

COURT OF APPEALS

JUDGEMENT OF THE COURT OF APPEALS Martin Reiter vs. SOM COA Ref. No. 20-06-SE September 15, 2020

FACTS IN BRIEF

Following the Saturday, July 25, 2020, Group 4 Hoosier Super Tour race at Michelin Raceway Road Atlanta, Chris Taylor, driver of B-Spec #34, filed a Protest against Martin Reiter, Improved Touring 7 (IT7) #76, for alleged violations of General Competition Rules (GCR) 6.11.1. (Rules of the Road).

The Stewards of the Meeting (SOM) David Rollow, Sara Snyder, and Peter Olivola, Chairman, met to hear and rule on the Protest. The SOM determined Mr. Reiter was responsible for contact involving Mr. Taylor and H Production (HP) #95, driven by Charles Fullgraf. The SOM ruled Mr. Reiter violated unspecified sections of GCR 6.11.1. and penalized him with loss of all laps in the race. The penalty also incurred two penalty points on Mr. Reiter's competition license. Mr. Reiter appealed the ruling of the SOM.

DATES OF THE COURT

The SCCA Court of Appeals (COA) Tom Campbell, Jack Kish, and Laurie Sheppard (Chairman) met on September 3 and 10, 2020, to review, hear, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Appeal letter and attachments, including video from Martin Reiter, received August 31, 2020.
2. In-car video from Car #19, received August 31, 2020.
3. Official Observer's Report and related documents, received August 31, 2020.
4. Witness statements from SOM members, received September 10, 2020.

FINDINGS

Mr. Reiter provided his in-car video along with a narrative describing the events from his perspective as shown in accompanying screen shots. He requested the COA review his video frame by frame and suggested the contact could have been avoided by the other drivers. He also stated he was fatigued from the race and the heat and felt he was rushed through the Protest hearing.

After viewing in-car videos from Car #76 and Car #19 (a following car), interviewing the three named drivers, and examining a witness statement from Turn 7 F&C workers, the SOM determined Mr. Reiter violated GCR 6.11.1. The COA reviewed the SOM's Hearing and Decision report and attachments, as well as Mr. Reiter's appeal documents and all available video. The COA also considered additional witness statements from the SOM regarding the timing and conduct of the hearing. The SOM reported that the hearing began more than an hour after the end of the race, Mr. Reiter was the last witness heard, and

he was given an opportunity to view both videos considered by the SOM and provide narration as desired. The COA notes Mr. Reiter's witness statement does not address his fatigue and finds insufficient evidence that he was prevented from receiving a fair hearing.

The COA agrees Mr. Reiter initiated an inside pass of Car #95 on the approach to Turn 7. Video from Car #19 shows Car #76's right front wheel locked up as he attempted to slow sufficiently for the right-hand turn. Car #76 slid past the turn in point and Car #95 tapped him from behind. Car #76 tracked to the outside edge of the track rounding the corner while Car #95 crossed to the inside, followed by Mr. Taylor in Car #34. Car #76 continued to turn sharply, moving toward center track and his right rear contacted Car #34's left front, followed immediately by additional contact with Car #95. Car #34 was forced off track into a barrier and was unable to complete the race.

The COA finds Mr. Reiter violated GCR 6.11.1.A. (Avoid contact between cars) and 6.11.1.D. (Obligation to safely complete a pass.) Mr. Reiter passed Mr. Fullgraf but in attempting to slow sufficiently for the turn, Mr. Reiter blocked Mr. Fullgraf's turn in. Mr. Taylor and Mr. Fullgraf provided room on the left side of the track exiting Turn 7. Contact occurred when Mr. Reiter moved toward the center of the track. The COA supports the SOM decision but encourages SOM courts to be specific when ruling on a violation of the GCR.

DECISION

The COA upholds the SOM decision in its entirety. Mr. Reiter's appeal is well founded, and his appeal fee, less the administrative portion retained by SCCA, will be returned.

