



## JAMAICA MILLENNIUM MOTORING CLUB

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July 3, 2018

David Summerbell Jr.  
153 ½ Constant Spring Road  
Kingston 8

### **Re: Appeal of Decision of the Event Steward under Permit MSF2017-14 dated 20 May 2017 of the Stewards of the JRDC Caribbean Invasion 2017**

Dear Mr. Summerbell Jr;

The following is issued under the Authority of the 2016 JMMC General Regulations, Articles 1.1.1 (Competition Sub-Committee Authority), 1.1.2 (Administration of these Regulations) & 1.3.1 (NATIONAL CONTROL OF MOTOR SPORT).

Further to the Hearing of 21 June 2018 in St. Andrew, Jamaica please find attached the comprehensive report outlining the findings of the panel in full.

On points of summary please note the findings of the Appeal Panel outlined below:

#### THE JMMC CS APPEAL PANEL:

- Declares the appeal admissible;
- Upholds the decision of the Stewards of the JRDC Caribbean Invasion 2017 counting towards the 2017 Caribbean Motor Racing Championship (CMRC) to issue a warning for injudicious driving on Car #32
- Recommends the withdrawal of the statement – “*there is no evidence that an incident of similar ilk has ever occurred in Jamaica*” as stated in the Stewards Report.
- Dismisses the prescribed 10-second time penalty on the basis of article 6.6.1d of the 2016 JMMC General Regulations (the “Sporting Regulations”) as it is deemed not applicable.

We trust this now settles the matter of your appeal.

Best regards

Marcia Dawes  
For Competition Sub Committee

#### **JMMC Executive Committee: 2018–2020**

**Chairman:** Stephen Gunter; **Vice Chairman:** Marcia Dawes; **Exec. Secretary:** Wendy Dressekie-Gordon; **Treasurer:** Tiffany Bryan

**Directors:** Dmitri Dawkins; Michael Fennell; Monique Gibbs; Neil Williams; Peter Clarke; Rajendra Jadusingh; Rosemarie Jadusingh; Timothy Stewart

**COMPETITION SUBCOMMITTEE APPEAL PANEL (CSAP)**

**of the**

**JAMAICA MILLENNIUM MOTORING CLUB (JMMC)**

**Appeal brought by DAVID SUMMERBELL Jr. against  
the Decision of the Event Steward under Permit MSF2017-14 dated 20 May 2017  
of the Stewards of the JRDC Caribbean Invasion 2017 counting towards the 2017  
Caribbean Motor Racing Championship (CMRC)**

**Case CSAP-2018-01**

**Hearing of 21 June 2018 in St. Andrew, Jamaica**



The JMMC CS APPEAL PANEL (the “Panel”), comprised of Mr. William Potopsingh, Mr. David Neil Baugh, and Mr. Peter Wong, met in St. Andrew on Thursday 21 June 2018 at the Branson Centre, Unit 4, 9-11 Barbican Road, Kingston 6.

Ruling on the appeal brought by David Summerbell Jr. against the Decision of the Event Steward under Permit MSF2017-14 dated 20 May 2017 of the Stewards of the JRDC Caribbean Invasion 2017 counting towards the 2017 Caribbean Motor Racing Championship (CMRC) under which the car No. 32 of the Appellant was sanctioned with a 10-second time penalty on the basis of article 6.6.1d of the 2016 JMMC General Regulations (the “Sporting Regulations”).

The following persons attended the hearing:

On behalf of the Appellant

Mr David Summerbell Jr.

Mr Marck Carey

Ms. Lisa Williams

Also attending the hearing:

Mr. Thomas Hall (JMMC CS)

Ms. Marcia Dawes (JMMC Vice Chairman)



The appellant filed their written submissions and, at the hearing of 21 June 2018, set out oral arguments and answered the questions asked by the Panel. No objection to the composition of the Panel or to any element of the hearing was raised by anyone.

### **REMINDER OF THE FACTS**

The Stewards passed a decision on 20 May 2017 (the “Decision”) and imposed a 10-second time penalty against the Appellant’s Car# 32.

