publicly. Related posts extended the denigration beyond the immediate ceremony.

The conduct undermined both the competitor's dignity and respect for the sporting result. The incident was not merely a private disagreement in which no child was implicated.

56. The first respondent's explanations, as rejected by the COE, did not amount to a clear acceptance of the misconduct's effect. Nevertheless, defending oneself or maintaining an unsuccessful explanation is not a separate offence. A tribunal must distinguish absence of a mitigating factor from additional aggravation. It must also avoid counting the public nature of the conduct repeatedly under different descriptions as though it constituted several unrelated wrongs.

57. The sanction was wholly inappropriate for the established offence. That conclusion does not rest merely on our preference for a different figure. The effective restriction was too limited, the wider restriction operated only conditionally and for a short period, and the modest fine did not sufficiently mark the seriousness of an adult's deliberate public humiliation of a child, continued through related publications. In combination, those deficiencies produced a response materially out of proportion to the gravity of the wrong. The exceptional threshold in GCR 208(ix)(b) is met.

58. The appellants rely on NCA 184 and its R250 000 fine. The extract records a finding against Mr Wally Senior involving multiple incidents, abuse of officials and unsubstantiated allegations of discriminatory wrongdoing. It also imposed an effective six-month restriction upon his involvement in MSA events. Those facts differ from this case. The earlier decision establishes neither a mandatory R250 000 tariff nor a prior disciplinary offence by any Pascoal respondent. It does demonstrate the importance of assessing

financial and effective participation sanctions together. (Formulated Appeal, Annexure F, NCA 184, paragraphs 108-109)

59. Consistency calls for an explanation of material differences, rather than mechanical equality of amounts. The fact that Mr Wally Senior previously received a substantial fine does not entitle him to demand the same fine against an opponent; equally, it does not disentitle him from raising an otherwise sound complaint about a sanction. The merits of this case must be assessed independently.

60. General deterrence requires a penalty which makes clear that adult humiliation of young competitors is incompatible with participation in organised motorsport. It does not justify punishing a person beyond what the proved misconduct warrants merely to make an example of him. The appropriate response must express the gravity of the wrong, protect participants and leave a meaningful incentive for changed behaviour.

THE APOLOGY

61. The circulated statement reads: "I formally apologise for my conduct or any harm I may have caused. That was not my intention." It was addressed to the karting community and circulated on 22 August 2025. That circulation date does not establish when Mr Pascoal supplied it to MSA. (Formulated Appeal)

62. The apology does not identify Muhammad, acknowledge the public booing or the meaning of the posts, or unambiguously accept that harm was caused. Its reference to possible harm and a disclaimed intention weakens its value as evidence of insight. It offers little assurance that the first respondent

appreciates why his conduct was wrong and how it affected the young competitor.

63. Brevity alone does not establish insincerity, and an apology need not recite a prescribed formula. Nor is it essential in every public communication to name a child. The relevant deficiency is the absence of a clear acknowledgment of the established wrong and its consequences. In S v Matyityi [2010] ZASCA 127, paragraph 13, for example, distinguishes regret from demonstrated remorse. That evidential insight is useful by analogy; criminal sentencing rules and the facts of that case are not imported into this sporting dispute.

64. On its wording and in context, the statement is perfunctory and affords little evidence of genuine remorse. It does not squarely acknowledge the wrong which the COE had found. Its qualification of the harm and denial of intention tend instead to minimise that finding. We do not accept it as substantial mitigation. This is not a separate conviction for contempt or a finding that every short apology is insincere; it is an assessment of the weight of this apology in deciding the appropriate sanction.

65. Compliance with an order to submit a written apology and the existence of genuine remorse are distinct questions. MSA's circulation of the statement does not oblige this Court to regard it as an adequate demonstration of insight. Conversely, its circulation is relevant to fairness before a fresh allegation of disobedience is made. We impose no additional penalty for an independently alleged failure to comply with the apology order.

