

COURT OF APPEALS

JUDGMENT OF THE COURT OF APPEALS
R. KENT BAKER vs. SOM, COA 09-12-GL
June 5, 2009

FACTS IN BRIEF

At the National Race held at O'Reilly Raceway Park (ORP), May 2-3, 2009, R. Kent Baker, driver of DSR #97, was the subject of a Request for Action (RFA) asking the Stewards of the Meeting to review his actions in refusing to obey the direction of an official (GCR 2.1.5.) and for interfering with the operating steward's execution of the event. (GCR 5.12.1.1.)

In his appeal, Mr. Baker claimed that he was left in a hazardous position without a yellow flag for the five remaining minutes of his race. In addition, he faulted the tow vehicle drivers, corner workers and stewards for failing to take action he deemed appropriate to return his car to the paddock at the conclusion of his race. He also made many statements about the track's condition, competency of workers, officials and the sanctioning region.

After Mr. Baker's race, efforts were made to remove his vehicle. The ORP tow vehicle personnel provided a time estimate to the operating steward to return the car to the paddock. At that point, the operating steward directed them to place Mr. Baker's car behind a protective barrier at station #3, after which the pace lap was begun. Mr. Baker told the corner workers that there would be no racing until his car was back in the paddock. He stood immediately adjacent to the track surface on the pace lap until the field had passed his location. The operating steward, when informed of this fact by corner personnel and the pace car driver, called for a black flag all and Mr. Baker was brought back to the paddock by ORP personnel.

The Stewards of the Meeting (SOM) Kyle Breedlove, Fred McAninch, John Pftzing, Cindy Hylton, and Larry Dent, Chairman, held a hearing, upheld the Request for Action and imposed a penalty on Mr. Baker of a three (3) month suspension for his conduct. Mr. Baker is appealing that decision.

DATES OF THE COURT

The Court of Appeals (COA) David Nokes, Dick Templeton and Bob Horansky, Chairman, met on May 14, 21 and 28, 2009, to hear, review, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Letter of Appeal from R. Kent Baker, driver of DSR #97, received by the COA May, 7, 2009, and additional material received on May 11, 2009.
2. Official Observer's Report and related documents, received May 14, 2009.
3. Additional material from Larry Dent, Chairman, SOM, received May 19, 2009.
4. Copy of letter from John Peterson, Executive Steward, Great Lakes Division, and an official at the event, to Mr. Baker, received by the COA, May 11, 2009.
5. Letter from Hugh Laird and Stephen Harris, Operating Stewards, received May 22, 2009.
6. Email from Simone Smiljanic, communicator Race 5, received June 4, 2009.

FINDINGS

When a driver enters an SCCA sanctioned Club Racing event, the standards of his conduct are outlined in Section 2 of the GCR. Additionally, the Chief Steward and his assistants have the responsibility under GCR 5.12.2. A.1. and B.1., to "execute the program of competitions and other activities by controlling drivers, their cars, the Officials and workers" and to "keep order in conjunction with the authorities who are policing the event." Mr. Baker disobeyed the directions of the corner workers and of the operating steward as communicated through those workers when he chose to stand immediately adjacent to the track during the pace lap. He further endangered himself and others through his disregard for safety and unsportsmanlike conduct. Finally, his actions directly interfered with the conduct of the event, causing the black flag all situation.

Mr. Baker's actions at the scene clearly did not live up to the GCR requirements governing his behavior while competing in an SCCA sanctioned event.

The COA noted from evidence presented that the corner controlling the area of the track where Mr. Baker's car stopped after his car went off track was displaying a yellow flag to drivers.

DECISION

The Court of Appeals reviewed all of the evidence and documents received and upholds the decision of the SOM. The COA, however, does revise the penalty awarded. The COA removes the penalty of a three (3) month suspension and replaces it with a penalty of a

one (1) month suspension plus a six (6) race-weekend Probation penalty to follow the suspension. The suspension begins at the date of the appeal decision. The Court finds that Mr. Baker's appeal is not well-founded and his appeal fee will be retained.

COURT OF APPEALS

JUDGMENT OF THE COURT OF APPEALS
Chris Windsor vs. SOM, COA 09-13-SE
June 11, 2009

FACTS IN BRIEF

At the May 10, 2009 Regional Race at Virginia International Raceway, Chris Windsor, driver of SM #38, protested Russ Snow, driver of SM #2, for allegedly violating GCR 6.8.1. (failure to give racing room, failure to avoid contact, and failure by the overtaking car to safely pass). There was metal-to-metal contact between their two cars on Race Lap 2 between Turn 2 and Turn 3 causing Mr. Windsor's car to leave the racing surface and he was unable to continue.

The Stewards of the Meeting (SOM), Walt Michael, Rocky O'Sheill and John Nesbitt, Chairman, met, viewed a video from Mr. Windsor's car, and interviewed witnesses. They determined that multiple contacts had occurred among Cars #38, #2, and #3 (driven by Alistair Bell), but did not have conclusive evidence and were unable to assign fault. The protest was disallowed, found to be well founded, and the protest fee was returned.

Mr. Windsor appealed that decision based on a newly obtained video taken by Gary Giles, SM #97, who was following the involved cars at the time of the protested incident. Mr. Windsor asserted that the new video showed that the incident was caused not by Mr. Snow, but instead by Mr. Bell, and he had mistakenly named the wrong driver in his protest.

DATES OF THE COURT

The Court of Appeals (COA) Dave Nokes, Dick Templeton, and Bob Horansky, Chairman, met on June 11, 2009 to hear, review, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Letter of Appeal from Chris Windsor, received May, 18, 2009.
2. Observer's Report and related materials, received June 3, 2009.
3. Email from John Nesbitt, Chairman SOM. dated June 8, 2009.
4. Witness statement and in-car video from Gary Giles, SM # 97, dated May 10, 2009.

