



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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MSA COURT OF ENQUIRY 1154

COURT OF ENQUIRY HELD TO INVESTIGATE VARIOUS INCIDENTS WHICH OCCURRED AT THE MAIN CIRCUIT REGIONAL EVENT HELD AT THE KILLARNEY CIRCUIT ON 04TH JULY 2015

HEARING HELD AT THE MSA OFFICE IN CAPE TOWN AT 18H00 ON 12TH AUGUST 2015

PRESENT:

Joy Dolinschek	-	Court President
Clint Rieper	-	Court Member
Jan Thorsen	-	Court Member
Phil Herholdt	-	Clerk of the Course (Motorcycles)
John Green	-	Clerk of the Course (Clubmans)
Brian Hoskins	-	Clerk of the Course (Overall)
Dennis Agnew	-	Club Steward
John Oliver	-	Competitor
Shane du Toit	-	Competitor
Dries du Toit	-	Father of competitor
John Oliver (Snr)	-	Father of competitor
Johann Grundlingh	-	Observer
Neva van der Merwe	-	Observer
Ian Long	-	Clubmans Chairman
Lizelle van Rensburg	-	Scribe

The Court President introduced herself and the court members. There were no objections to the composition of the court.

A minutes silence was observed for the passing of Michael Rolf, main circuit controller, who had passed away in a flying accident the previous day.

Mr. Hoskins queried correspondence he had received from Mr. Wayne Riddell (MSA Sporting Services Manager), in which Mr. Riddell purportedly stated that MSA had become aware of the issue from race reports received. It is noted and recorded that Mr. Hoskins advised the court that the matter had not been reported in the race report.

Given that there were two alleged transgressions for the court to deal with (one involving the actions of competitors and/or their associates and the other the actions of the officials), the court decided to hear the two issues separately.

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



sport & recreation
Department:
Sport and Recreation South Africa
REPUBLIC OF 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

Honorary Presidents – Mrs B Schoeman, T Kilburn

PART 1**Alleged incidents involving Dries du Toit (father of competitor Shane du Toit), competitor John Oliver and Mrs. T Oliver (competitor Oliver's wife)**

Mr. Dries du Toit explained to the court how the incident had come about. The traffic lights at the exit of Killarney were causing congestion which created a gridlock under the subway. He (Mr. du Toit Snr) was on the outside of the circuit, having retrieved the race car trailer, and was attempting to cross back under the subway against the exiting traffic. He was finding it difficult to persuade the exiting traffic to give way long enough to allow him to pass. He approached a vehicle, driven by Mrs. Oliver, in an attempt to stop the traffic flow. It was at this point that an argument/altercation broke out. Mr. Dries du Toit conceded that the language between the two parties had included racial remarks of a very unpleasant nature. He also conceded that, with the benefit of hindsight, his actions, which included leaning into the vehicle and removing Mrs. Oliver's car keys from the ignition, had been of a totally unacceptable nature.

After the subway incident, Mrs. Oliver went looking for her husband, Mr. John Oliver, who similarly became enraged and went looking for Mr. Dries du Toit. He (John Oliver) then pulled Mr. Dries du Toit from his vehicle. An argument had then ensued, with voices being raised and bad language and racial comments being passed between the parties before their being separated by bystanders.

Mr. John Oliver confirmed the evidence lead by Mr. Dries du Toit as being correct. He did however add that, in his view, the confrontations amounted to more than just 'an altercation'.

All parties confirmed that Mr. Shane du Toit (competitor) had not been involved in any way with what had happened between his parents and Mr. Dries du Toit.

The competitors were excused from the hearing.

Findings:

After having heard all the evidence and submissions by all parties, the court reminded the competitors that, notwithstanding the court's sympathy for competitor Shane du Toit, they (the competitors) are responsible for the actions of their pit crew/family members - (GCR 113 xiv) - and any misbehaviour by such pit crew/family member reflects negatively on the competitor.

While the court accepts the sincerity of the apologies of both parties, such serious verbal and physical altercations cannot simply be dismissed, made worse by the serious racial undertones. Attention is drawn to the following wording that forms part of the preamble to MSA's published General Competition Rules (GCRs): ***"MSA refrains from manifesting racial, political, gender or religious discrimination in the course of its activities and requires the same of its member bodies, officials and competitors."***

The court finds that:

- a) The language used by both parties in a public space was of a foul and racial nature, and reflects poorly on motorsport. The use of such language clearly brings the sport into disrepute and therefore constitutes a breach of the regulations as per GCR 172 (iv).
- b) The physical removal of the car keys belonging to Mrs. Oliver by Mr. Dries du Toit and the physical pulling of Mr. Dries du Toit from his vehicle by Mr. John Oliver amounts to physical abuse by both parties and is considered as extremely serious.

In light of the above findings, the MSA competition licences of Mr. John Oliver and Mr. Shane du Toit are withdrawn, with immediate effect and until 31st December 2015.

Both competitors are required to return their MSA competition licences to MSA within 48 hours of the publication of these findings.

All parties are reminded of their rights as per GCR 212B.

PART 2**Investigation into the actions of Clerks of the Course John Green and Phil Herholdt in connection with the aforementioned misconduct.**

This portion of the enquiry revolves around the authority of the Clerks of the Course to suspend the licences of competitors by invoking GCR 177 and thus, on the face of it, being in breach of GCR 184.

Mr. Hoskins gave evidence that the altercation between the competitors had taken place during the race meeting and thus the Clerks of the Course had been empowered to act. The court was unable to firmly establish the time of the altercation and asked those present if they had become aware of the altercation while still in the race control office. All responded in the negative, except Mr. Hoskins who advised that someone had told him about it. He was however unable to confirm who this person was but stated that it was a club member.

Unfortunately the MSA Steward for the event in question had been erroneously omitted from the distribution of the COE notification and was therefore not present. However, a telephonic conversation with Mr. Tony Norton, the MSA steward for the event in question confirm that he left the circuit at about 18:15 that evening and that the matter had not been reported by that time.

The Club Steward for the event, Mr. Agnew, confirmed that he carried no knowledge of the matter and that same had not been referred to the Stewards.

Findings:

While there is no question that the altercations took place on the day in question, i.e. 04th July 2015, the court questions the lack of mention of same in any of the race reports from that event.

Simple logic would seem to dictate that, had the altercations (which without doubt were of a serious nature), been brought to the attention of the officials, they could and should have been referred to the Stewards and made mention of in the race reports.

The court finds that:

- a) Messrs. Green and Herholdt were not empowered in their capacities as Clerks of the Course to suspend competitors' licences.
- b) The Stewards were not informed of the altercation, as they should have been taking into account the provisions of GCR 156 xiv & xvii).
- c) The omission of such a serious altercation from the race reports was negligent.

In view of the above findings, the court imposes the following:

- a) Messrs. Green and Herholdt should, as 'A grade' Clerks of the Course, have known better and they are therefore severely reprimanded for both exceeding their authority and not keeping the Stewards informed as required.
- b) The MSA officials' licences of Messrs. Green and Herholdt are withdrawn for a period of six (6) months, which withdrawal is suspended until 31st December 2015. To clarify, said withdrawal of licences will only come into effect should one, or both, of the individuals concerned be found guilty of exceeding their authority during the balance of 2015.
- c) Messrs. Green and Herholdt are instructed to reacquaint themselves with the provisions of the GCRs applicable to the authority of the Clerk of the Course.

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

These findings are published via email on 26th August 2015.