66. The appellants' reliance on GCR 180 for automatic suspension because the apology was inadequate is misplaced. The supplied rule deals with payment

of fines, costs and scrutineers' fees. Its payment consequences cannot be extended to a disputed apology obligation by analogy. Any separate enforcement process must rest on an identified applicable rule and afford the required hearing. No automatic suspension for this alleged deficiency is declared.

67. The original restorative requirement should retain practical meaning. As part of the substituted disposition, the first respondent must provide through MSA a written apology which acknowledges the established public booing and related social-media denigration and the humiliation caused to Muhammad. The order specifies that acknowledgment, not a compelled profession of an inner state of mind. Muhammad is not required to meet the first respondent, accept the apology or participate in any reconciliation exercise.

POWER TO INCREASE AND PROCEDURAL FAIRNESS

68. The express power in GCR 221 is important. Once an admissible appeal is before the NCA, and the necessary threshold is met, a penalty may be increased. Completion of the original penalty does not of itself extinguish that appellate power. It is, however, highly relevant to the new sanction's total burden, commencement, credit and fairness.

69. The fine falls within the scale in GCR 177. The national suspension is imposed under GCR 184, read with GCRs 173 and 221. It concerns the first respondent's taking part in competition in any capacity within MSA's territory. It is not international disqualification and does not withdraw another person's licence. The operative terms identify the roles to which it applies rather than relying on a vague reference to a ban.

70. An increase must be fair. This was an appeal expressly challenging the inadequacy of the first respondent's sanction. The relief sought included a substantially larger fine and exclusion for at least a year. Enhancement of both the financial and participation components was therefore part of the notified case, rather than a new issue first introduced in judgment. The first respondent was represented in the appeal and opposed the relief through counsel.

71. We do not treat the rejection of counsel's jurisdictional submissions as an aggravating factor or infer an admission of every factual allegation from the way the case was argued. The increase is confined to the established misconduct and the sanction placed in issue. We rely on no fresh finding of criminality, racist intent, conspiracy, clinical injury or disobedience of the COE order. An exact figure need not be announced in advance where an increased fine and a substantial restriction are themselves the relief under consideration and the respondent has been heard on that case.

72. The choice of R200 000 is a substantial increase which expresses the gravity of the safeguarding breach without mechanically adopting NCA 184's R250 000 fine or the regulatory maximum. We do not assume that the first respondent is wealthy, that R20 000 was affordable to him, or that he has an adverse disciplinary history not established in this case. The amount is fixed as one component of an overall package, alongside a substantial effective suspension and a further conditional deterrent.

73. A twelve-month national suspension, with six months suspended for two years, provides six months of effective exclusion from participation and a further incentive to avoid repetition. A wholly suspended restriction would

inadequately mark the established seriousness. On the other hand, a full year's immediate exclusion, in addition to the increased fine and the restriction already served, would be more severe than necessary on these findings. The partly suspended term balances denunciation, deterrence and the prospect of rehabilitation.

74. The total fine is R200 000, not R200 000 in addition to the original R20 000. Any amount already paid toward that fine must be credited. In fixing the effective suspension we have also taken account of the original one-event attendance restriction insofar as served, the passage of time and the burden of these proceedings. No repetition of that one-event restriction is ordered. The new suspension operates prospectively and replaces, rather than revives, the original conditional restriction.

LISA PASCOAL

75. The case against Lisa must be separated into alleged personal misconduct and responsibility as entrant. Marriage to the first respondent establishes neither. Her defence of his conduct at the COE does not, without more, prove that she instigated the booing or authored the posts. The disputed pre-grid incident cannot be resolved by repeating one side's account as a finding.

76. GCR 113(xiv), included in the appeal, is more directly relevant to entrant responsibility than the definitions standing alone. It imposes primary responsibilities concerning persons connected with an entry and compliance with the rules. The relevant connection, conduct, responsibility alleged and the penalty sought must be identified. GCR 115 addresses the specified

relationship between entrant and representative; it is not a general deeming provision that proves all of the appellants' allegations.

