



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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## MSA COURT OF ENQUIRY 1252

HEARING HELD ELECTRONICALLY VIA ZOOM ON TUESDAY 02<sup>nd</sup> NOVEMBER 2021 AT 17h30

<b>Present:</b>	Ian Richards	-	Court President
	Adv. Thembelani Mayosi	-	Court Member
	Farouk Abrahams	-	Court Member
	Craig Lovett	-	Clerk of the Course
	Dennis Agnew	-	MSA Steward
	Neva van der Merwe	-	Club Steward
	Ian Long	-	Complainant
<b>Not present:</b>	Daanyaal Coetzee	-	Defendant
	Nieyaaz Modack	-	Witness
	Roshan Khan	-	Competitor / Witness
<b>In Attendance:</b>	Lizelle van Rensburg	-	MSA Sport Coordinator
	Vic Maharaj	-	MSA Sporting Services Manager

### 1. INTRODUCTION

The court members and attendees were introduced, and no objections were raised against the composition of the court.

### 2. THE HEARING

2.1 The court proceedings commenced at 17h50 in the absence of Mr. Daanyaal Coetzee (*Defendant*), Mr. Nieyaaz Modack (*witness*) and Mr. Roshan Khan (*competitor/witness*) who failed to notify the court of their intended absence. The court therefore proceeded as permitted within GCR 220... "*The hearing may proceed to judgment in default of appearance by any party or witness.*"

2.2 In brief, the on-track driving behaviour between the Defendant and fellow competitor Mr. Roshan Khan resulted in the Defendant approaching Mr. Craig Lovett (*Clerk of the Course*) and stating verbally that "*he would take matters into his own hands*" if nothing was going to be done about the on-track driving behaviour of Mr. Roshan Khan (*competitor*).

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



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

The Clerk of the Course requested that the Defendant first complete an incident form for the incident on track where again, in writing, the Defendant stated that "*he would take matters into his own hands*" if nothing was going to be done about the on-track driving behaviour of said Mr. Roshan Khan, such then signed at 12h03. The Clerk of the Course duly notified the Stewards of the incident and submitted the completed incident report to them, they in turn further informed the Defendant to refrain from making comments as were noted on the incident report and referred the Defendant to GCR 172. The incident report was further amended to also indicate in writing that the Stewards had spoken to the Defendant. The Defendant duly signed the amended incident report containing such Stewards cautioning noted at approximately 12h30.

- 2.3 Mr. Ian Long (*complainant*) stated that he had received numerous phone calls and also had discussions with fellow competitors about the Defendant's actions and behaviour post the first Thunder Saloons race during the course of the day's race proceedings and where, subsequent to the completion of the first Thunder Saloons heat, social media posts using unacceptable and derogatory language were posted by the Defendant to his Facebook profile. These offensive and inappropriate social media posts were subsequently later sent to Mr. Ian Long for his required attention. Mr. Long is also the chairman of the Clubmans category in the Western Cape, in which the Defendant is also a competitor. In addition, and after the said Thunder Saloons heat, the behaviour of the Defendant was deemed unacceptable in that he had purposely thrown his helmet into the ground as well as had kicked over the contents of the dirt bin in his pit area in full view of family members and minor children in the pit at the time. The actions of the Defendant were witnessed by both Mr. Nieyaz Modack (*witness*) as well as family members of Mr. Roshan Khan (*witness*) who were present in the pit of the Defendant at the time. Mr. Ian Long further indicated to the court that such behaviour and occurrences were of grave concern to both the Clubmans category as well as to the Western Province Motor Club. Later that same day the Defendant was again involved in another on-track driver conduct incident during the second Clubmans race and was further issued with a yellow card by Mr Ian Long. In view of all these occurrences having been brought to Mr. Long's attention, as well as the social media posts having been provided, Mr. Ian Long called upon the Clerk of the Course on the Monday morning after the race event to state his unhappiness and dissatisfaction of events and in addition also further provided the Clerk of the Course with copies of the social media posts which he was not aware of at such time. As a result of the subsequent information being made available to both the Clerk of the Course as well as to the Stewards on the Monday morning, the decision to reduce such additional information to writing as an addendum to the original Stewards report was done on 31<sup>st</sup> August 2021.
- 2..4 The appointed MSA Steward, Mr Dennis Agnew, indicated to the court that the appointed Stewards had indeed spoken to the Defendant after having received his incident report and, after having cautioned him and having referred him to GCR 172, the Defendant appeared very apologetic for his actions at the said time. Regrettably, some 2 hours or so later the Defendant was again involved in alleged verbal abuse in a later race in the Clubmans category. The court had satisfied itself that the Stewards were not aware of the social media posts having been posted on the Saturday at approximately 12h04 by the Defendant. Mr. Agnew, upon being questioned, indicated to the court that they had only become aware of the said derogatory social media posts upon Mr. Ian Long providing the Stewards with the WhatsApp screenshots of the said postings on the Monday morning after the event.

