



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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## MSA COURT OF APPEAL 438

### HEARING HELD IN THE MSA BOARDROOM AT 17h00 ON WEDNESDAY 24<sup>th</sup> APRIL 2019

<b>Present:</b>	Tony Taylor	-	Court President
	Iain Pepper	-	Court Member
	Gennaro Bonafede	-	Court Member
	Jimi Smith	-	Clerk of Course
	Andrew Shillinglaw	-	MSA Steward
	Vaughn Williams	-	Entrant Zaeem Goolam
	Zaeem Goolam	-	Competitor
	Shaheen Goolam	-	Father of Competitor Zaeem Goolam
	Raoul Farah	-	VW Challenge
	Rory Atkinson	-	VW Challenge
<b>Apologies:</b>	Ken Cromarty	-	Club Steward
<b>In attendance:</b>	Allison Atkinson	-	MSA Scribe
	Poka Lehapa	-	MSA Intern
	Adrian Scholtz	-	MSA CEO

### INTRODUCTION

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

### THE HEARING

The appeal is against the findings of the Stewards of a protest hearing held on the 12<sup>th</sup> March 2019. The Stewards upheld the decision of the Clerk of the Course to award a red card against Mr Zaeem Goolam following two incidents in the VW Challenge races held at Zwartkops on 09<sup>th</sup> March 2019.

The appeal is based on the following contentions:

- The CoC placed the Appellant under observation following an incident in Heat 1 and that this “penalty” is not provided for in the rules governing the VW Challenge racing series;
- The appellant was not “summoned” to a hearing in terms of GCR 175 in respect of an incident in heat 2. The CoC sent a WhatsApp message on the VW Challenge Group requesting both competitors involved in the incidents concerned to see him to review the incidents.
- The award of a red card was incorrect in that the VW Challenge series rules provide for a red card to be issued only after a yellow card is issued;
- VW Challenge Rule 3.7.1 as relates to the provision of video footage by the competitor
- Both incidents were of a minor nature.

*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: A. Roux (Chairman), A. Scholtz (Chief Executive Officer), A. Taylor (Financial), F. Alibhai, D. Easom,  
G. Hall, A. Harri, E. Murray, M. Rowe, R. Schilling, Ms M. Spurr, S. Themba, S. Van der Merwe

## Findings

1. A CoC can place a competitor under observation where he feels that this is necessary. Whether this can be seen as a penalty is arguable. This Court is of the opinion that this is merely a caution issued in circumstances where the official concerned, for whatever reason, feels that a penalty is not called for;
2. Given that the accepted trend is to utilise social media such as WhatsApp to keep competitors informed, the Court is satisfied that a “summons” was issued to the competitor and this is reinforced by the fact that the competitor's father attended upon the CoC following said summons. The fact that he was not prepared to wait until the CoC was finished with other business does not, in any way, detract from the fact that he responded to an instruction from the CoC via the WhatsApp group. Mr Shaheen Goolam's contention that Mr Raoul Farah excused him does not relieve him or his son from attending on the CoC as per the “summons”;
3. The contention that the VW Challenge rules provide that a yellow card must be issued prior to a red card being issued is factually incorrect. The only mention in the rules is at 3.8 which states “Yellow / Red Cards will be issued by the CoC”. The Court's interpretation thereof is that the CoC has the discretion to issue a yellow or red card and this would largely depend on the severity of the incident or as provided for in 3.9 where, once a yellow card has been issued, any incident in the next three race meetings, will automatically attract a red card.
4. The decision of the CoC was not, to the Court's knowledge, based on whether the competitor had video footage or not and, as such, the court will not consider this part of the appellant's submission;
5. Having reviewed the available footage, the Court is of the opinion that both incidents could hardly be described as being of a minor nature.

Therefore:

6. The Court is of the view that the imposition of a Red Card was somewhat harsh and hereby sets aside the decision of the Clerk of the Course in this regard.
7. The Incidents were of such a nature that a penalty is called for and a yellow card is issued to competitor Zaeem Goolam, with the accompanying ramifications envisaged in terms of the VW Challenge rules 3.11 and 3.12.
8. The VW Challenge series management are urged to:
  - Clearly define the yellow / red card rule;
  - Revise the rule relative to the provision of footage;
  - Insert into their rules the allowable use of social media to convey information, messages and summonses.
9. The Clerk of the Course is advised to, in future, make more of an effort to contact a competitor where a penalty could be imposed or to utilise his right to hold over any decision or sanction.

Given that the Appellant was partially successful, the appeal fee paid, less 50% for administrative costs in line with the provisions of Appendix R, is to be refunded to the appellant.

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

These findings are distributed via email on 10 May 2019 at 12:00

**Ref. 161908/158**