



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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COURT OF ENQUIRY 1201

**TO INVESTIGATE AN INCIDENT DURING THE 2017 TOYOTA KALAHARI BOTSWANA 1000 DESERT RACE
IN THE JWANENG AREA OF BOTSWANA, ON 25 JUNE 2017
ENQUIRY HELD IN THE MSA BOARDROOM ON 11TH OCTOBER 2017 AT 18H00**

Present:	Tony Taylor	-	Court President
	Mark Cronje	-	Court Member
	Wally Pappas	-	Court Member
	William Haddad	-	MSA Steward
	Kobus Fourie	-	Competitor (Defendant)
	Marinda Fourie	-	Competitor (Defendant)
	Schalk Burger	-	Competitor (Witness)
	Vaughn Williams	-	Club representative of competitors Fourie
	Dion Booyens	-	Observer
In attendance:	Wayne Riddell	-	MSA Sporting Manager
	Karin Brittion	-	MSA Scribe
Apologies:	Joe Fourie	-	MSA Clerk of Course
	Elvene Coetzee	-	Competitor

INTRODUCTION

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

On 6th September 2017 Motorsport South Africa (MSA) enrolled Court of Enquiry 1201 (the enquiry) to investigate whether competitors Kobus Fourie and Marinda Fourie had breached GCR 172 (vii) and SSR305.

THE HEARING

This is the written judgment of Court of Enquiry 1201. The enquiry took place on 11th October 2017 between approximately 18h00 and 19h30.

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

After viewing the video evidence from car A11 (Fourie), hearing evidence from all present, and reviewing the documentation and logs presented the court noted:

1. Competitor A11, by their own admission, had deliberately deviated from the route to execute a passing manoeuvre on car A45 (Burger / Coetzee) by shortcutting a 90 degree right hand bend at a point where it was obvious from the number of vehicles parked that a large number of spectators were present, thus not only contravening SSR305 but placing spectators at risk.
2. On rejoining the route they were involved in a collision with competitor A45 resulting in vehicle A45 to roll and being unable to continue with the event, additionally Mr. Schalk Burger was seriously injured in the fracas.
3. Competitor A11 admits that they were extremely frustrated by virtue of their having followed car A45 for a distance of approximately 63.09km prior to the incident. Competitor A11 contends that they continuously activated the "PASS" button which is confirmed from the RallySafe logs presented to the court.
4. Competitor A45 (Burger) maintained that at no time was he aware of the fact that car A11 was that close to him and that at no time did he receive any warning from the RallySafe system that they were attempting to pass, this statement is also confirmed by the logs received from RallySafe.
5. In the written incident report competitor A45 maintain that they were struck on the right rear wheel, this statement is, to a large extent confirmed by the video footage viewed.
6. The Clerk of the Course, held a hearing into the incident on the 27th July 2017 where he infers that the crew of car A11 (Fourie) lacked experience and were "not fully up to speed with the route markings and judgement calls".

FINDINGS

The court is compelled to set the Clerk of the Course's findings as they relate to Competitor A11 aside in their entirety and to be replaced by the following:

1. Competitor A11 contravened SSR 305 in that they deviated from the route. It is accepted that the deviation is minor as envisaged by SSR305 (ii). The prescribed penalty (5 minutes plus time gained, in this instance 5 minutes only as no measurable time was gained) is irrelevant in that the competitor withdrew from the event and was not classified a finisher.

This court therefore places the competitor under observation for any further transgressions of this rule for the entire 2018 season and if there any infringement then the prescribed penalty shall be applied in addition to any penalty so incurred.

2. Competitor A11 contravened GCR 172 (vii) in that, in the view of the court, they:
 - a. Placed spectators at serious risk by virtue of shortcutting the corner at a point where it was obvious that there was a spectator presence, and
 - b. When rejoining the route after the deviation they did not take due care and as a result thereof caused a collision with competitor A45. It must be incumbent on the competitor rejoining the route or circuit after a deviation to ensure that it is safe to do so.

3. The court therefore imposes the following penalty:
- a. Competitors Kobus Fourie and Marinda Fourie's competition licences are hereby withdrawn for a period of two years of which 21 months is suspended for a period of two years, in explanation they may not partake in any competition for the balance of the 2017 season and if they are found guilty of any contravention of GCR 172 (vii) or SSR 315 (iv) in the period (October 2017 through September 2019) then the suspended portion of the penalty will automatically be invoked.
 - b. The court did take into account, in mitigation, the frustration experienced by competitor A11 in being unable to pass competitor A45, it did however reject outright the Clerk of the Course's contention that they were inexperienced in that Kobus Fourie has competed for seven years whilst Marinda Fourie is in her second season.
 - c. Competitors Kobus Fourie and Marinda Fourie are hereby ordered to pay Court Cost in the sum of R2000 (jointly).
 - d. The Court would further admonish the Clerk of the Course, in that it would appear from his findings that the matter was not treated as seriously as it should have been. Penalties handed down should be of such a nature as to deter competitors from repeat offences. In addition it would appear that no action was taken against either Competitor A11 or A45 for not having stopped at Road Crossings (refer CoC findings point 4 and the item "Additional information" provided by Mr Eric Sommer).
 - e. The SACCS executive is instructed to ensure that any system in use should;
 - i. Be proven and tested prior to being made available to competitors;
 - ii. Tested at scrutineering to ensure that it is fully operational; and
 - iii. In the event of failure they inform competitors timeously thereof.

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

These findings distributed via e-mail on 20 October 2017.

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