

MOTORSPORT NEW ZEALAND (INC)

DECISION OF THE JUDICIAL COMMITTEE APOINTED BY MOTORSPORT NEW ZEALAND

JUDICIAL COMMITTEE:

- Mr Shayne Harris (Chairman)
- Ms Andrea Bourhill
- Mr Chris Adams

PARTY CONCERNED

- Mr Blair Thorpe (Assistant Race Director)
- Mr Howard Atwill (Race Director)
- Ms Amy Pullen (Assistant Clerk of the Course)
- Mr Clay Osborne (Competitor)

MOTORSPORT NEW ZEALAND REPRESENTATIVES

- Mrs Raewyn Burke

DOCUMENTS PROVIDED

- Notice of Hearing
- GT New Zealand Championship Articles
- Decision GTNZ -31
- Stewards Report
- GT New Zealand Race Directors Report

1. The Judicial Committee was appointed by Motorsport New Zealand pursuant to Article 118 of the Motorsport New Zealand National Sporting Code (NSC), this is outlined in the Notice of Hearing dated 11th April 2024.
2. The Judicial Committee was tasked with:

Following Race 1 of the 2023-2024 GT New Zealand Championship held on 15-17 March at Hampton Downs a penalty was applied to Clay Osborne following a hearing regarding a judicial camera not recording during the race.

The Judicial Committee are “to consider the circumstances as to how the Deputy Race Director came to impose the penalty he did, and to subsequently apply the appropriate penalty should it be determined that the incorrect penalty was applied, and to make any other recommendations that the Committee may determine.”
3. The Hearing was conducted via zoom and commenced at 6.30pm on the 24th April 2024. All parties were present on the Zoom call except for Clay Osborne who was represented by Matt Houston.

4. The Chairman opened the Hearing and outlined the process for the Hearing. The Chairman confirmed that the purpose of the Hearing was to consider the penalty applied, and it was not the committee's role to determine compliance with the substantive championship articles.
5. The committee heard from Blair Thorpe who explained how he arrived at the decision he did, to apply an Appendix 1 Schedule P Penalty, NSC 4 to Decision number GTNZ-31. In short Blair explained that he missed seeing the applicable penalty (A2.39) in the Championship Articles that applied for a breach Article 12.3 of the GT New Zealand Championship Articles. To his credit, he accepted he had applied the wrong penalty.
6. The committee also heard from Howard Atwill, Race Director, who confirmed that the events of the day as presented by Blair Thorpe were correct.
7. The Committee also heard from Amy Pullen the Assistance Clerk of the Course at the event, who confirmed that she had requested the Hearing.
8. The Committee heard from Matt Houston who confirmed that the competitor Clay Osbornes camera was not functioning during Race 1. As mentioned earlier this is not relevant in terms of the jurisdiction of this committee.
9. The committee's task in this Hearing is to determine if the correct penalty was applied. To assess this the committee must first turn to the Articles of the 2023/24 GT New Zealand Race Championship.
10. Article 12.3 which is a sub set of Article 12, In-Car Judicial Cameras, states that "it is the competitor's responsibility to ensure the camera is switched on and recording during all Practice, Qualifying and Race sessions. For cameras not recording a Penalty **will** be applied" (our emphasis added). A penalty was applied, which was a Schedule P penalty.
11. In the GT New Zealand Championship Articles Schedule Two A2.1 states:

Unless specified in this Appendix penalties and conditions outlined in Schedule P will apply.

Where a penalty in this Schedule applies then it shall override the equivalent penalty contained in Appendix One Schedule P. All other sections of Schedule P will continue to apply when not at variance with this table.
12. The next applicable article is A2.39 of the GT New Zealand Championship Articles Schedule Two. Breach of Article 12.3 of Championship Articles. A2.39 states "During a Race. Thirty (30) seconds may be added to the Competitor's race time."

Decision

13. The committee is of the view that there was a breach of Article 12.3. The article is clear in that it says a penalty will be applied. Our view is that if there is a breach of the article, the wording leaves the officials no choice but to apply a penalty.
14. The committee is also of the view that Schedule Two Article A2.1 is clear with its intention, in that if there is a penalty prescribed in the Schedules table, then that penalty takes precedent over any like penalty in Schedule P.
15. The Committee is also clear that, if there is a breach of Article 12.3 then Article A2.39 applies. This is clearly stated in Article 12.3; For cameras not recording a Penalty will be applied. What is not helpful is the wording of A2.39 where the wording “Thirty (30) seconds **may be** (emphasis added) added to the Competitor’s race time”. This suggests that there is discretion as to whether a time penalty is applied. This appears to be in direct conflict with A12.3.
16. To resolve the above conflict the committee must look at the intent of rule 12.3. It is in our view clear that the intent of the rule is that you must have your judicial camera operating (in this case during a race), and if you do not, then a penalty will be applied. We are also clear that if you breach 12.3 then penalty A2.39 must be applied.
17. Enabling discretion in the application of a penalty (A2.39) that can potentially overrule the intent of a rule does not make sense, it is our view that the wording is clumsy and unhelpful.
18. The committee therefore finds that the penalty applied in Decision number GTNZ-31 Appendix 1 – Schedule P – Penalty NSC 4 a fine of \$250 was incorrect and that decision is overturned.
19. The committee determines that the correct penalty that should have been applied was Article A2.39 of GT New Zealand – Appendix Two Championship Articles and a 30 second time penalty should be added to the race time of competitor number 15 Clay Osborne in decision GTNZ-31.
20. The committee is of the view that MSNZ should review the wording in Article A2.39 to better align with the intent of A12.3, thus ensuring the requirement is clear when applying a mandatory penalty.



Shayne Harris
Chairman



Andrea Bourhill
Member



Chris Adams
Member

Dated: 26th day of April 2024

The competitor is reminded of his Right of Appeal under Part XI of the NSC.