In view of such additional information having been brought to the attention of the Stewards, an addendum to their report was drafted on 31 August 2021, such being duly signed by both Stewards and then submitted to Motorsport South Africa on 01<sup>st</sup> September 2021 via email, which submission also included the derogatory social media posts as evidence and requested that a court of enquiry be convened by Motorsport South Africa.

### **3. APPLICABLE REGULATIONS:**

3.1 GCR 172 iv): Any proceeding or act prejudicial to the interests of MSA or of motor sport generally shall be deemed a breach of the regulations and disciplinary action may be taken against offenders.

By way of clarification, it is confirmed that the following shall be included in the definition of "prejudicial acts" as per the above:

- Intimidation, either on track or off track.
  - Verbal and/or physical abuse.
  - The distribution/publication via e-mail, cell phone text message or internet website and social media of comments which may be deemed abusive and/or slanderous and/or demeaning and/or inappropriate.
  - Acts (including comments and or gestures) which would reasonably be considered by the general public to be offensive or inappropriate.
  - It is stressed that the above list is not exhaustive, and that each case will be treated on an individual basis.
- vi) Misbehaviour or unfair practice.
  - x) Abuse of officials by competitors and/or their family members and/or members of their pit crew. Such breach of the rules may result in the competitors concerned, if found guilty following a hearing, being suspended for a period of up to six months or for up to six events (whichever is more appropriate), for a first offence.

### **4. THE FINDING:**

4.1 This court accordingly makes the following finding:

4.2 Notwithstanding the fact that the competitor was afforded more than sufficient time to prepare for the hearing in addition to being reminded by the MSA Western Cape regional sporting coordinator via email that it was in his own best interests to attend the virtual court of enquiry, the Defendant willfully elected not to attend, along with both witnesses.

4.3 Although the Defendant did offer his apology to the Stewards for his provoking verbal and written actions, there was no record of any sincere formal or written apology sent to either the sub section (Thunder Saloons or Clubmans) or to the Western Province Motor Club for his offensive and inappropriate social media posts placed on his personal Facebook profile, nor the verbal and/or physical abuse and misbehaviour actions conducted in his pit area in full view of family members and minor children.

4.4 The court was further informed during the enquiry that the Defendant, witnesses, and family members had received an apology from the Defendant, such apology further being accepted by all relevant parties.

- 4.5 The court took into consideration the mitigating circumstances as indicated in paragraphs 4.3 and 4.4. However, any and all egregious on and off-track behaviour is viewed in a serious light and must be avoided.
- 4.6 The court finds the Defendant contravened GCR 172 iv) and vi) respectively and is fined an amount of R10 000-00 (ten thousand Rand).
- 4.7 Prayer 4.6 is suspended on condition that the Defendant does not breach GCR 172 iv) and vi) respectively within 1 (one) calendar year period commencing from 01 January 2022.
- 4.8 The court finds that the Defendant further contravened GCR 172 x) and is suspended from competition for a period of 3 (three) Thunder Saloons race events commencing from the first race event held in 2022 in which the Thunder Saloons category is included.
- 4.9 Prayer 4.8 is suspended on condition that the Defendant does not breach GCR 172 x) within a 1 (one) calendar year period commencing from 01 January 2022.

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

These findings are distributed via email on 16<sup>th</sup> November 2021.

**Ref. 162585/098**