### **SUMMARY OF APPEAL**

Against the primary findings of the Judicial Review in the JMMC Steward’s Report Form dated 20th May, 2017 which are set out below:

- a. That “while all cars approaching the Start Line accelerated early, car #32 furthermore accelerated unevenly breaking formation prior to crossing the Start Line which delineates the race start”
- b. That “wherein the car being overtaken having not made an unexpected, untoward or erratic move, the Stewards contend that the overall responsibility for the safe completion of an overtaking maneuver ultimately resides with the overtaking driver”
- c. That “the competitive maneuver by car #32 contravenes the ‘letter of the law’ as well as the ‘spirit of the law’
- d. That the maneuver by car #32 “amounts to a jump start”
- e. That the Stewards erred in their interpretation and application of the rules applicable to starting the race and to overtaking and passing

The Appellant contends, in essence, that the Panel should set aside the Decision and that no time-penalty sanction should be pronounced against the Appellant’s car No. 32.

- 1) A reversal of the penalties applied to Car#32, including public withdrawal of the warning for injudicious driving
- 2) A warning issued to car #24 contravention of rule 1.2B of the 2016 JMMC Safety Regulation.
- 3) A withdrawal of the statement: “*there is no evidence that an incident of similar ilk has ever occurred in Jamaica.*”
- 4) That consideration should be given to the role of the Clerk of the Course relevant to the running of the day’s events; if early acceleration and subsequent flag signal from the Starter was not the CoC’s intended result, the CoC should have taken corrective measures throughout the day to avert such early acceleration.
- 5) That consideration be given to the fact that the Starter also bears some responsibility, in that his Starts were inconsistent, both in regard to formation and actual position of cars on the track, when the signal was given in all races.
- 6) If early acceleration is seen as a problem, the “pole” car #404 bears some responsibility relative to the incident; in that car #404 initiated the early acceleration. The role of car #404 should be reviewed for possible action by the panel.
- 7) That the event Stewards also bear some responsibility, in that fully fourteen (14) races were allowed to proceed with early acceleration before the starting signal, prior to CMRC Group 4 Race 3. The Stewards should have taken corrective action



if this behavior was deemed a problem. The role of the event Stewards should also be reviewed.

The Appellant produced during the hearing videos purported to be original hi-resolution versions of those previously submitted by the JMMC. The JMMC CS rep, which was given the time during the hearing to study this new document, accepted that it be added to the file of the case.

### **ADMISSIBILITY OF THE APPEAL BEFORE THE CSAP**

The Decision was issued on 3 June 2017 and was notified to the Appellant on 3 June 2017, which in return immediately declared its intention to appeal against the Decision. The Appellant lodged the appeal to the JMMC within the deadline applicable to appeals against decisions of the Stewards. The appeal deposit was also paid in due course. Considering the above, the Panel finds the appeal admissible, which is undisputed.

### **ON THE SUBSTANCE**

#### *a) Submissions of the Appellant*

The Appellant puts forward, in essence, that:

- i. The pole sitter, who has control of the start, accelerated early and this, resulted in all other cars participating in the event to accelerate. Failure to accelerate at that point would be irresponsible.
- ii. Whereas the 2016 JMMC General Regulations Article 6.3.3 referenced by the Stewards does state partially: "the race shall not be considered to have started until the Automobiles pass the Start Line" we note that this is in conflict with JMMC General Regulations Article 6.1.2 A "Competitor shall be deemed to have started at the moment of the Start regardless of which method is used. Under no circumstances whatsoever shall this signal be repeated." which states that the moment of the Start is indicated by a Signal and not a line. We infer this signal to be the waving of the flag by the official Starter, and this signal is also referenced in Article 6.3.3. We believe that it is event timing, also referenced in Article 6.3.3, that is relevant to the Start Line.
- iii. In respect of Article 6.3.3. there was no defined start line in use at the event. The direction from the COC was that racing starts on the flag. It is the responsibility of the pole sitter to accelerate once the flag is shown. In the races leading up to the incident, the pole sitter had consistently accelerated early and the flag was given in each case. In the particular race, the pole sitter again accelerated early and the flag was ultimately given. It suggests that car#32 would not be unreasonable to consider the race started at the point of acceleration.
- iv. The starter did in fact give green flag racing, using the Jamaican flag, before the accident occurred. This is supported by race footage.
- v. Car #32 did not accelerate unevenly but consistently, resulting in said car passing car



#24 and pulling up alongside car #404 in the wide space between both cars.

