



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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## MOTORSPORT SOUTH AFRICA

### COURT OF ENQUIRY NO 1275

Held virtually on the 3<sup>rd</sup> July 2024 on Zoom and recorded.

<b>Court composition:</b>	Mr. Steve Harding	Court President
	Mrs. Carnita Low	Court Member
	Ms. Nthabiseng Motsie	Court Member
<b>Attendance:</b>	Mr. Jason Campos	Respondent
	Mr. Tate Bishop	Respondent
	Mr. Tim Bishop	Father of competitor Tate Bishop
	Adv Andre Bezuidenhout	Witness
	Ms. Arlene Brown	Clerk of the Course
	Mr. Anthony Taylor	SATC SupaCup Driver Conduct
	Mr. Vic Maharaj	MSA Sporting Services Manager
	Ms. Samantha Van Reenen	MSA Sporting Services Manager – Cars, Karting & Legal
	Mrs. Allison Vogelsang	MSA Circuit Sport Coordinator

### PRELIMINARY MATTERS

1. These are the written findings of Motorsport South Africa (“MSA”) Court of Enquiry 1275 which was heard on 3 July 2024.
2. The hearing was conducted in an online format with the parties, officials and witnesses all attending virtually via the Zoom platform.
3. The members of the Court were introduced to the parties and there was no objection to the composition of the Court.

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



MEMBER OF



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Honorary President: R. Schilling

4. The purpose for which the court was convened was two-fold, firstly to investigate an on-track incident between the parties during race 1 of the SATC SupaCup race held at Kyalami on 13 April 2024 and secondly to investigate an altercation between the parties in parc ferme after the said race with a view to taking appropriate action.
5. Given the nature of Courts of Enquiry there is no fixed or laid down procedure for their conduct which, therefore, falls to be determined by the court. In this instance, where complaints had been made by both parties and there was no clear complainant or respondent and no party who could be described as dominus litis, the court determined to adopt the following procedure and first hear from the officials as to how they dealt with the race incident reports, then to hear from the two independent witnesses to the parc ferme incident, with a view to being able to excuse them after the completion of their testimony. This was to be followed by giving the parties the opportunity to put their own versions of the parc ferme incident followed by an examination of the on-track incident between the parties.

#### **THE HEARING AND ACTIONS OF THE DCO and COC**

6. The court then heard from Mr. Anthony Taylor, in his capacity as the Driver Conduct Official appointed to that position in terms of the regulations governing the South African Touring Car and SupaCup championship. The role of the Driver Conduct Official is to review on-track incidents and to suggest appropriate penalty recommendations and/or sanctions to the Clerk of the Course.

*Refer Art 2.13 2024 MSA National SATC and SATC SupaCup Regulations  
and MSA SATC circular 01/2024*

7. Mr. Taylor testified that, having received the incident reports of the parties, he held a hearing with both Mr. Bishop and Mr. Campos, and reviewed the camera footage of the incident. Mr. Taylor told the court that in his view Mr. Bishop had obtained a slightly better drive coming out of the corner prior to the incident and got slightly ahead of Mr. Campos on the approach to the next corner. In Mr. Taylor's judgement he was of the view that Mr. Bishop was not sufficiently far ahead to allow him to take his normal racing line, which he did, resulting in him not allowing sufficient room on the inside for Mr. Campos at that point, as a result of which there was contact between the two cars.

8. In response to a question by the court, Mr. Taylor indicated that he did not take any specific action following the hearing because he didn't see the need to do so inasmuch as Mr. Bishop who was responsible for the action resulting in the collision had effectively punished himself in that, he did not finish the race as a result of the collision. In summary, Mr. Taylor said that he viewed it as a racing incident and although he felt that Mr. Bishop had not left sufficient room for Mr. Campos on the inside, Mr. Bishop had lost out more than Mr. Campos in that he did not finish the race whereas Mr. Campos did.
9. The court then asked Mr. Taylor and the Clerk of the Course whether any protest had been received and both confirmed that there was no protest. Mr. Bishop, however, indicated that the reason why no protest was filed was because the findings weren't published and that accordingly he could not protest.
10. The regulations pertaining to driving conduct are contained in Article 25 of the sporting regulations governing this championship.

*Refer Art 25, 2024 MSA National SATC and SATC SupaCup Regulations introduced by MSA  
SATC circular 03/2024 dated 14 March 2024*

11. The final sentence of the 4<sup>th</sup> paragraph of Art 25.1 makes clear that the findings of the Driver Conduct Official must be "... advised to the competitor/s verbally and will be confirmed in writing by the Clerk of the Course." This court has established through enquiries made to MSA that no such written confirmation was in fact given. We will return to this issue later in these findings when dealing with the on-track incident.

