

COURT OF APPEALS

JUDGEMENT OF THE COURT OF APPEALS Quyên Tong vs. SOM COA Ref. No. 21-02-SW March 18, 2021

FACTS IN BRIEF

Following the Sunday, January 17, 2021, Group 6 Texas Region Polar Prix Race at MotorSport Ranch Cresson, Art Tapley, Chief Steward, filed a Request for Action (RFA) for investigation and determination of fault related to contact between Quyên Tong, Spec Miata (SM) #16, Travis Wiley, SM #28, and Logan Stretch, SM #98, during the last lap of the race.

The Stewards of the Meeting (SOM) Rick Kosdrosky, Larry Svaton, and Cathy Barnard (Chairman) met via Zoom several days after the event to hear and rule on the RFA. The SOM interviewed witnesses, reviewed witness statements, viewed video, and concluded the three drivers shared equal responsibility for the contact. The SOM found each violated General Competition Rules (GCR) 6.11.1.A., B., C., and D. (Rules of the Road) by not allowing each other racing room. Mr. Wiley, Mr. Tong, and Mr. Stretch were penalized with Probation for one race weekend for the last lap contact. The SOM found Mr. Tong also violated GCR 6.11.1.A. (Avoid contact) for contact with SM #98 several laps earlier in the race. Mr. Tong was placed on probation for one additional race weekend for the earlier contact. Three penalty points were assessed on each driver's competition license.

Mr. Tong appealed the decision regarding the earlier contact with SM #98.

DATE OF THE COURT

The SCCA Court of Appeals (COA) Tom Campbell, Pat McCammon, and Laurie Sheppard (Chairman) met on March 11, 2021, to review, hear, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Appeal Request Confirmation, received February 8, 2021.
2. Appeal letter from Quyên Tong, received March 5, 2021.
3. Official Observer's Report and related documents, received March 5, 2021.
4. Video clip from SM #98, received March 5, 2021.
5. Supplemental witness statement from Travis Wiley, received March 5, 2021.

FINDINGS

Mr. Tong's appeal focused solely on the SOM's ruling of "violation of 6.11.1.A. for the contact between [himself] and #98 (Logan Stretch) that occurred several laps before the end of the race." Mr. Tong stated he had a single interview with the SOM for the purpose of reviewing the contact in the last corner on the last lap of the race. He further stated, "The incident in which I am currently appealing was not a topic of discussion during my meeting." Mr. Tong acknowledged the contact with SM #98 did occur. He described a post-race discussion with Mr. Stretch regarding the events that occurred in a section of the track known as Rattlesnake. The contact, as well as the discussion, were witnessed by Mr. Wiley, who provided a witness statement accompanying the appeal.

The COA reviewed Mr. Tong's appeal submission, the RFA and associated witness statements and documents, and Mr. Stretch's brief in-car video clip of the incident. The COA notes none of the witness statements submitted with the Observer's Report mention the contact earlier in the race. Mr. Wiley, in his subsequent statement, described both what he saw and heard on the track and later in post-race impound. He states Mr. Tong was behind Mr. Stretch as they were "going into Rattlesnake." He goes on to say, "I heard Logan drop it into 5th not 3rd and then his tail lights came on..."

Mr. Stretch's in-car video clip labeled "logan first incident.mov" begins on the approach to a right-hand turn. Mr. Wiley (SM #28) is seen to the left and slightly ahead of Mr. Stretch. Five seconds into the video, SM #28 has dropped back out of camera view. Mr. Stretch reaches over to the gearshift and appears to fumble a bit before pushing it forward into gear. His hand goes back to the steering wheel but a few video frames later, returns to the gearshift. The contact in the rear occurs while his hand is on the gearshift the second time.

The COA concludes from the witness testimony and video evidence that Mr. Stretch unexpectedly slowed more than anticipated approaching the turn while he attempted to engage third gear. With SM #28 to his left, Mr. Tong had nowhere to go and contacted SM #98 in the rear.

The COA finds the contact by Mr. Tong was unavoidable and nullifies the SOM's decision to penalize Mr. Tong for violation of GCR 6.11.1.A. for this incident. The COA makes no judgement on the penalty of probation for one race weekend for Mr. Tong's involvement in the last lap incident as that portion of the SOM's decision is outside the scope of the appeal. There is no change to the points assigned to Mr. Tong's competition record.

DECISION

The COA overturns the SOM decision only for a single violation of 6.11.1.A. The COA modifies Mr. Tong's penalty to remove probation for one race weekend. Mr. Tong's

appeal is well founded and his appeal fee, less the administrative portion retained by SCCA, will be returned.