

COURT OF APPEALS

JUDGEMENT OF THE COURT OF APPEALS Rodger Bogusz vs. SOM COA Ref. No. 22-12-CN November 23, 2022

FACTS IN BRIEF

Following the Fall Sprints Group 2 race on Sunday, October 9, 2022, at Blackhawk Farms Raceway, Dorn Lynch, Chief Steward, filed a Chief Steward's Action (CSA) against Rodger Bogusz, driver of GT3 #59 for infractions of the General Competition Rules (GCR) 2.1.5. (Failing to obey a direction from an official) and 2.1.7. (Acting in an unsportsmanlike manner). Mr. Lynch imposed a three-race weekend probation with one penalty point on Mr. Bogusz's competition license as required by GCR 7.4.B. (Penalty Points) for attempting to bump start his car while under an emergency vehicle tow, causing Mr. Bogusz's tow hook to break and delaying the start of the Group 2 race. Mr. Bogusz protested the CSA.

The Stewards of the Meeting (SOM) Fred Cummings, John Maurus, and Michael Beaumia (Chairman) met, heard witnesses, reviewed video evidence, and ruled on the Protest. The SOM disallowed the protest and affirmed the CSA penalty of a three-race weekend probation and amended the penalty points to Mr. Bogusz's competition license from 1 to 3 points per GCR 7.4 (Penalty Points).

Mr. Bogusz appealed the SOM ruling.

DATES OF THE COURT

The Court of Appeals (COA) Costa Dunias, Jack Kish, and Jeffrey Niess (Chairman) met on November 10, 2022, to review evidence and render a decision.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Request for Appeal from Rodger Bogusz, received October 27, 2022.
2. Official Observer's Report and related documents, received October 27, 2022.
3. Video provided by the Chairman, SOM, received October 27, 2022.
4. Additional Observations by the Chairman, received November 5, 2022.

FINDINGS

In his appeal, Mr. Bogusz states the video of his race car, under tow, "showed the negligence of the tow truck driver" for speeding up and failing to wait for the tow strap slack to go tight. Mr. Bogusz alleged in his appeal the tow truck driver asked him if he

wanted to bump start his car while under tow and stated, “I said ok, I would try, but it did not work”.

The SOM interviewed Mr. Bogusz, reviewed a witness statement from Ed Danecki Emergency Chief, and a video of Mr. Bogusz under tow when the tow hook broke. Mr. Danecki stated they did not give Mr. Bogusz permission to bump start while under tow because the strap was “hard hooked” to the racecar tow hook and if allowed to bump start successfully, an emergency worker would have had to exit the tow vehicle and enter a hot track to unhook the racecar. Mr. Danecki stated Mr. Bogusz attempted to bump start multiple times while under tow.

The COA acknowledges the emergency chief would not have given permission for Mr. Bogusz to bump start on a hot track while under a “hard hook” tow. In reviewing the video, the COA notes Mr. Bogusz failed to maintain a taut tow strap and the tow vehicle did not speed up prior to the tow hook breaking. The COA finds had Mr. Bogusz applied his brakes to maintain a taut tow strap and/or refrained from attempting to bump start while under tow, the racecar would likely have exited the racetrack without delaying the start of his race group or putting emergency workers at risk. The penalty assessed was within the Chief Steward’s authority and the increase in points was correct based on affirmation of the penalty by the SOM.

DECISION

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

COURT OF APPEALS

JUDGEMENT OF THE COURT OF APPEALS John Schimenti vs. SOM COA Ref. No. 22-13-SE November 25, 2022

FACTS IN BRIEF

On October 22, 2022, at the 2022 SARRC Invitational Challenge at Roebling Road Raceway, John Schimenti, driver of Formula F (FF) #69 filed a protest against Porter Aiken, driver of FF #21. Mr. Schimenti alleged that Mr. Aiken violated the 2022 SEDIV SARRC Rule 7.2 regarding Driver Eligibility and Points.

The Stewards of the Meeting (SOM), Bob Gardner, Bob Horansky, Dave Rollow, and Herb Shipp, Chairman, met, reviewed evidence, and heard testimony from witnesses. The SOM were advised the specific SARRC 7.2 rule had been changed by the SARRC Administration. The SOM disallowed the protest based on advice from Steve Strickland and Jim Creighton, representing SARRC Administration.

DATES OF THE COURT

The SCCA Court of Appeals (COA), Costa Dunias, Jack Kish, and Bev Heilicher, (Chairman) met on November 10, 2022, to review, hear, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Letter of Appeal from John Schimenti, received November 3, 2022.
2. Official Observers Report and related documents, received November 3, 2022.
3. Copy of Entry Form and Supplemental Regulations as published and distributed, and other documents, received on November 7, 2022.
4. Chairman, SOM response to the COA, received on November 10, 2022.

FINDINGS

In Mr. Schimenti's appeal, he alleges the 2022 SARRC Invitational Challenge Supplementary Regulations state the rules for the event are governed by the 2022 SEDIV SARRC and SEDIV Region Class rules found on the SEDIV website. The website (<http://www.sediv racing.com>) contains a link to the South Atlantic Road Racing Championship Standard Operating Procedures 2022 which states "Driver Eligibility and Points, 7.2 Drivers accepting entry to the National Runoffs are not eligible to accrue points in the SARRC Series in the same class. (Amended to 'finish in top 6 positions' 2016) 2-16." Mr. Schimenti maintains those rules should be enforced for the event. He asserts Mr. Aiken would not be allowed to earn points, as he placed fourth at the 2022 SCCA Runoffs in FF.

When interviewed by the SOM, Mr. Aiken stated he talked with Jim Creighton, SARRC Administration, and was told the rule was changed, however, the SARRC Administration was having difficulty changing their website to reflect the change in the rule. The COA notes as of November 10, 2022, the SARRC website still showed no changes to the rule have been made.

Once a sanction number has been issued by the SCCA Sanction Department, the Supplemental Regulations are the rules for the event. If the rules had been amended as stated by Mr. Creighton, there would have been a revised Supplemental Regulations reflecting the change in the rules and notification sent out to all competitors reflecting such change. The website would also have been changed to reflect the amended rule. This was not done and competitors were not made aware of the rule change.

The COA finds the rules as published to all competitors dictate Mr. Aiken is not eligible to receive points for participation in the event. The results of the competition will be amended to note Mr. Aiken is not to receive SARRC points for his finishing position.

DECISION

The Court of Appeals overturns the SOM decision in its entirety. Mr. Schimenti's appeal is well founded and his appeal fee, less the administrative portion retained by SCCA, will be returned.