#### **THE PARC FERME INCIDENT**

12. The court then turned its attention to the parc fermé incident. In regard to this incident, the court heard from two independent witnesses, namely Advocate Andre Bezuidenhout and Mr. Marius Roberts. The court is grateful to both for giving of their time in order to assist this court in determining the issues.
13. Advocate Bezuidenhout is a long-standing member of the Johannesburg bar, and an amateur gentleman racer, in the traditional sense with a long history of competition in a variety of motorsport categories including circuit and endurance racing and hill climb with a notable measure of success. He has served as a member of Motorsport South Africa's National Court

of Appeal since at least the early 2000's and is a former member of the International Court of Appeal of the Federation Internationale de l'Automobile, motorsport's highest judicial body.

14. Advocate Bezuidenhout, testified that although he competed in the same race, he did not witness the on-track incident as he was a little behind the two competitors involved. He indicated that he did not recall ever having met Mr. Bishop previously although he knew his name from motorsport as a prominent competitor. He indicated that he did know Mr. Campos but had no relationship whatsoever with him, adding that he knows the Campos family who he described as prominent motorsport people. He testified that after the race and in parc fermé his attention was suddenly drawn by what he described as aggravated talking and turned around and saw Mr. Bishop towering over Mr. Campos, consistently waving his finger in an agitated manner and repeating over and over, "I am going to fuck you up and I'm going to fuck your family up" and adding "you will never race again".
15. This continued until Advocate Bezuidenhout decided to try and intervene. He then approached the two drivers, stood close to them, and suggested to them that if they have an issue with one another, they should address it with the clerk of the course and follow the process. Mr. Bishop did not take this advice and continued saying "I'm going to fuck him up and he's not going to race again." When Mr. Bishop said this Advocate Bezuidenhout advised him that he should be very cautious in making a statement like that, as it could turn out very badly for him. Advocate Bezuidenhout, further suggested again that the two of them should go and raise this with the officials. Mr. Bishop was clearly not interested in the comments and advice given and Advocate Bezuidenhout then decided to withdraw and walk away. He saw out the corner of his eye, that Mr. Campos had turned around and walked away.
16. When invited to question Advocate Bezuidenhout, Mr. Bishop, while conceding to the use of "less than exemplary language", launched into a scurrilous and entirely disrespectful attack on the witness, making statements such as "your presence here is actually not helping any cause at all", "what you are saying it's a complete pack of lies", and "the biggest load of nonsense". He further accused Advocate Bezuidenhout of being biased in favour of Mr. Campos. Mr. Bishop regarded the issue as being one between himself and Mr. Campos and clearly did not take kindly to the well-intentioned and sound advice offered to him.
17. Mr. Marius Roberts, who is a well-known television personality and producer then testified that he was present in parc fermé with a television crew preparing for post-race interviews when the incident took place. Mr. Roberts had a slightly different recollection of the events

as his recollection was of Mr. Bishop getting out of his car marching across to Mr. Campos and asking "... What the fuck are you doing" in an extremely aggressive manner. He did not recall Mr. Bishop threatening to "fuck up" Mr. Campos. He testified that Mr. Campos followed Mr. Bishop back to his car and in the view of Mr. Roberts, both parties were to blame. In cross-examination by Mr. Campos, Mr. Roberts conceded that he had not heard any swearing on the part of Mr. Campos. In response to a question from Mr. Bishop, Mr. Roberts said that he did not see Mr. Campos poking the chest of Mr. Bishop or pushing him although he did follow him to his car. It was Mr. Roberts' view that both parties were in the wrong.

18. The court, then afforded both parties the opportunity to give their version of the parc fermé incident. Mr. Bishop admitted having gone up to Mr. Campos and being very aggressive but alleged that Mr. Campos did reciprocate and grabbed him. Mr. Campos testified that he was in parc fermé when Mr. Bishop approached him initially saying repeatedly "what the fuck". He said that he tried to calm Mr. Bishop down and tried to remind him of the correct channels to follow, each of them having their own version of the racing incident and knowing that Mr. Bishop was the worse off for it. Mr. Campos, understood that Mr. Bishop, was heated but Mr. Bishop carried on swearing, making statements about both Mr. Campos and his brother (also a racing driver), threatened to make sure that Mr. Campos never raced again, including making a statement about "watch the next race". He testified that he saw Advocate Bezuidenhout speaking to Mr. Bishop.
19. Having regard to the totality of the evidence regarding the parc fermé confrontation, the court accept the version given by Mr. Campos, which is not only consistent with the contents of the incident report filed by him in relation to this incident but is also supported by the testimony of the two independent witnesses called in this matter. On the other hand, we find no support for Mr. Bishop's allegation that Mr. Campos pushed him or grabbed his overalls. The only allegation made by Mr. Bishop against Mr. Campos which is supported by the evidence is that Mr. Campos followed him back to his car. This is the only criticism which can be levelled against Mr. Campos.
20. Mr. Bishop, on the other hand, was clearly the aggressor and his conduct in the continued use of abusive and threatening foul language went far beyond his admission to the use of "less than exemplary language".

