

**THE JAMAICA MILLENNIUM MOTORING CLUB**

**THE JAMAICA KARTING ASSOCIATION**

IN THE MATTER of an Appeal regarding the dismissal of a protest filed by Andrew Upstone following a meeting of the Association held on 24<sup>th</sup> November 2024.

BEFORE: NORMAN MINOTT, Judge of Appeal  
CHRISTOPHER ELLIOTT, Judge of Appeal  
IBRAHIM KHAN, Judge of Appeal

BETWEEN	ANDREW UPSTONE, for EDWARD UPSTONE, a minor	APPELLANT
AND	MARCIA DAWES, Chief Steward	FIRST RESPONDENT
AND	GORDON McDOWELL, Steward	SECOND RESPONDENT
AND	NICK DONALD, Steward	THIRD RESPONDENT

WRITTEN SUBMISSION (attached) submitted by Dabdoub, Dabdoub & Company for the Appellant.

Heard on the 27<sup>th</sup> of December, 2024 and the 25<sup>th</sup> of January, 2025 at 21 East Street in the city and parish of Kingston.

Mr. Jalil Dabdoub appeared on behalf of the Appellant. The Stewards, the other party to the appeal, were unrepresented.

## **MINOTT, N.**

- [1] Mr. Andrew Upstone, the Appellant and the father of Edward Upstone, is in this Appeal seeking to set aside the decision of the Stewards to reject a protest lodged by the Appellant on behalf of the Competitor.
- [2] The incident, referred to as “Incident 1” in the written submissions attached, occurred on the pit straight of the Palisadoes race track during lap two of Race 3 of the Jamaica Karting Association’s (JKA’s) Race Meet No. 10, held on the 24<sup>th</sup> of November, 2024.
- [3] The incident was captured and recorded on the JKA’s cameras mounted on a “Christmas Tree” in the middle of the said straight pointing east and west respectively. Consequently, one half of the straight was captured on one camera and the other half on another camera. One camera showed the karts approaching the camera and the other showed the karts leaving the camera. Footage of the incident was also captured on a hand-held device by the Appellant. All of the said footage was accepted, viewed and reviewed by the Panel. The Appellant and the Respondents accepted the footage which was viewed by all present at the Appeal at the same time, save when the Panel subsequently reviewed the footage on their own.
- [4] It is an agreed fact that the right rear wheel of Kart No. 9 driven by Zander Williams collided with the left side of Kart No. 6 driven by Edward Upstone. The circumstances of that collision is at the heart of this Appeal.
- [5] As a result of the collision, Kart No. 6 left the track and ultimately finished the race in last position.
- [6] Following the race the Appellant lodged a Protest with the Stewards of the meet, which was rejected on the basis that the evidence presented was insufficient to support the Protest. The Appellant subsequently filed an Appeal of the Stewards’ decision on the basis that:
1. The Stewards failed to consider critical third-party video footage of the incident. This was the footage taken by the Appellant.
  2. The Stewards failed to properly evaluate the JKA camera footage.

3. The Stewards failed to summon the two drivers involved in the incident.

[7] Mr. Dabdoub, in presenting the case of the Appellant, referred to a second incident, Incident 2, which related to the “zig-zag” manner in which the driver of Kart No. 9 maneuvered his kart in other races which had an impact on the number of points that Zander Williams was able to accumulate during the meet. The Panel rejected these submissions as not being relevant to the incident, which was the subject of the Appeal, that is Incident 1.

[8] Mr. Dabdoub relied on the footage provided and in particular, that from the Appellant’s phone, to support his submission that Kart No. 9 “by deliberate action or reckless conduct, turned his steering wheel to the right” thereby causing the collision with Kart No. 6. He quoted in support, inter alia, Article 4.3.2 (a) – Overtaking:

**“a. During a race, a kart alone on the track may use the full width of the said track. However, as soon as it is caught up by a kart which is either temporarily or constantly faster, the driver is not allowed to swing from one side to the other or make a move sideways in order to prevent a legal overtaking maneuver when the other Competitor is already by his side. He shall give the other kart the right of way in order to allow for passing.”**

On this basis, inter alia, he submitted that the Stewards’ decision should be overturned. The intent of his submissions was that the driver of Kart No. 9 Zander Williams should not be awarded points for winning the race during which Incident No. 1 occurred.

