



MOTORSPORT SOUTH AFRICA NPC

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COURT OF ENQUIRY 1199

HEARING HELD IN THE MSA KZN OFFICE ON MONDAY 21st AUGUST 2017

Present:	Tony Taylor	-	Court President
	Karen Vorster	-	Court Member
	Neil McCann	-	Court Member
	Jean Mare	-	Competitor (Defendant)
	Luke Maher	-	Competitor (Defendant)
	David Rae	-	Competitor (Defendant)
	Paulo Gouveia	-	Competitor (Witness)
	Francois Mare	-	Brother of Jean Mare
	Eric van Eyssen	-	MSA KZN Drifting Representative
In attendance:	Leigh Dewar	-	MSA Scribe
Apologies:	Mikey Skelton	-	XS Promotions – Supadrift Promoter

INTRODUCTION

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

THE HEARING

On 21st August 2017 Motorsport South Africa (“MSA”) enrolled Court of Enquiry 1199 (“the Enquiry”) to investigate whether Mr. Jean Mare, Mr. Luke Maher and Mr. David Rae among others had breached the MSA General Competition Rules (GCR’s).

This is the written judgment of Court of Enquiry 1199.

The Court of Enquiry was convened in terms of GCR 211 to investigate, inter alia:

1. Whether Mr. Jean Mare had breached the General Competition Rule GCR 172 (iv).
2. Whether the mechanic or family member (known as Francois) of competitor Mare have breached General Competition Rules GCR 113 (xiv) and GCR 172 (iv).
3. Whether Mr. Luke Maher has breached the General Competition Rule GCR 172 (iv).
4. Whether Mr. David Rae has breached the General Competition Rule GCR 172 (iv).

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), D. Easom, J. Fourie G. Hall, A. Harri, E. Murray, M. Rowe, R. Schilling, Ms M. Spurr, S. Van der Merwe

EVIDENCE RECEIVED

The court having received documented evidence of the alleged infraction, the court president said that he interpreted the need for this enquiry as a general state of unhappiness and asked Eric van Eysen to set out where and what was the cause.

Eric said that the Kimberley event caused a huge upset among the competitors some of whom felt that it was incorrect to cancel the event. This followed a previous decision which was considered incorrect by some competitors.

At an event in Pietermaritzburg a lot of the slandering started. From there on the matter just grew ugly. He further stated that he had tried to iron out the problems. Things didn't seem to improve.

The court President wondered why the natural process of approaching the clerk of course and / or Stewards and protesting was not followed at these events.

It was confirmed by the three competitors present that the initial post was created by Reece Williamson. It was further confirmed that the posts were on a public forum.

David Rae confirmed that he had made the posts shown against his name (Darvie); Similarly Luke Maher, Jean Mare and Francois Mare confirmed the posts against their names had been made by them as well.

It was noted that Paolo Gouveia had refrained from joining in the WhatsApp conversation in this instance.

The Court then allowed each competitor a chance to place on record his comment regarding the posts and why they had resorted to posting in this manner:

Jean Mare said that he felt that the problems started with an altercation at the Wild Coast and then continued at Richards Bay in March. During this event Francois Mare spoke to Paulo Gouveia Snr who told them that he was going to bring all the Porra's from Johannesburg to F**** them up.

During the preparations for Kimberley the wrap for his car was exposed on social media by Paulo when he was trying to keep it quiet. The event was then stopped due to poor light and the officials had discussed the matter with the top 8 competitors. Jean felt that this was wrong because they had paid a lot of money to get there and he wanted to see the event completed even though he was no longer competing. Officials on the day were Wesley Pappas (Clerk of Course) and Ian Long (MSA Steward), who took it upon themselves to cancel the balance of the event due to poor light and safety.

Jean said that he had further issues with not having been warned of his seatbelts being expired and he had to replace them before continuing.

Jean missed the meeting with Eric because he was in Cape Town on business. He spoke to some of the guys who were there and they discussed what happened at the meeting. He was also told that it was said that the person who had created the problem was not there. (Took it to mean himself). He then created a group called the outlaws to create an identity within the competitors.

When he went to Port Shepstone he walked past the marquee where Eric was handing out Viking caps and he said that he was told that the Gouveia group were mocking him behind his back.

They were then told that Paulo had opened a case against him and that they were going to “eat his money”. He also noted that Paulo had unfriended him on social media (Facebook) and he felt that this was directed at him. There was a huge build-up of anger when he heard about the case against him.