### THE ON-TRACK INCIDENT

21. The court, then turned to the question of the on-track incident. Essentially, this boiled down to Mr. Bishop contending that he was sufficiently far ahead to enable him to take the racing line and Mr. Campos suggesting the opposite. Apart from the testimony of the two drivers, the only other evidence presented to the court was video material filmed from Mr. Bishop's car utilising a forward-facing camera. Mr. Bishop introduced this evidence and suggested that having regard to the view of a portion of the front windscreen of Mr. Campos' car as reflected in the side mirror, the court should find that Mr. Campos was not sufficiently close to Mr. Bishop to enable him to claim the corner.
22. It is a well-known fact that many modern automotive side mirrors are designed in order to provide a greater depth of field with the result that objects in the mirror appear further away than they actually are.
23. All hearings in terms of the General Competition Regulations of Motorsport South Africa (GCR's) are held *de novo*.<sup>\*</sup> The court, cannot on the basis of the evidence presented to us determine fault in relation to this incident. As outlined in paragraph 5 above, this is an enquiry and accordingly in the circumstances of the matter neither of the two parties is *dominus litis* and no onus or burden of proof falls on either party.
24. However, as indicated in paragraph 11 above the final sentence of the 4<sup>th</sup> paragraph of Art 25.1 makes clear that the findings of the Driver Conduct Official must be "... advised to the competitor/s verbally and will be confirmed in writing by the Clerk of the Course". This procedure was not followed. While the court doesn't believe that a written finding was a prerequisite for the filing of a protest, it is clear that the time limit for a protest concerning driving conduct only expires 30 minutes after notification to competitors of the Clerk of the course's decision on the incident concerned.<sup>\*</sup> Mr. Bishop was therefore fully within his rights to wait on such written confirmation, and the Clerk of the Course by failing to provide written confirmation of the findings of the DCO effectively deprived Mr. Bishop of his right of protest.

*\* See GCR 208 viii)*

*\*See GCR 210 x)*

25. The court, is therefore, of the view that the question of the on-track incident should be properly and fully investigated by way of a protest should Mr. Bishop wish to proceed with the same.

### **CONCLUSIONS AND FINDINGS**

26. The Clerk of the Course, and the Driver Conduct Official, are hereby reminded of the necessity of properly recording and confirming their findings in relation to all incidents adjudicated in terms of Article 25.1 of the relevant regulations, including those which are determined to be a racing incident and where no sanction is imposed. The court endorses the recommendations made in MSA Courts of Appeal 481 and 482 in regard to the question of findings by the DCO and trusts that these have already been implemented.
27. Regarding the on-track incident, the court orders that Mr. Bishop be afforded an opportunity for three working days following the date of notification to him of these findings by MSA to file in appropriate form and accompanied by the applicable protest fee, a protest to the stewards of the race meeting in question by delivering the protest and proof of payment to MSA. In the event that such protest is filed it shall be heard by either the original stewards, or in the event of either of them not being available, a panel of stewards appointed by MSA for this purpose. MSA may at its discretion, determine when and where such protest shall be heard and whether it should be conducted in person or remotely.
28. The court determines that in respect of the parc fermé incident that Mr. Bishop's actions constituted a clear breach of GCR 172 iv) and vi). The court finds this breach to go far beyond the use of "... less than exemplary language", and constituting a variety of prejudicial acts including intimidation, verbal abuse and generally conduct which would reasonably be considered by the general public to be offensive and inappropriate.

### **SANCTIONS**

29. The court has established from MSA, that Mr. Bishop was at the time of the incident 17 years of age and that at the time of the hearing he had recently turned 18 and regards his age as a mitigating factor. On the other hand, Mr. Bishop's uncalled for and intemperate attack on Advocate Bezuidenhout, is regarded as an aggravating factor.

30. This court is left with the duty to determine an appropriate sanction to be imposed upon Mr. Bishop for his conduct. In doing so, the court, has examined the findings of several Courts of Enquiry, faced with a similar issue, over the past 3 years. While the circumstances in each of the matters varies, there is a discernible pattern of the imposition of a fine in varying amounts coupled with a licence suspension which is in turn conditionally suspended, in some instances the fine is similarly conditionally suspended. This court surmises that the fine is imposed as a form of immediate and real sanction while the conditionally suspended licence suspension is designed to serve as a deterrent against similar action in the future.
31. In this instance, the court is of the view that the likely consequence of the imposition of a fine, is that it will not result in direct sanction of the competitor but, is more likely to be a burden upon his parents or sponsors and as such will not have the effect of bringing home the seriousness with which this court considers the offence.
32. In terms of the provisions of GCR 177, this court has open to it a limited variety of sanctions other than a fine. This court would have considered the forfeiture of a number of championship points had that option been available to it, but this option is limited to MSA and its National Court of Appeal.
33. The court, having considered all the circumstances, is of the view that the competitor's licence of Mr. Bishop should be suspended for a period of 12 months effective immediately. The court orders further that the last 11 months of this suspension shall be suspended for a period of 12 months from the date of this finding on condition that Mr. Bishop is not found to have contravened any of the provisions of GCR 172 iv), vi) or x) committed during the period of suspension.

Competitors are reminded of their rights in terms of GCR 212 B.

These findings are dated on 16 July 2024.

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