

COURT OF APPEALS

JUDGEMENT OF THE COURT OF APPEALS Roger Burdette vs. SOM COA Ref. No. 23-01-SE March 8, 2023

FACTS IN BRIEF

On January 15, 2023, at the Hoosier Racing Tire SCCA Super Tour Winter Vacation held at Sebring International Raceway, Mike LaMaina, driver of Spec Miata (SM) #88, submitted a protest against Roger Burdette, driver of SM #121, for possible violation of General Competition Rules (GCR) 6.11.1.A. (On Course Driver Conduct, Avoid Physical Contact).

The Stewards of the Meeting (SOM) Stu Cowitt, Herbert Gomez, Jennifer Schwartzott, and Ed Ozment (Chairman), met, reviewed submitted video evidence, and heard testimony from Mr. LaMaina. The SOM determined Mr. Burdette violated GCR 6.11.1.A. and imposed a penalty of Loss of Finishing Position placing SM #121 behind Mr. LaMaina's SM #88.

Mr. Burdette appealed the SOM ruling.

DATES OF THE COURT

The SCCA Court of Appeals (COA), Bev Heilicher, Jeffery Niess, and James Foyle (Chairman) met on February 16 and 23, 2023, to review, hear, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Request to Appeal from Roger Burdette, submitted January 18, 2023.
2. Letter of Appeal, received February 6, 2023.
3. Official Observers Report, including video and related documents, received February 6, 2023.
4. In-car Video from SM #121, received February 6, 2023.
5. Letter from Leland Miller, Chief Steward, received February 11, 2023.
6. Letter from Russ Gardner, Chairman of the SOM, received on February 15, 2023.
7. Additional letter from Mr. Burdette, received February 17, 2023.
8. Letter from Doug Nickel, Race Director, received February 20, 2023.

FINDINGS

Mr. Burdette based his appeal on GCR 8.2. (Hearings and Judgements) and alleges he was told he could not protest by multiple stewards. He did not provide any names of

those stewards. The COA received testimony from Race Director Doug Nickel and Chairman of the SOM Russ Gardner who were unable to confirm Mr. Burdette's allegation.

Mr. Burdette also stated he had possibly exculpatory in-car video available and attempted to have Mr. Gardner review the video on Mr. Burdette's laptop during post-race impound. Mr. Gardner did not view the video and later reported he was busy gathering information he needed to appoint the SOM courts to hear each of several actions resulting from the race. Mr. Gardner further stated he informed Mr. Burdette he would be able to share his video during the hearing on Mr. LaMaina's protest and advised Mr. Burdette he should remain on site until called by the First Court. However, Mr. Burdette left the track. Mr. Burdette submitted his video with his appeal letter and provided his analysis of what occurred.

The COA solicited comments from event officials regarding their interactions with Mr. Burdette. The Race Director and the Chairman of the SOM were not able to corroborate Mr. Burdette's assertions. The COA reviewed the evidence and video submitted in the Observers Report and did not find fault with the actions of the First Court. The COA also reviewed Mr. Burdette's video and finds it does not contradict the First Court's ruling placing Mr. Burdette at fault in the contact. Additionally, the COA finds GCR 8.2. says, in part, "Unless they are specifically released by the Chairman SOM, all parties must remain at the event until a ruling has been issued. If any party is absent, a judgment may still be rendered, and may by default go against him."

DECISION

The Court of Appeals upholds the SOM decision in its entirety. Mr. Burdette'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 Charles Mactutus vs. SOM COA Ref. No. 23-02-SE March 8, 2023

FACTS IN BRIEF

On January 15, 2023, at the Hoosier Racing Tire SCCA Super Tour Winter Vacation held at Sebring International Raceway, Fred Brinkel, Clerk of the Course, submitted a Request for Action (RFA) to review a reported jumped start of the Group 3 Spec Miata (SM) Race 2 involving SM #66, driven by Charles Mactutus; SM #2, driven by Jim Drago; SM #157, driven Tyler Gonzalez; and SM #177, driven by Travis Wiley. The designated Start Judges: Richard Muise and Pedro Prado witnessed the start from the fourth floor of the Sebring Tower.

The Stewards of the Meeting (SOM), Philip Croyle, Sherri Croyle, and Bob Gardner, Chairman, met, reviewed the available in-car and static videos, heard witnesses (including the two start judges) and determined Mr. Mactutus, Mr. Drago, and Mr. Gonzalez violated GCR 6.5.2.C.1. by improving their positions relative to the field by passing Mr. Wiley in SM #177 (the pole car) before the green flag was displayed. The three drivers were each penalized five positions in class and two penalty points were assessed to their competition licenses as prescribed by GCR 7.4.A. (Penalty Points).

Mr. Mactutus appealed the SOM ruling.

DATES OF THE COURT

The SCCA Court of Appeals (COA), Costa Dunias, James Foyle, and Bev Heilicher, (Chairman) met on February 23, 2023, to review, hear, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Request to Appeal from Charles Mactutus, submitted January 24, 2023.
2. Notification of Appeal, received February 16, 2023.
3. Official Observers Report and related documents, received February 16, 2023.
4. Videos from the cars of Mr. Mactutus, Mr. Drago, Mr. Gonzalez, and Mr. Wiley, received February 16, 2023.
5. Static video of the approach to the start from Richard Muise, Start Judge, received February 16, 2023.

FINDINGS

Mr. Mactutus alleges Mr. Wiley, the pole sitter, coming to the green flag “suddenly hesitated,” forcing Mr. Mactutus to move out of line in order to avoid contact with Mr. Wiley. Mr. Mactutus also brought forth this same point in the original hearing. He contends that for this reason, his movement out of the line should be excused.

Mr. Wiley testified to the SOM there was no “hesitation”; rather, he was merely shifting into third gear and subsequently maintained the speed of the pace car when it left the track surface. The other witnesses (Mr. Drago and Mr. Gonzalez) stated they moved out when Mr. Mactutus moved out and followed tight on his bumper. Both denied the pole car “suddenly hesitated” as stated by Mr. Mactutus. The two start judges also testified there was no “sudden hesitation” by the pole sitter.

The Court of Appeals reviewed all available videos, including in-car video from the four cars involved and the Start Judge’s video of the field approaching the start stand. The COA did not observe an abrupt change in speed in Mr. Wiley’s approach to the start prior to Mr. Mactutus moving out of line. The COA further notes neither the outside pole sitter nor the cars following behind him adjusted their line for a “sudden hesitation” and all maintained a similar speed in their respective positions. Mr. Mactutus offered analysis of his video but provided no new material evidence.

DECISION

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