77. The allegation of Lisa's personal misconduct in the pre-grid exchange remains disputed. Neither the reporting of the allegation nor her defence of her husband establishes it. The COE's findings against the first respondent cannot be extended to her simply by treating a family as one offender. In respect of entrant responsibility, the appellants have not demonstrated on the established facts a distinct breach which warrants the additional sanction sought against her.

78. We therefore decline to impose either a personal or an entrant penalty on Lisa in this appeal. The absence of a sanction against her does not undermine the finding against the adult whose conduct was established. It reflects the need to prove and evaluate each person's responsibility separately. The appeal against the second respondent fails.

GIANNA PASCOAL

79. COE paragraph 14 is a decision not to punish Gianna for her parent's behaviour. It is therefore inaccurate to suggest that the COE made no decision at all concerning her. That decision is capable of being scrutinised within the admitted grounds. Whether it was wrong depends on the proper rules of attribution, the notice and hearing, and the exercise of sanctioning discretion.

80. GCRs 19 and 22 define competitor and entrant, including their application to parents of a minor. They do not state a mandatory rule that every parental offence results automatically in suspension of the child's competition licence.

Entrant responsibility and individual responsibility must be read with the relevant operative provisions, including GCRs 113 and 116. Potential liability is not a prescribed inevitable penalty.

81. The COE transcript records Lisa's objection to Gianna's presence, her reliance on the absence of notice to answer a case, and the President's warning that Gianna could potentially be sanctioned because of her competitor status. The Court permitted her absence. An oral warning communicated through a parent may bear on actual knowledge, but is not necessarily equivalent to the required notice of capacity, charge and risk to the licence. (COE transcript, approximately 7:44-12:34; COE paragraph 5)

82. The distinction between citation as a competitor and notice to answer a disciplinary charge is important. Gianna's own licence and sporting career were placed at risk by the relief sought. The COE allowed her to be excused and made no finding that she personally joined in the conduct now under consideration. The general warning of possible derivative responsibility does not establish personal participation or prescribe a mandatory licence suspension.

83. The appellants have not demonstrated that the definitions impose the automatic licence suspension they seek. The COE's decision to direct punishment at the responsible adult rather than remove the child from competition is not shown to be wholly inappropriate merely because a harsher derivative sanction was legally conceivable. The requested automatic suspension of Gianna's licence is refused.

84. The Red Star incident in August 2025 involved different conduct and a different affected competitor. Its inclusion in the bundle, together with a penalty and protest findings, does not prove Gianna's involvement in this incident. Nor does it establish Lisa's guilt or the first respondent's recidivism. We neither decide any pending issue in those separate proceedings nor punish any respondent again for that incident. The appeal against the third respondent fails.

THE SUBMISSIONS OF A VEXATIOUS APPEAL

85. The respondents invoke GCR 208(x) and contend that the appeal is an exercise in retribution, pointing to Mr Wally Senior's stated intention to sue for damages. The language of the rule must be applied accurately: bad faith, frivolity and vexatiousness are alternative grounds; proof of all three is unnecessary. Each nevertheless requires a reasoned finding on the actual record. (Respondents' submissions, paragraphs 18-19)

86. An appeal is not vexatious simply because it seeks a greater sanction, uses emphatic language or ultimately fails on some relief. Nor does leave conclusively immunise it from scrutiny. The questions are whether the grounds lack a serious foundation or whether the process is being misused to harass, oppress or pursue an improper end, taking the circumstances as a whole.

87. Here there were established findings of prejudicial conduct against a child and an express safeguarding breach. There is a substantial, independently identifiable question about the adequacy of the sanction package and a genuine question concerning the apology. Those questions survive the

rejection of the proposed automatic licence suspension and the incorrect construction of GCR 180. Overstatement of particular grounds does not make the whole proceeding an abuse.

