

COURT OF APPEALS

REVISED JUDGMENT OF THE COURT OF APPEALS

Jim Averett vs. SOM COA Ref. No. 09-08-RO

December 2, 2009

Facts in Brief

Following post-race impound for American Sedans at the 2009 SCCA Runoffs, Chief Steward Jim Averett disqualified three cars for non-compliant carburetor modifications per GCR 9.1.6.D.1.a.3. Two of the competitors, James Lubash and Tom Sloe, protested that action. The third competitor, Andrew McDermid, did not protest the disqualification.

The Stewards of the Meeting (SOM). Bill Medcalf, Julie Komp and Steve Harris, Chairman, met, reviewed evidence and disallowed the protests of Mr. Lubash and Mr. Sloe. As Mr. McDermid had not filed a protest against the Chief Stewards Action (CSA), his case was not considered.

Mr. Averett, believing all three drivers had protested, filed an appeal on all three decisions.

Dates of the Court

The Court of Appeals (COA) Dave Nokes, Dick Templeton and Bob Horansky, Chairman, met on October 29, 2009 and December 2, 2009 to hear, review, and render a decision on the original appeal.

Findings of the Court

The COA heard and acted on Mr. Averett's appeal against the decisions rendered for Mr. McDermid, Mr. Sloe and Mr. Lubash at the event. The Appeal based on Mr. McDermid's decision should not have been heard as there was no protest against the CSA.

Decision

Because the appeal involving Mr. McDermid was filed without an underlying action, Appeal 09-08-RO is null and void. The Official Results are unaffected and remain as published by the SCCA. The Court of Appeals apologizes for this error.

COURT OF APPEALS

JUDGMENT OF THE COURT OF APPEALS

BOB HAYWARD VS SOM, COA REF. NO. 09-30-SE

December 2, 2009

FACTS IN BRIEF

On Sunday October 18, 2009, at the Sebring International Raceway Spooktacular Regional, Chief Steward Leland Miller filed a Request for Action (RFA) against Assistant Chief Steward - Safety Bob Hayward citing GCR 5.12.2.C.6. (Powers of the Chief Steward: "The Chief Steward may convey to the SOM a report of any breach of the GCR or Supplementary Regulations. This report may be accompanied by a Request for Action.") and GCR 5.4.4.A. [Operating Rules, Emergency Plan: "The Chief Medical Officer and the Assistant Chief Steward - Safety shall, before allowing the commencement of racing (including practice and qualifying), verify that a written emergency plan has been prepared and distributed to all emergency and supervisory personnel."] The Stewards of the Meeting (SOM) John Anderson, Martyn Eastwood (SIT), Norm Esau, Pax Lemmon (SIT), and Sandy Jung, Chair, met, heard witnesses, reviewed documents, and relieved Mr. Hayward of his assignment as Safety Steward for the remaining hours of the event. Mr. Hayward is appealing this decision.

DATES OF THE COURT

The Court of Appeals (COA) Fred Cummings, Alternate, JoAnne Jensen, Alternate, and Dick Templeton, Acting Chair, met on November 5, 12, and 19, 2009 to hear, review, and render a decision on the appeal. Regular members David Nokes and Chairman Bob Horansky recused themselves.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Letter of Appeal from Safety Steward Bob Hayward, received 10/28/09.
2. Email testimony from Chief Steward Leland Miller, received 11/05/09.
3. Official Observer's Report and related documents, received 11/09/09.
4. Email testimony from Safety Steward Bob Hayward, received 11/16/09.
5. Email testimony from Chair SOM Sandy Jung, received 11/17/09.

FINDINGS

On Friday October 16, 2009, during the non-SCCA track test day at Sebring International Raceway, an SCCA member entered the facility without signing a waiver. After the test day was completed, this individual drove his personal vehicle onto the portion of the course not in use for the SCCA event, lost control, and subsequently died when his vehicle caught fire. Safety Steward Bob Hayward was directed by Chief Steward Leland Miller to investigate and prepare an incident report, and to direct requests for information regarding the incident to only those individuals listed by title in the Central Florida Region's Emergency Plan. Mr. Hayward did investigate and prepare an incident report and notify SCCA Risk Management, but he also spoke with local newspapers. Mr. Hayward reported to the Court of Appeals that he spoke to the press only at the request of the track manager.

