

# DAVID H. SUMMERBELL

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August 3, 2018

By Email

Jamaica Millennium Motoring Club  
6 Westminister Road  
Kingston 10

Attention: Ms. Marcia Dawes – Competition Sub-Committee

**Re: Objection to the decision of JMMC CS dated 30<sup>th</sup> July, 2018**

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With all due respect, the contents of your letter dated 3<sup>rd</sup> August, 2018, are absurd.

The JMMC General Rules 2016 permit me as a competitor to appeal against a penalty imposed by Stewards and prescribes guidelines for processing that appeal under Part 12. The role of the appeal panel is to address the appeal raised by the competitor, and in so doing it is given express authority to either waive the decision appealed against, mitigate or increase the penalty as provided by Article 12.5.1. which is set out below:

**“12.5.1 The National Court of Appeal may decide that the decision appealed against should be waived, and if necessary the penalty mitigated or increased, but it shall not be empowered to order any Competition to be re-run.”**

It does not however state nor can it be interpreted to mean, that the Appeal Panel has authority to order the JMMC CS to determine the appropriate penalty commiserate with the finding of the Appeal Panel. The Appeal Panel is responsible for making a ruling, which extends as stated above to mitigating or increasing a penalty. It cannot divest its authority to determine an aspect of the appeal, that is any decision regarding penalties relevant to the appeal, to some other authority which you have indicated as the JMMC CS.

I highly doubt that the rules, having clearly set out the need to nominate members of the appeal panel and expressly stating who is eligible to sit on same, then setting out a process for a hearing before that panel, and a timeframe for that panel to render its decision, would then contemplate that panel passing the responsibility for making a determination as to penalty to some other “authority” which is not provided for by the rules. Why should we have bothered to convene an impartial panel, have a hearing and await findings from the panel, if they can simply “order” that an integral part of their role and responsibility should be done by some other group of people?

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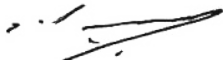
In respect of time, the Appeal Panel, not the JMMC is required to give its decision in 30 days. That was done. It affirmed the warning, dismissed the time penalty and withdrew a comment from the Stewards report. Whether it purported to direct the JMMC to “draw the consequences of its decision” is irrelevant because part 12 does not give the panel any right to pass that authority to JMMC CS. Nor does the JMMC CS have any authority under part 12. If that was the case it would completely undermine the whole point of empanelling an Appeal Panel in the first place.

It is only logical that the JMMC CS’s role and responsibility is limited to giving effect to the decision made by the panel. That is, issuing a warning/reprimand.

For the record, a reprimand does not “correspond” with a fine which is a separate and distinct penalty of its own, and importantly subject to its own particular rules under Article 10.4.

This convoluted effort by JMMC to justify the imposition of a new penalty which was not recommended at first instance by the Stewards, nor recommended by the Appeal Panel after the hearing, is unfortunate and disappointing. I consider that there is no factual basis for its imposition, and no power of JMMC CS to impose it.

Sincerely,



David H. Summerbell  
JMMC Licence #087