COURT OF APPEALS

SCCA Runoffs

JUDGEMENT OF THE COURT OF APPEALS

CSOM Reference Number 52

Moses Smith vs. SOM COA Ref. No. 20-01-RO

October 11, 2020

FACTS IN BRIEF

Following the Formula X (FX) race at the 2020 SCCA Runoffs at Road America, Jarret Voorhies, FX #15, and Paul Ravaris, FX #54, each protested Jason Vinkemulder, FX #10, alleging non-compliant rain tires were used during the race in an attempt to circumvent the rules. The Stewards of the Meeting (SOM) combined the two protests into a single hearing and decision. The protests cited 2019 General Competition Rules (GCR) 9.1.1.E.14.G. which states, "Any competitors deemed to have taken steps to circumvent these rules...to gain an advantage shall be immediately disqualified from that event."

The SOM, Paula Spencer, Jerry Wannarka, and Ken Blackburn, Chairman, met, heard witnesses, reviewed evidence, and ruled Mr. Vinkemulder's tires were compliant per the 2019 rules referenced by 2020 GCR 9.1.1.J.B.1. (Formula Mazda) and he did not attempt to circumvent the rules.

Moses Smith, entrant for FX #15, appealed the SOM ruling on behalf of Mr. Voorhies.

DATES OF THE COURT

The Court of Appeals (COA), Jack Kish, Michael West, and Laurie Sheppard, Chairman, met on October 11, 2020, to review, hear testimony, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Appeal Letter from Moses Smith, received October 11, 2020.
2. SOM Hearing Decision and Related Documents and Photos, received October 11, 2020.
3. In-person testimony from Mr. Smith, heard October 11, 2020.
4. In-person testimony from David Arken, Club Racing Board, heard October 11, 2020.
5. In-person testimony from Mr. Vinkemulder, heard October 11, 2020.
6. October 2019 General Competition Rules.
7. October 2020 General Competition Rules.

FINDINGS

The 2020 GCR in 9.1.1.J.B.1. requires Formula Mazda cars running in FX to comply with 2019 GCR 9.1.1.E. (Formula Mazda). The COA referred to the October 2019 version of the GCR to review section 9.1.1.E.14. (Tires and Wheels). The SOM provided ten photos of Mr. Vinkemulder's tires showing both the manufacturer's identifying markings and the tread pattern of the tires used.

Mr. Smith testified the tires Mr. Vinkemulder purchased from Goodyear did not meet the intent of the rule, which he believed was to restrict rain tires to a harder compound manufactured and sold only as a rain tire. The COA confirmed with a well-known manufacturer's representative their rain tire compounds are softer than their slick tire compounds. Mr. Smith also stated the tires on FX #10 are not rain tires; rather they are "intermediate" tires – a term not defined in the GCR. Mr. Vinkemulder testified that Goodyear sold the tires as a rain tire.

In both the 2019 and 2020 GCR, Appendix F. (Technical Glossary) defines rain tire as "A racing tire intended solely for competition in wet conditions." David Arken, representing the Club Racing Board, reviewed the photos of the tires and the applicable rules. Mr. Arken agreed the photos depicted a rain tire. Per 2019 GCR 9.1.1.E.14.A.2. any rain tire may be used and 2019 GCR 9.1.1.E.14.F. states, "Rain tires may be used at any time." This latter rule also references hand grooved rain tires, indicating a hand grooved tire is allowed on a Formula Mazda.

The COA finds Mr. Vinkemulder's tires are rain tires and are compliant with 2019 GCR 9.1.1.E.14.A.2. (Rain tires – open) and 9.1.1.E.14.F. (Rain tires may be used at any time.) The COA must interpret the rules as written, regardless of the intent.

DECISION

The COA upholds the SOM ruling in its entirety. Mr. Smith's appeal is well founded and his appeal fee, less the administrative portion retained by SCCA, will be returned.