[9] The Panel heard as well from Marcia Dawes, the Chief Stewart, who confirmed that no witnesses were called but that the relevant JKA footage was examined. Having done so, they concluded that there was no basis for penalizing the driver of Kart No. 9.

[10] The Panel, having heard the submissions and viewed all footage presented including that taken by the Appellant, deliberated at length. They examined all the JKA rules referred to above, as well as the FIA sporting regulations. They found the footage helpful and amply showed what transpired in Incident 1. Accordingly, there was no need to hear from witnesses Zachary Lee and Collin Daley who were in a waiting

room. Having done so, they were satisfied that the sequence of events in Incident 1 was as follows:

- a) Kart No. 9 entered the front straight in the lead, ahead of and closely followed by Kart No. 6. Both Karts travelled left of the centre line of the track initially.
- b) Kart No. 6 overtook Kart No. 9 having pulled to the right of the slipstream of Kart 9, sufficiently to clear the rear of Kart 9 and thereafter assumed a trajectory straddling the centre line of the track, with the result that both Karts were in close proximity to each other, Kart No. 9 nearest to the left side of the track and Kart 6 straddling the centre line of the track. The right side of the track remained vacant even after the Karts passed the “Christmas Tree” with the cameras.
- c) The footage shows that Kart 9 proceeded in a straight line from the beginning of the straight to the point of the collision, gradually moving in the direction of the centre line of the track. The distance between the two Karts gradually diminished as Kart 6 straddled the track’s centre line after executing the overtaking maneuver. The right rear wheel of Kart No. 9 and the left side of Kart No. 6 eventually collided. The Appellants footage shows that at the point of impact the drivers of both karts lost control of their Karts, the driver of Kart No. 9 turning the wheel to the right, it would appear in order to control the effect of the impact and the driver of Kart No. 6 sliding off into the barrier. We reject the submission by Mr. Dabdoub that the driver of Kart No. 9 deliberately or negligently turned the wheel of the kart prior to the collision thereby causing the collision. That is not what the footage shows. The turning of the wheel was a reaction to the collision not the cause thereof.

[11] We wish to pay special attention to Article 4.3.2 (a) of the JKA rules on which Mr. Dabdoub placed great reliance. In our view, he has misinterpreted that Article by failing to read the words “he shall give the other kart the right of way in order to allow for passing” in the context of the rest of the Article. That passage, placed in context, speaks to a driver who changes course or “makes a move sideways” in order to prevent a legal overtaking maneuver. From our review of the footage, we are satisfied that the driver of Kart No. 9 never changed course in order to prevent being overtaken. He held one straight course from before he was overtaken to the time of the collision. There was, from our observation, no intent on his part at any time to prevent being overtaken or to cause a collision.

[12] We are equally satisfied that the driver of Kart No. 6 never intended to cause a collision and in this regard we reject such a finding by the Stewards. Incident 1 could have been avoided if the driver of Kart No. 6 had left the Kart he was overtaking sufficient racing room. He had available to him the entire vacant right half of the track. Instead, having had the benefit of detecting the trajectory of Kart No. 9 (gradually moving to the right) from before he executed the overtaking maneuver and whilst he was alongside Kart No. 9, he elected to steer a course which was not parallel to or away from that of Kart No. 9, with the inevitable result of a collision. We repeat, in our view, this was not done deliberately, in order to cause a collision, but the incident could have been avoided if he had, in turn, left enough racing room having not yet completed the overtake maneuver.

[13] We do not wish to attach blame for the collision to either of the two competitors. In our view the collision was a racing incident and there is no basis for penalizing either of the competitors.

[14] For these reasons:

- 1) the Andrew Upstone appeal is rejected.
- 2) The Final Classification of the race results are as the Stewards have declared.
- 3) The JMMC will be advised to note the consequence of this ruling.
- 4) This Panel rejects all other and further conclusions.

NORMAN MINOTT  
Judge of Appeal  
For Ibrahim Khan & Christopher Elliott, Judges of  
Appeal.