



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

www.motorsport.co.za

2nd Floor, Meersig 1, Cnr. Upper Lake Lane & Constantia Boulevard, Constantia Kloof, Roodepoort. P.O. Box 6677, Weltevreden, 1715
e-mail: msa@motorsport.co.za Telephone (011) 675 2220 Fax: (011) 675 2219

COURT OF APPEAL 437

MATTERS ARISING FROM THE PROTEST HEARING HELD ON 25TH OCTOBER 2018 AS WELL AS THE PROTEST LODGED ON BEHALF OF MINOR RIDER JACK PULLEN BY HIS FATHER ARISING FROM A PENALTY IMPOSED DUE TO AN ALLEGED TECHNICAL INFRINGEMENT AT THE SA NATIONAL MOTOCROSS CHAMPIONSHIP ROUND HELD IN WELKOM ON 08TH SEPTEMBER 2018.

PRESENT:	Dick Shuttle	-	Court President
	Vaughn Williams	-	Court Member
	Ian Richards	-	Court Member
	Gary Pullen	-	As entrant for competitor Jack Pullen
	Iain Pepper	-	Race day official
IN ATTENDANCE:	Adrian Scholtz	-	MSA CEO
	Carmen Hill	-	MSA Sport Co-ordinator

INTRODUCTION:

The Court members introduced themselves and there were no objections to the composition of the Court.

This Court was granted by MSA to allow Mr Gary Pullen the opportunity to appeal against the decisions of the MSA stewards at the belated protest hearing of the 25th October 2018, that besides all of their findings, specifically reversed the implicit instruction by the CEO of MSA that competitor Jack Pullen could participate in a national motocross event on the 20th October 2018, without further sanction.

The said protest hearing was granted to complete the correct procedures regarding a technical infringement penalty that competitor Jack Pullen received at a previous motocross event at Welkom on the 8th September 2018.

PROCEEDINGS:

Mr Gary Pullen was asked to present his argument as stated in his prepared appeal document provided for the court.

The appeal consisted of 3 separate issues:

- i) The reversal of the decision of the MSA CEO by the stewards of the protest hearing regarding the penalty of preclusion being reversed "regardless of the outcome of the protest".
- ii) That there was no compliance with GCR 140 (vii) and GCR 175 and GCR 176 by the MSA officials during the event of the 8th September 2018.

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



Department:
Sport and Recreation South Africa
REPUBLIC OF SOUTH AFRICA

Directors: 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

- iii) That the technical non-compliance related to the race meeting of the 8th September was not proven.

After hearing Mr Pullen's arguments in all of these issues the court finds as follows;

FINDINGS:

Taking all evidence into account, the alternate stewards of the protest hearing dated 25.10.2018 may have been correct in saying that Mr Pullen's protest had failed, and that the COC decision was upheld but the stewards erred in then excluding Jack Pullen from the results of the 20.10.2018 by re-instating the preclusion of the original findings.

The COA members therefore are of the belief that the intention of the CEO in his correspondence with Mr. Pullen dated 12.10.2018 and 16.10.2018 was not to further penalise the rider Jack Pullen for the 20.10.2018 event.

It is therefore the decision of this Court that the points gained by Jack Pullen at the event on the 20.10.2018 be re-instated, as per item i).

In terms of items ii) and iii) above, the Court finds that GCR 140 (vii) was correctly applied.

In terms of GCR's 175 and 176, the Court find that the officials did not apply them in a totally correct manner insofar as the requirement for a hearing prior to issuing a penalty was not properly concluded but this was however made difficult by the fact that Mr Pullen had already left the racetrack before any formal hearing could take place.

Mr Pullen is advised to seek clarity from the officials in matters of this nature in future.

The officials are also reminded that procedures must be followed exactly as prescribed in the MSA Handbook and the Motocross regulations in future.

With regard to item iii) Mr Pullen acknowledged that this is now a moot point as it has no bearing on the 2019 race season and the court have taken the view that as the stewards upheld the penalty at the protest hearing the original findings will remain.

The court therefore instructs MSA to reinstate the points awarded to competitor Jack Pullen at round 7 of the National Motocross championship race meeting of the 20th October 2018.

The appeal fee paid, less 25% for administrative costs in line with the provisions of Appendix R, is to be refunded to the appellant.

Parties are reminded of their rights as per GCR 212B.

Findings distributed electronically on the 6th February 2019

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