88. An intention to pursue civil damages is not inherently inconsistent with seeking a proportionate sporting response. The processes serve different purposes. This tribunal does not determine whether a civil claim exists or what it is worth. The intention to sue identified by the respondents, without proof of misuse of this appellate process, does not establish that this appeal was lodged in bad faith.

89. The general concern that well-resourced participants might use appeals to disadvantage rivals is legitimate. It explains the need for standing, leave, confined grounds and fair procedure. It does not establish that these appellants abused this appeal. On the documents and established issues identified here, the respondents have not made out the finding sought under GCR 208(x). Their request for a penalty on that basis is refused.

90. This conclusion does not approve every allegation or demand made by the appellants. In particular, it does not approve punishment by association, treating pending proceedings as convictions, or describing every disagreement as an established safeguarding offence. Those defects are addressed by deciding the relevant grounds correctly. A further penalty against an appellant would itself require notice and an opportunity to answer under the hearing provisions.

ORDER

91. The appeal is upheld in relation to the sanction imposed on the first respondent and is otherwise dismissed. The findings of misconduct in COE 1286 are confirmed. Its general observation in paragraph 23 is not a finding that Muhammad Wally or his parents manipulated a championship.

92. Paragraphs 17 to 20 of the COE order are set aside and replaced by the following:

92.1 The first respondent, Joao Oscar Simoes (Johnny) Pascoal, shall pay a total fine of R200 000 to Motorsport South Africa. Every amount paid toward the R20 000 fine originally imposed shall be credited against that total. If R20 000 has been paid in full, the outstanding balance is R180 000. The balance shall be paid within forty-eight hours of delivery of this judgment, Saturdays, Sundays and public holidays excluded, in accordance with the applicable payment provisions of the GCRs.

92.2 The first respondent is suspended nationally under GCR 184 for twelve calendar months. Six months of that suspension are suspended for twenty-four calendar months from delivery of this judgment, on condition that he is not found guilty of a further breach of GCR 172(iv) or GCR 172(vi), involving intimidation, harassment, abuse or other conduct prejudicial to motorsport, committed during that twenty-four-month period. The remaining six months operate immediately from delivery of this judgment.

92.3 During the effective suspension the first respondent may not take part in any MSA-sanctioned competition within MSA territory in any capacity, including as an entrant, representative of an entrant or competitor, team member, mechanic, organiser or official. He may not use accreditation or act through another person to perform a role from which he is suspended. Any licence held by him is subject to the consequences and surrender requirements of GCRs 184 and 185. This order does not suspend or withdraw Gianna Pascoal's licence or prevent her participation through another eligible person.

92.4 The first respondent is not required to repeat the original one-event attendance restriction to the extent already served. That restriction and the passage of time have been taken into account in fixing the substituted package. The original six-month conditional attendance restriction is replaced by this order and is not retrospectively activated.

92.5 Within seven working days of delivery of this judgment, the first respondent shall deliver to MSA a written apology acknowledging his public booing and related social-media denigration of Muhammad Wally and the humiliation caused. MSA shall provide it to Muhammad and circulate it through the karting management channel used for the original apology. No response, meeting or public acknowledgment is required from Muhammad.

93. The requests for additional sanctions against Lisa Pascoal and Gianna Pascoal are dismissed. No finding in this judgment determines guilt in the separate Red Star disciplinary proceedings.

94. The respondents' application for a finding and penalty under GCR 208(x) is dismissed.

95. In the exercise of the discretion under GCR 196, one half of the appeal-related fees paid by the appellants shall be returned to them. The remaining half is retained by MSA, having regard to the appellants' material success on sanction and failure on the relief sought against the other respondents. No further costs order is made against either side.

96. MSA shall communicate this judgment to the parties and circulate it through the appropriate karting structures. The appeal is finally disposed of.

GT AVVAKOUMIDES SC - NCA Court President

P CARSTENSEN SC – NCA Panel Member

F VAN DER MERWE – NCA Panel Member

Hearing: 13 October 2026

Date of delivery: 5 November 2026