The Court of Appeals believes the SOM in their decision intended that Mr. Hayward's speaking to the press was a breach of the Chief Steward's direction and of the Central Florida Region's Emergency Plan. The Court finds that Mr. Hayward did not follow the direction of the Chief Steward, and therefore violated GCR 2.1.5. (Failing to follow the directions of an official). According to GCR Section 2 (Participant Conduct), an official may lose his current event appointment if he does not conduct himself to the highest standard of behavior.

The Court appreciates the great strains placed on event personnel who persevere through difficult circumstances.

DECISION

After reviewing the evidence, the Court of Appeals upholds the decision of the SOM. Mr. Hayward's appeal is well presented and his appeal fee will be returned.

COURT OF APPEALS

Subject: 2010 Court of Appeals Procedures
From: SCCA National Court of Appeals

The General Competition Rules describe how a named party may appeal an action taken by the Stewards of the Meet (SOM) at a Competition event sanctioned by the SCCA Club Racing Department. This is an explanatory guide for the appeal process.

First, and most important, your letter of appeal must be sent within ten (10) days of the date you are notified of the decision of the SOM. You may send your appeal by mail, Express Mail, fax or email. The date of your appeal is determined by the U.S. Post Office postmark date, or the date that appears on the Express Mail cancellation, the fax cover sheet, or the email. All appeals should be addressed to the Court of Appeals, c/o SCCA Club Racing and include a check or credit card information for the amount of the appeal fee. If you fax or email your appeal, include a Visa or MasterCard Account number for your appeal to be billed. Your ten-day period normally starts from the weekend day you were informed by the SOM of their decision. However, if that decision is not made because, for example, components needed to be checked at an off-site location sometime after the event, the ten-day period starts from the date the Chairman, SOM, informs you orally or in writing of the final decision. The Chairman will advise the National Office of the decision via the Observers Report or an addendum to that report.

Second, you need to state your "case" in writing at the same time that you advise the Court of Appeals of your intention to appeal. A letter indicating you intend to appeal with "details to follow" is NOT an appeal under the rules in GCR 8.1.4. You must submit all materials you wish the Court to consider within the ten-day period allowed by the GCR. You will normally not be contacted by the Court of Appeals as the Court presumes you have provided all the information you feel is important in your appeal. If you feel other individuals can provide information that could be beneficial to your case, contact those individuals to be sure that the Court receives their statements within the ten-day appeal period..

NOTE: Appeals affecting national point standings for events held within 28 days of the Runoffs® have a 48 hour appeal period.

Third, your rights to file an appeal do not include being heard in person either by phone or at a Court of Appeals hearing. The Appeals Court is not established to simply hear the same things again that the SOM have already heard, but to:

- A. Review the process followed by the SOM to determine if all parties involved followed the GCR rules.
- B. Review any new information that was not available, or not known, which became available to you after the SOM hearing.
- C. Decide whether or not there is sufficient evidence presented to warrant changing the SOM decision.

The Court may also seek additional information pertinent to your case from other sources.

Fourth, if you file an appeal in a case involving another person, such as a driver-to-driver protest involving an alleged violation of the GCR, you should be aware that the individual will receive notification of your appeal and be given a brief period to respond to the appeal. The Chief Steward and Chairman, SOM, are also notified. This procedure assists the Court in understanding all sides of the case.

Fifth, in appeals involving alleged violations of car preparation specifications, the Court will maintain confidentiality of all specifications to guarantee that a competitor does not learn preparation "secrets" of another competitor by filing a teardown protest or appeal. Thus, any information such as measurements and specifications is deleted from materials distributed as part of appeals.

Sixth, videos are frequently part of the appeals process. The Court can only accept unedited videos. Video media or data files furnished by the SOM and/or you to the Court may be retained by SCCA as a permanent part of the record if the case goes to appeal.

Seventh, several Divisions have assigned Stewards to assist in the appeals process. They are listed in various Regional or Divisional publications. If you do not know who these individuals are in your Division, your Divisional Executive Steward can supply you with their names and contact information.

12/12/2009