Jean then presented the court with two posts from another public forum that had been posted by Paulo Gouveia. Paulo acknowledged that this was a public forum, that he had made the posts and that they were inappropriate.

Francois Mare said that there was no excuse for the messages he posted. He said that he had had a few beers with the Porras. He said that when Jean wrote a post and Darvie responded trying to diffuse the situation but it got worse. He then said to Paulo Snr that they need to have a chat over some beers. He continued saying that he had been told that it would take more than a drink to sort this out.

He further stated that he would always look after his brothers back.

David Rae (Darvie) said that he had not realised that what he had posted had upset Jean but things were said and he acknowledged that he had used the wrong language.

Paulo Gouveia said that everything that had been brought up was new to him. He said that at events the competitors had asked to borrow spares and he had given it to them so he did not know that there were issues. VIP had asked him for permission to sponsor another vehicle and that was how he knew that Jean was getting a new wrap on his vehicle. He said that he had heard a lot of allegations with no proof and wondered what went wrong to cause all this.

The court asked if it was normal in drifting to ask the drivers for their opinion. Eric said it was not normal but because they were the last people on the track they were asked their opinion.

Jean Mare confirmed that he was out of the event by the time the decision was made.

The court president said that the competitors need to understand that they need to go back to the officials on the day of the event. It is too late to protest on the Monday after. These matters must be dealt with immediately on race day at the event. It has caused a disruption in a relationship that once was good.

The court President thanked everyone for attending and their honesty with their replies to the court's questions.

FINDINGS

After hearing all the verbal evidence. The court is in agreement that all the competitors (including Paulo Gouveia) are found to be in contravention of GCR 172 iv.

The court is appalled by the very nature of the posts that took place and are of the opinion that Messrs Jean Mare, David Rae, Paulo Gouveia and Francois Mare had acted in a manner prejudicial to the interests of motorsport generally.

They had all contravened GCR 172 in that the public posts they had made constituted:

Intimidation, either on or off the track with references such as:-

“You are going to have a boxing match’; “I am going to rip you a hole.... I am going to put my shoe where your mouth is” amongst others;

The distribution/publication via social media of comments which may be deemed abusive and/or slanderous and/or demeaning and/or inappropriate which included comments such as:-

“I strongly suggest you stay the “F*** AWAY Porra’; “Go f*** your hand you little p*****”; “you are a cheeky little p*** that can half drive a car”; “ run C*** run”; Jou Ma se P***”; and many other similar remarks including graphic pictures posted of similar utterances on the public social media thread that could easily be considered by the general public as hate speech.

Acts (including comments and gestures) which would reasonably be considered by the general public to be offensive or inappropriate, these include:

A graphic of the showing of the middle finger and a picture of a competitor where the nose has been replaced by a male genital are unacceptable to say the very least.

RULING

1. The Court hereby withdraws the competition licences of Messrs Jean Mare, David Rae and Paulo Gouveia for a period of five years. This withdrawal however is suspended for five years from the date of these findings been publicised. The effect of this suspension is that if any of the named competitors are to be found guilty of the same or similar offence over the next five years will automatically activate this withdrawal of license for five years.
2. Messrs Jean Mare, David Rae and Mr Paulo Gouveia are each fined R20,000-00 (twenty thousand Rand). R15,000-00 of this fine is suspended for a period of five years; the effect of this suspension is that if any of the named competitors are to be found guilty of the same or similar offence over the next five years will automatically activate this suspended portion of the fine that will become payable immediately.
3. Messrs Jean Mare, David Rae and Paulo Gouveia are each levied with R2,000-00 court costs.
4. The court finds that Luke Maher is exonerated of any wrong doing in this case however is cautioned to be wary of where he makes comments on social media as he could be tainted by association.
5. The court hereby revokes Francois Mare’s right to enter any official area at any competition organised under an MSA permit for the remainder of this year – to clarify, if Francois Mare is found to breach this finding, his brother Jean Mare will suffer the consequences for his actions.
6. Administrators of similar forums are reminded that they can personally be held liable for the posts made on such sites and are urged to exercise administrative authority over abusive and offensive content on these forums.

The nett effect of these findings are that Jean Mare, David Rae and Paulo Gouveia all receive a 5 year suspended license withdrawal sentence and a fine of R5000-00 and R2000-00 court costs each.

It is suggested that the Drifting Steering Committee review their regulations to require two Stewards on an event as is the case on most other motorsport events to allow competitors more recourse in the event of a decision to which they object.

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

These findings are published via e-mail on 12 September 2017

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