FINDINGS

The new video evidence from Mr. Giles indicates that Mr. Bell initiated contact and repeatedly struck Mr. Snow's car which in turn was forced into Mr. Windsor's car. The contact was avoidable. Mr. Snow and Mr. Windsor were the victims and faultless. Mr. Bell, in his witness statement to the SOM, testified that Mr. Snow had repeatedly hit him and even after Mr. Bell provided more racing room by moving to the left, hit him again. The Giles' video evidence does not support this view.

Since Mr. Windsor did not name Mr. Bell in his protest, the COA has no authority to hear the case against him.

The Court of Appeals directs the SOM to rehear Mr. Windsor's protest under the provisions of GCR 8.4.5.A. (rehearing by the original SOM committee) to consider the new evidence provided by the Giles in-car video.

Mr. Windsor's appeal is well-founded, and his appeal fee, less the amount retained by SCCA, will be returned.

COURT OF APPEALS

JUDGMENT OF THE COURT OF APPEALS
Matt Davis vs. SOM, COA 09-18-CN
July 24, 2009

FACTS IN BRIEF

Following Race Group 1 at the June Sprints on June 20, 2009, Matt Davis (SM #45) protested Tim South (SM #72) citing a violation of GCR 6.8.1. (Racing Room). The protest was filed in a timely manner and the Stewards of the Meet (SOM) for the action Larry Dent, Doug Tillman, Joe Willer and Mike Engelke, Chairman, met and disallowed Mr. Davis' protest because Mr. Davis did not appear before them in what they viewed as a timely manner. Several pages by the Tower and physical attempts by the SOM were made to locate him. Mr. Davis was assessed a time penalty, with 3 penalty points, moving him behind car #72 in the final results. Mr. Davis has appealed their decision.

DATES OF THE COURT

The National Court of Appeals (COA) Dave Nokes, Dick Templeton and Bob Horansky, Chairman, met on July 16 and 23, 2009, to hear, review and render a decision on the appeal. COA Alternates JoAnne Jensen and Fred Cummings were officials at the event and therefore recused themselves from the discussions.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Letter of Appeal and related documents received by the COA June 29, 2009.
2. Official Observer's Report and related documents received July 10, 2009.
3. Emails from Julie Komp (Chairman SOM) dated July 9 and July 14, 2009.
4. Email from Tim South (SM #72) received July 8, 2009.
5. Email from Laurie Sheppard, Operating Steward for Group 1, dated July 9, 2009.

FINDINGS

The COA determined that that Mr. Davis did, indeed, present himself to the SOM, albeit approximately 2 hours after the protest was received by ACS Laurie Sheppard. Mr. Davis stated that he had not heard the 3-5 pages made and was not aware of 4 separate visits attempting to locate him where he was thought to be paddocked. When he did appear, the SOM advised Mr. Davis that the action had been resolved without his input and of the extent of the penalty assessed. Also, Mr. South (SM #72) submitted a video from his car, but, due to technical limitations at the track, the SOM did not view it. . The Chairman SOM kept the video and has subsequently made it viewable. Additionally, a video filmed by an unknown party in the spectator area was made and has been posted on the internet.

DECISION

The Court of Appeals determined that Mr. Davis was denied due process and directs that the First Court reopen and hear Mr. Davis' protest. Mr. Davis' appeal fee will be held in abeyance pending the outcome of the hearing.

COURT OF APPEALS

JUDGMENT OF THE COURT OF APPEALS

Chad Gilsinger vs. SOM, COA 09-19-GL

August 5, 2009

FACTS IN BRIEF

Following Group 4 post-race impound at the Fire Cracker Double National on July 5, 2009 at Nelson Ledges, the Chief Steward moved Chad Gilsinger (SSB #07) to last in class for locating ballast in other than the passenger footwell (GCR 9.1.7.F.1.). Mr. Gilsinger protested the Chief Steward's Action stating that only ballast specified on the spec line for the car must be located in the passenger footwell and there is no ballast specified for his Civic Si, thus allowing ballast to be mounted elsewhere.

The Stewards of the Meeting (SOM) Ann Burke, Meridith Croucher, Jerry Shiloff, and John Peterson, Chairman, met, reviewed the reasoning and the appropriate GCR citations, and disallowed the protest. Mr. Gilsinger is appealing that decision.

DATES OF THE COURT

The Court of Appeals Dave Nokes, Dick Templeton and Bob Horansky, Chairman, met on July 16, 23, and 30, 2009, to hear, review and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Letter of Appeal and related documents, received July 15, 2009.
2. Official Observer's Report and related documents, received July 15, 2009.
3. Email from John Peterson (Chairman SOM), received July 15, 2009.
4. Email from Bob Dowie, Chairman of the SCCA Club Racing Board, received July 30, 2009.

FINDINGS

The Court concurs with the Club Racing Board that only ballast specified on the vehicle's spec line as a competition adjustment is required to be located in the passenger footwell. Ballast to compensate for the driver's weight is allowed and may be in any location provided it meets requirements of 9.1.7.F.1 - 4 and 9.3.8. The Court reminds everyone that per GCR 9.1.7.D. "No permitted component/ modification shall additionally perform a prohibited function."

DECISION

The Court of Appeals upholds Mr. Gilsinger's appeal, and his original finishing position is restored. Mr. Gilsinger's appeal is well-founded, and his appeal fee, less the amount retained by SCCA, will be returned.