



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

www.motorsport.co.za

2nd Floor, Meersig 1, Cnr. Upper Lake Lane & Constantia Boulevard, Constantia Kloof, Roodepoort. P.O. Box 6677, Weltevreden, 1715
e-mail: allison@motorsport.co.za Telephone (011) 675 2220 Fax: (011) 675 2219, National Number: 0861 MSA MSA (0861 672 672)

COURT OF ENQUIRY 1146 HEARING HELD IN THE MSA BOARDROOM ON 30th JUNE 2015 AT 17H30

Present:	Westley Pappas	-	Court President
	Alan Kernick	-	Court Member
	Neil Harran	-	Court Member
	Allan Bouw	-	Father of competitor Altan Bouw
	Thabz Siima	-	Representative for competitor Mandla Mlangeni
	Garth Waberski	-	Father of competitor Jarrod Waberski
	Eldrid Diedericks	-	Clerk of the Course
	Dick Shuttle	-	MSA Steward
	Andrew Shillinglaw	-	Club Steward
	Hector North	-	Observer
	Wayne Riddell	-	MSA Sporting Services Manager
	Allison Atkinson	-	MSA Scribe

INTRODUCTION

The court members and attendees were introduced and no objections were lodged against the composition of the court. The court further noted apologies from Daniele Patrizi, Christopher van Heerden and LJ Mgingqi.

THE HEARING

This enquiry had been instituted by MSA as a result of the actions of the Stewards at a regional karting event held at Vereeniging on Saturday 13th June 2015, whereby they (the Stewards) had instructed the Clerk of the Course (CoC) to impose penalties on a number of competitors, despite only being in receipt of a protest from one competitor against one other. MSA had consequently received a number of applications for leave to appeal against these decisions following the event.

The court first heard from the CoC who reported that, after a protest hearing regarding an alleged start line infringement held by the Stewards on the day, he had been instructed by the Stewards to impose start line infringement penalties on no less than 6 (six) competitors that the Stewards felt should have been penalised, based on video evidence viewed by them.

The CoC felt that the primary reason for the initial protest was the fact that he had declined to impose a penalty on a competitor for a jump start, after he had received an incident report from a rival competitor. His reasoning was that he was not compelled by the regulations to impose a penalty based on an incident report, nor did he feel that any start line infringements could easily be judged as he had been compelled to make use of the MSA flag to start the race due to load shedding rendering the start lights inoperable.

The court then heard from the Stewards, who felt that they had not directly instructed the CoC to impose penalties on other competitors as a result of the protest they had heard. They felt rather that they had instructed him to review his decision not to impose any penalties in the first place.

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



Directors: Adv. G. T. Avvakoumides (Chairman), A. Scholtz (Chief Executive Officer), A. Taylor (Financial), M. du Toit, P du Toit, D. Easom, J. Fourie, G. Hall, M. Rowe, Ms N. Singh, T. Sipuka – Hon. Presidents: T. Kilburn

Competitor Waberski stated that, after he had received the penalty, he had felt compelled to protest the decision of the CoC as the penalty issued was out of time and more than 1 hour after the race in question. He explained that he had already packed up and was attending the prize giving when he was asked to see the CoC for a start line infringement. He further added that the Stewards had found against him almost immediately after he protested the CoC's decision. He felt therefore that the Stewards had pre-judged the matter.

Competitor Bouw felt that something more sinister was at play as the Stewards had issued a protest finding for a protest that had not yet been lodged as could be seen by the times the various documents had been signed and timed by the officials.

The court questioned the Club Steward on the details of the timing of the documents, and he was unable to offer an explanation. The MSA Steward was also unable to offer an explanation as to why there was a discrepancy in the timing of the various documents.

FINDINGS

The court finds that the Stewards clearly had issued a directive to the CoC that karts 44, 121, 79, 11, 12 and 20 had committed an infringement and that he needed to impose penalties on these competitors accordingly.

The court finds this action by the Stewards to have prejudiced all the affected competitors' rights of protest. In effect, the Stewards, through their actions, debarred themselves from hearing any protests arising from their incorrectly instructing the CoC to penalise competitors. Logic dictates that the competitors could not expect a fair hearing of their protests by the same individuals who had ordered the CoC to penalise them in the first place. Any protests lodged would therefore likely be doomed to failure from the outset, with the accompanying loss of protest fees.

As competitors can reasonably be expected to be treated fairly, and their rights having been prejudiced by the actions of the Stewards, the court is of the view that the only correct way to right the obvious wrong is to set aside all 6 (six) start line infringement penalties imposed on competitors 44, 121, 79, 11, 12 and 20. The court therefore orders that the penalties be removed from the race results and the championship scoring be amended accordingly.

The court records its disappointment at the actions of the Stewards in this matter, particularly those of the MSA Steward. As a seasoned national official, he should have known that this type of instruction to the CoC would have had the effect it did. The actions from the Stewards could lead to their licences been withdrawn. It is further recorded by the court that this was a majority decision and not a unanimous decision.

All parties are reminded of their rights in terms of GCR 212 B).

These findings were distributed at 09:45 on the 21st July 2015