

MOTORSPORT IRELAND NATIONAL COURT OF APPEAL DECISION

This Appeal was brought by Michael Kelly, Clerk of the Course, against the decision of the Stewards dated 4th December 2023

HEARING:

Hearings took place on 12th February 2024 and 15th April 2024 in Motorsport Ireland, 34 Dawson Street, Dublin 2.

The Court Members were:

Mark Kelly (Chair)

Siobhan McCann

David McCormack

In attendance were:

Dermot Quigley (M.I. Presenter)

David Pain (M.I. Presenter)

David Fitzgerald (M.I. Presenter)

Alex Sinclair Jnr (Clerk of the Court)

John Naylor (Stewards' Representative)

Michael Kelly (Appellant)

Daniel McNamara (Assisting the Appellant)

Evidence was heard from:

Michael Kelly (Appellant)

Patrick Foy (Witness as to fact on behalf of Appellant)

Patrick Haughey (Witness as to fact on behalf of Appellant)

Larry Harper (Witness as to fact on behalf of Appellant)

Bernard Gallagher (Witness as to fact on behalf of Appellant)

Paul Lyons (Character Witness on behalf of Appellant)

Eibhlin Friel-Browne (Complainant and Witness as to fact on behalf of Motorsport Ireland)

Stephen Browne (Witness as to fact on behalf of Motorsport Ireland)

John Naylor (In respect of the Steward's Decision being Appealed)

Written witness statements provided to the Court:

Eugene Ferry

Francie Devine

Sam Pearson

Declan McCay

A further statement was provided to the Court but was titled "without prejudice" and therefore was disregarded by the Court

FACTS OF THE CASE:

Motorsport Ireland received a complaint from a volunteer member of the Irish Red Cross in relation to attendance at the Donegal Motor Club Knockalla Hillclimb on 2nd September 2023. The Complaint alleged that the Clerk of the Course, Michael Kelly, used foul language and verbally abused the Complainant during an interaction on the morning of 2nd September 2023. The Complaint was received post-event, as such, the President of Motorsport Ireland established a Stewards Panel to investigate the complaint in accordance with GCR 130.2. Arising from that investigation and following a hearing, the Stewards issued a decision which imposed a 90-day suspension on Michael Kelly's Motorsport Ireland Official's Licence together with a fine of €500. Michael Kelly subsequently appealed that decision, which came before the Court on the above hearing dates.

The Court established the following as fact from the hearings;

In the lead up to the event, there were various changes to the safety plan required regarding virtual chicanes and the turn around point for double drives, which added to the usual / normal pressure involved in running a motorsport event.

On the morning in question, the Paddock Area near the Start Line of the Hillclimb was required to be a sterile area, with only essential services allowed (ambulances, rescue, course car etc). This was required due to the number of double drives entered in the event. Those double drives needed an area to turn to allow the double driver to do his / her run up the hill.

At approx. 8am on the morning of 2nd September 2023, the Irish Red Cross volunteer (Complainant) made her way to the Paddock Area with her husband as a passenger, to park her civilian car beside the Ambulances units in situ in that area, as her civilian car had essential kit in it. The roads had not closed to public traffic at this point.

On arrival at the Paddock Area, the Irish Red Cross volunteer was refused entry to the Paddock Area by the Clerk of the Course.

DECISION:

Having heard the evidence, the Court decided unanimously, to reject the Appeal.

The Appeal fee is forfeited.

The Steward's decision stands, and the Appellant is directed to comply with the requirements of that decision.

Pursuant to Article 7.5.1.1 of Chapter 16, the giving of a Notice of Appeal to Motorsport Ireland has a suspensive effect on the decision being appealed. As such, the suspension of the Appellant's Motorsport Ireland Official Licence takes effect from the date of this decision, for a period of 90 days.

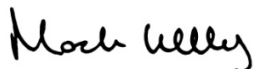
REASONING:

There was a clear conflict of evidence in respect of the witness evidence before the Court. On the one hand, witnesses on behalf of the Appellant outlined that the Complainant approached the Paddock Area at the entry point to park her car and was met with a polite request from the Clerk of the Course to refuse entry into that area. On the other hand, evidence from the Complainant and a witness on behalf of the Complainant outlined that they approached the Paddock Area at the designated exit point to gain entry and was met with foul and abusive language from the Clerk of the Course, being the Appellant.

Of note to the Court was an admission from the Appellant that he had raised his voice in order to communicate the refusal of entry to the Paddock Area, but with this admission, did not at any point during the hearing before the Court acknowledge that this may have been an error on his part, or offer an apology to the Complainant for the manner in which he spoke to her.

On the balance of probability, the Court was not able to establish that foul language was used, however the Court is satisfied that on the balance of probability, the Appellant acted in a manner that fell below the standard required of a Motorsport Ireland Official's Licence holder in respect of his engagement with a vital volunteer medical professional. By his own admission, the Appellant raised his voice without clarifying or communicating correctly the instruction that he wished the Complainant to follow. Clearly this was received by the Complainant as confrontational and dismissive.

This decision was laid down at 09:00 on 23 April 2024



Mark Kelly

Chairman of the Court



Siobhan McCann

Court Member



David McCormack

Court Member