



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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MSA COURT OF APPEAL 458

HEARING HELD VIA ZOOM ON THE 13th JULY 2021 AT 17:30

Court composition:	Adv. Francois v d Merwe	Court President
	Ian Richards	Court Member
	Gennaro Bonafede	Court Member
	Terry Wilford	Court Member
In Attendance:	Mikaeel Pitamber	Appellant
	Dr Kishoor Pitamber	Father of the Appellant
	Bradley Liebenberg	Competitor
	Vaughn Williams	Driver Conduct Official/Race Director
	Lloyd Brown	Clerk of Course
	Brian Jerling	MSA Steward
	Andrew Boshoff	Club Steward
	Gavin Cronje	Mentor of the Appellant
	Michael Stephen	Mentor of the Appellant
	Vic Maharaj	MSA Sporting Manager
	Karin Brittion	MSA Senior Sporting Coordinator

JUDGEMENT

INTRODUCTION:

1. This appeal was lodged by the Appellant and his father against the decision of the Stewards to impose a 3 (three) place penalty on the Appellant in respect of Race 2 of the SupaCup Championship, National Extreme Festival held at the Aldo Scribante Race Track on 29 May 2021.
2. The appeal is based on two main grounds: firstly, it is alleged by the Appellant that the Driver Conduct Official ("DCO"), Vaughn Williams, did not bring an impartial mind to bear in the incident that took place between the Appellant and Mr Liebenberg; and secondly, that the

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Department:
Sport, Arts and Culture
REPUBLIC OF SOUTH AFRICA

Directors: A. Roux (Chairman), A. Scholtz (Chief Executive Officer), R. Beekun (Financial), Mrs. D Abrahams, A. Harri, M. Hashe, FC. Kraamwinkel, Dr G. Mills, C. Oates, R. Schilling, Ms M. Spurr, S. Themba

Appellant disputes that there is any video, photographic or other evidence to support a contention that the Appellant contravened any of the driving standards contained in the regulations.

3. Should the Appeal be upheld on the second ground, the first ground becomes moot. For this reason, we intend to deal with the second ground first.

The evidence relating to the incident:

THE APPELLANT:

4. In the formulated appeal it is alleged by the Appellant that the photographic and video evidence presented to the Stewards show that the sole cause of the collision between the Appellant and Mr Liebenberg was as a consequence of Mr Liebenberg's contravention of the Rules and Regulations, in that Mr Liebenberg nose-dived the Appellant and exceeded the track limits on the inside of the corner in which he attempted a reckless pass of the Appellant.
5. Photographic evidence was presented by the Appellant depicting the relation between the Appellants car, Mr Liebenberg's car and various other competitors on the lap of the incident and on other laps preceding the incident. These pictures were overlayed to show the positions of the various cars on different laps.
6. It was ultimately argued by the Appellant that Mr Liebenberg was overly aggressive and that he was the sole cause of the collision.

MR LIEBENBERG:

7. Mr Liebenberg stated that he gained no advantage from the incident report filed by him. He presented video evidence of the incident. The video evidence entailed the in-car footage from Mr Liebenberg's car during the race.
8. This Court only received the video footage shortly before the appeal commenced. The Appellant had also not had the benefit of reviewing the video evidence before the appeal commenced.
9. Mr Liebenberg showed various laps of the race to the Court with specific reference to the corner at which the incident took place.
10. On one of the laps preceding the incident, Mr Liebenberg was asked by the Court how far he was behind the Appellant at the braking point of the corner at which the incident took place. Mr Liebenberg stated that he was two car lengths behind the Appellant.
11. The Court was then shown the video footage of the lap on which the incident occurred. Mr Liebenberg's main contention was that the Appellant moved under braking, and as such, that the Appellant was the sole cause of the collision.

THE RELEVANT REGULATIONS:

12. The applicable regulation is the MSA National Standing Supplementary Regulations Global Touring Car and SupaCup Championships.
13. Regulation 25.2 states that "... *The lead car may enter the braking area in whichever way he or she wishes (inside, middle or outside) provided he or she does not have a vehicle close*

behind to the rear , to the left or right, i.e. a vehicle in ‘close proximity’. Close proximity is further defined as “*by being at least one car length behind*”.

14. The regulation further states that “*The changing of direction by the lead car in the braking area is prohibited as this would lead to ‘baulking’ of the challenger, and any resultant contact between the two vehicles would be deemed the fault of the lead car.*”

EVALUATION OF THE EVIDENCE:

15. On the lap of the incident the cars of the Appellant and Mr Liebenberg were a similar distance from one another than the lap on which Mr Liebenberg stated that he was two car lengths away from the Appellants car when entering the braking area.
16. Mr Williams stated, when questioned by this Court, that he found the cars of the Appellant and Mr Liebenberg to have been in close proximity when the incident occurred.
17. The Court does not agree with this finding of Mr Williams. On a balance of probabilities, the cars of the Appellant and Mr Liebenberg were not in close proximity when they entered the braking area.
18. Although it appears as though the Appellant moved in the braking area, the prohibition on such movement can only be relevant when there is another car in close proximity.
19. From the video footage it appears as though Mr Liebenberg entered the braking area and the corner at such an excessive speed that he would most probably not have made the corner had he not collided with the Appellant.

CONCLUSION:

20. On a balance of probabilities, Mr Liebenberg was the cause of the collision by entering the corner and the braking area at an excessive speed.
21. In the premises, the Appellant is successful on the second ground of appeal. As a result, this Court will not deal with the first ground of appeal.
22. The appeal is accordingly upheld and the findings of the Protest Hearing dated 29 May 2021 are set aside.
23. All fees paid by the Appellant, relating to the appeal, are to be refunded to the Appellant.
24. The GTC committee are instructed to rewrite its driver conduct regulations, as well as amend any clashes in the SSR’s. The role of the DCO and COC in terms of hearings and penalties issued must be clearly defined in the Regulations.
25. All parties are reminded of their rights in terms of GCR 212 B.
26. These findings are distributed via email on 2nd August 2021 at 13h40

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