COURT OF APPEALS

SCCA Runoffs

JUDGEMENT OF THE COURT OF APPEALS

CSOM Reference Number 37

Costa Dunias vs. SOM COA Ref. No. 20-02-RO

October 11, 2020

FACTS IN BRIEF

Prior to the start of the 2020 SCCA Runoffs, Peter Zekert contacted Ken Patterson, Race Director (RD), by email and requested permission to start the Grand Touring Lite (GTL) race without having any qualifying times. Mr. Patterson advised Mr. Zekert via return email a waiver would not be considered unless he participated in a qualifying session.

On Friday, October 9, 2020, after all qualifying sessions were completed, Mr. Zekert (GTL #45) arrived at Road America for the 2020 SCCA Runoffs and approached Mr. Patterson, requesting a waiver to race. Mr. Patterson explained Supplemental Regulations 5.11.1. does not empower the RD to issue a waiver to a competitor who does not post a qualifying time. Mr. Zekert protested the RD on Saturday, October 10, 2020, alleging violations of General Competition Rules (GCR) 2.1.7. (Acting in an unsportsmanlike manner), 2.1.3. (Acting fraudulently or prejudicially to the interests of the SCCA or the sport of automobile racing), and the second paragraph of the Covid-19 "Notice to Participants" at the top of the first page of the Supplemental Regulations.

The Stewards of the Meeting (SOM), Paula Spencer, Jerry Wannarka, and Ken Blackburn, Chairman, met, heard witnesses, reviewed evidence, and disallowed the protest stating the RD was consistent in applying qualifying requirements to allow competitors to start the race and had acted in accordance with the 2020 SCCA Runoffs Supplemental Regulations section 5.11.1. The SOM also found the RD had not acted in an unsportsmanlike manner and was professional and responsive during all communication with the protestor. Additionally, the RD did not violate any rights or privileges afforded competitors under the Covid-19 guidelines outlined in the Supplemental Regulations.

Mr. Zekert left the track without appealing the decision.

Costa Dunias, Assistant Race Director (ARD), was a named party in the Protest by Mr. Zekert. Mr. Dunias petitioned the Court of Appeals to exercise their authority through the appeals process to investigate and elaborate on the SOM ruling, particularly with regard to allegations of wrong-doing by the RD and ARD.

DATES OF THE COURT

The Court of Appeals (COA), Jack Kish, Pat McCammon, and James Averett, Chairman, met on October 11, 2020, to review, hear testimony, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Appeal Letter from Costa Dunias, received October 11, 2020.
2. SOM Hearing Decision and Related Documents, received October 10, 2020.
3. In-person and “Zoom” testimony from Mr. Dunias, heard on October 11, 2020.
4. Telephone testimony from Mr. Zekert, heard on October 11, 2020.

FINDINGS

The COA affirms the RD and ARD correctly, properly, and consistently applied 2020 Supplemental Regulation 5.11.1. in all instances. The Race Director did not violate the Covid-19 protocols set forth in the 2020 Supplemental Regulations. Mr. Zekert chose to attend and, in so doing, agreed to abide by the 2020 Supplemental Regulations. The Race Director’s decision and actions were extended in a professional and courteous manner and were not unsportsmanlike. The Race Director’s decision and actions were not prejudicial to SCCA, Mr. Zekert, or the sport of automobile racing.

The affirmation stated above is based on the following facts and findings:

Mr. Zekert specifically named Mr. Dunias by name, by 2020 official title, and by 2019 official title in his protest. Therefore, the COA determined Mr. Dunias had standing to file an appeal. The COA also ruled Mr. Dunias’ appeal to be timely based on Mr. Dunias’ need to address issues and concerns in support of this event not associated with this particular issue. In his appeal, Mr. Dunias explained, “After the [2019 SCCA Runoffs] we debriefed and focused on the waiver process as we were not happy with the wording. We made a small but significant change to the wording to make sure everyone had at least one qualifying lap before we even considered a waiver, to be sure we had seen the car on track and that the competitor had made a good faith effort to attend and qualify.”