- vi. Car #24 started the race in second grid formation, although it was not perfectly in line with markings on the track to delineate that position. From the moment of acceleration to the moment of impact, car #24 veered to the right which can be factually established by a review of frame by frame analysis of race footage which shows the position of car #24 in relation to several markings on the track.
- vii. Car #32 is not responsible for the safe completion of the pass if car #24 was steering to the right and boxing car #32 in with car #404 on its right and with accelerating cars behind. Conversely, car #24 had open track available to its left to avoid a collision or impact.
- viii. There is no contravention of the spirit or letter of the law for a driver to start a race and attempt to pass an opponent. Passing or overtaking can be done on the right or left and there is no reason why once there is sufficient space, a driver shouldn't take that opportunity.
- ix. The Stewards reliance on the Start Line as the basis of their conclusion of a false start they attribute to car #32 is incorrect. Article 6.6.1.d is not applicable in this instance since there was no false start and consequently car #32 did not break formation.
- x. Further car #32 did not accelerate early but rather following on the acceleration and start of the race by the pole sitter.
- xi. The Stewards did not have regard to Section 1.2 B of 2016 JMMC Safety Regulation, Code of Driving Conduct on Circuits and Flag Signals as it relates to car #24's maneuver to deliberately crowd car #32 and hinder its ability to safely complete the pass

*b) Conclusions of the Panel*

- 1) The Panel found that the Starter's flag had fallen, signaling the start of the race. This was clear from the better quality of the video presented by the Appellant. As a result, car #32 could break formation.
- 2) The Panel considered that the ten (10) second penalty imposed on car #32 has been spent as there was no information whether this penalty had been imposed and several races had occurred since its imposition.
- 3) The panel considered the application of the time penalty as per Article 6.6.1d - *A false Start occurs when a Competitor - accelerates early or unevenly during a rolling Start or fails to maintain the prescribed formation (all as described in the relevant sporting or Supplementary Regulations, or as specified by the race director or clerk of the Course). Or consequently under Article 6.6.2 Any false Start shall be deemed to be a breach of these rules.*



The Panel concedes it is the responsibility of the Stewards to assess what sanction is appropriate and that the Panel should review a sanction only when it has no regulatory basis and/or when it is obviously disproportionate. As a consequence, the Panel finds that there is no reason to uphold the sanction pronounced against the Appellant's car # 32.

- 4) The Panel considered that the overtaking attempt by car #32 was ill-advised. The two cars at the front of the grid (#s 24 and 404) were drifting closer together towards the centre of the track and there was insufficient space to safely execute the manoeuvre. The video footage shows that car number #32 swerved from car #404 to avoid a collision and that there was then no space between cars #24 and #404.

It is the duty of the overtaking driver to ensure that the overtaking can be done safely and effectively. Consequently, the Panel upholds the warning for injudicious driving

- 5) Under Item #2 of the relief sought, the Panel found that car #24 did not veer into the path of car #32. The panel found that both car #404 and car #24 drifted toward the centre of the track.
- 6) The Panel supports the withdrawal of the statement - *there is no evidence that an incident of similar ilk has ever occurred in Jamaica.*” In item #3 of the relief sought by the Appellant.
- 7) The panel considers that Items #4 and 5 of the relief sought have already been addressed in the JMMC Steward's Report Form dated 20th May, 2017 and the Panel wishes to emphasize that there must be clarity and consistency in signals and procedures which drivers are expected to follow, and that drivers are to be made aware of these.
- 8) In respect of item #6 of the relief sought, the Panel found that there was no early acceleration by car #404 prior to the flag being waved by the Starter.
- 9) The Panel did not consider that it was the duty of the Stewards to address the relief sought in item #7.

## **ON THESE GROUNDS,**

### **THE JMMC CS APPEAL PANEL:**

- 1. Declares the appeal admissible;**
- 2. Upholds the decision of the Stewards of the JRDC Caribbean Invasion 2017 counting towards the 2017 Caribbean Motor Racing Championship (CMRC) to issue a warning for injudicious driving on Car #32**
- 3. Recommends the withdrawal of the statement – “*there is no evidence that an incident of similar ilk has ever occurred in Jamaica*” as stated in the Stewards Report.**



- 4. Dismisses the prescribed 10-second time penalty on the basis of article 6.6.1d of the 2016 JMMC General Regulations (the “Sporting Regulations”) as it is deemed not applicable.**
- 5. Orders the sporting authority to draw the consequences of the present decision;**
- 6. Rejects all other and further conclusions.**

**Kingston, 21 June 2018**