On September 17, 2020, Mr. Zekert first contacted Mr. Patterson via email regarding eligibility requirements for starting the GTL race at the 2020 SCCA Runoffs to be held at Road America. Mr. Zekert requested permission to start the race without running any qualifying laps. Mr. Patterson, in a written email reply, informed Mr. Zekert he would have to participate in a qualifying session to provide a basis for granting a waiver. 2020 Supplemental Regulation 5.11.1 and 2020 GCR 6.4.2.E. (Establishing the Race Grid) are cited below for reference. The COA notes 2020 Supplemental Regulation 5.11.1. significantly reduces the RD’s authority for permitting a non-qualifier to start a race.

2020 Supplemental Regulation 5.11. reads:

“5.11. Eligibility for a Race Start: Competitors must qualify within 115 percent of the fastest qualifying time in the competitor’s class in order to be eligible to start the race (“eligibility window”).

5.11.1. Competitors who qualify outside the eligibility window must have the Race Director’s permission to start the race. The Race Director may waive this requirement in his sole discretion upon request. Requests for the waiver must be submitted to the Race Director within 30 minutes of the posting of the race grid.”

2020 GCR 6.4.2.E. states, “The Race Director or Chief Steward may waive this requirement and may allow non-qualifiers to grid behind qualifiers.” The COA acknowledges the significance of omitting the words, “and may allow non-qualifiers” from the 2020 SCCA Runoffs Supplemental Regulations.

The COA also notes the addition of “Competitors who qualify outside the eligibility window must have the Race Director’s permission to start the race” in the 2020 Supplemental Regulations restricts the waiver process to competitors who post a qualifying time that is outside the “eligibility window”.

Supplemental Regulation 5.11.1. overrides the GCR at this event and prohibits a competitor with no qualifying laps from starting the race. The COA determined that if the RD allowed a driver to start without any qualifying laps, the RD would be in violation of 5.11.1.

Mr. Zekert arrived at Road America on Friday, October 9, 2020, the day after all GTL qualifying sessions were completed and well after the 30-minute window for requesting a waiver closed. Mr. Zekert visited the RD and ARD, and had multiple lengthy discussions (at approximately 9:45 AM, 11:00 AM, and 3:00 PM) with both gentlemen, asking permission to start the GTL race from the back of the field. He was consistently and repeatedly told he could not start in accordance with Supplemental Regulation 5.11.1. because he had no qualifying laps.

Mr. Zekert acknowledged in his protest having received the email sent by the RD on September 17, 2020, but, stated he thought the RD was simply being “politically correct,” was just kidding, and would allow him to start the GTL race. Mr. Zekert also stated he thought he should be able to start the race as he had in the past (2019) with no qualifying laps (time). In his protest, Mr. Zekert inferred he was being denied the opportunity to race because of who he was. That is, he was being singled out for unfair treatment. The COA notes that is not the case. Two other competitors made the same request to the RD (permission to start their respective races without posting a qualifying time) and in each case their requests were denied. The RD relied on 2020 Supplemental Regulation 5.11.1. in arriving at his decision for each request. The treatment afforded Mr. Zekert was fair, professional, compliant with the rules, and consistent with the treatment afforded all other 2020 SCCA Runoffs competitors.

Following review of the evidence and testimony, the COA determined the SOM exercised due diligence in arriving at their decision. The COA also notes that Mr. Zekert failed to heed the RD's and ARD's multiple communications stating he would not be allowed to start.

DECISION

The COA upholds the SOM ruling in its entirety with the additional clarifying references above. The COA further rules the RD and ARD acted properly in applying the rules elaborated above. Mr. Dunias' appeal is well founded.