BEFORE THE SPORTS TRIBUNAL
OF NEW ZEALAND **ST 17/26**

BETWEEN	**X**
	Appellant
AND	**MOTORCYCLING NEW ZEALAND**
	Respondent

DECISION OF SPORTS TRIBUNAL
12 November 2026

Hearing	16 October 2026 – by Microsoft Teams
Present	Father X, father (of X) and representative for Appellant Justin Fredrickson and Benjamin Smith, counsel for Respondent Vicky Hicks, Operations Manager for Respondent
Tribunal	John Macdonald (Chair) Dame Susan Devoy Dan Buckingham MNZM
Registrar	Luke Macris

This is a second appeal against a decision of a Judiciary Committee of Motorcycling New Zealand (MNZ), arising from an incident at a race at the New Zealand Junior Motocross Championships held at Pukekohe in April 2025. The two competitors involved, X (the Appellant) and Y, were both minors.

1. The Sports Tribunal's decision on the first appeal is set out at *X v Motorcycling NZ (No. 1).*[1]

Background

2. At the final bend, a short distance from the finishing line, the leading rider (X) was overtaken by (Y). X alleged that Y caused interference during that manoeuvre, which resulted in Y winning the race by a margin of 17 seconds. The overtaking manoeuvre was captured on video.

3. The Appellant's father (with his son's support) lodged a protest on the basis that his son had been in the inside rut on the corner when Y wheelied onto him causing him to crash. However, after viewing video footage, the Protest Committee disallowed the protest. It found that r. 6.10 of the *Manual of Motorcycle Sport – Off Road* (MOMS) had not been broken and that it was a racing incident, rather than an unsafe passing manoeuvre.

4. Dissatisfied with that outcome the Appellant appealed to an MNZ Judiciary Committee under r.7.3.2(a), claiming that there had been contact caused by Y during the overtaking, which constituted "interference" and "foul or unfair riding" under MOMS r.6.10.

5. On 13 May 2025, the Judiciary Committee dismissed the appeal, upholding the Protest Committee's finding that Y had overtaken X without any contact being made, and that the manoeuvre was a racing incident that had not caused sufficient interference to find Y guilty of "foul or unfair riding".

6. The Appellant then appealed to the Sports Tribunal (the Tribunal).[2] On 21 November 2025, the Tribunal upheld the appeal for breaches of natural justice relating to the Appellant not being fairly afforded the opportunity to call witnesses at the hearing before the Judicial Committee – one of whom was an independent witness who claimed to have seen contact between the two riders. The Tribunal referred the matter back to MNZ for rehearing before a differently constituted Judiciary Committee,

[1] *X v Motorcycling NZ (No. 1),* ST05/25, 21 November 2025.
[2] Ibid.

providing directions and guidance as to the procedure to be adopted and the correct interpretation of MOMS r. 6.10.[3]

7. On 17 August 2026, which was almost nine months later, the second Judiciary Committee, having conducted a rehearing, issued its decision. The Committee was not satisfied that any physical contact had occurred while Y was completing the overtaking manoeuvre, but nonetheless it found that Y had caused interference to X in breach of MOMS r. 6.10. and it imposed a 10 second time penalty.

8. The Committee explained its position on penalty at paras. 30 and 31 of its decision:

> 30. In determining the appropriate penalty, the Committee took into account:
>
> a. that no factual evidence established physical contact
>
> b. that a degree of careless riding contributed to the interference
>
> c. that the incident occurred during close racing in difficult track conditions
>
> d. that another rider was immediately beside the incident, contributing to the restricted racing environment
>
> e. that there was no finding of deliberate, reckless, or dangerous riding
>
> 31. Taking all these matters into account, the Committee considers that a 10-second time penalty is the most appropriate and proportionate penalty in the circumstances.

9. On 28 August 2026, the Appellant filed this second appeal to the Tribunal because although successful in persuading the Judiciary Committee that Y had caused interference when overtaking, the 10 second time penalty it imposed was of no effect on Y or the race result.

10. The other competitor (Y), who was joined as an Interested Party in the first appeal to the Tribunal, was again invited to participate as an Interested Party in this second appeal but declined the invitation.

Standing to bring the appeal

11. Mr Fredrickson, counsel for MNZ, questioned whether the Appellant had standing to bring the appeal. He submitted that a proper reading of MOMS r. 7.5.2(d) which provides a right of appeal on the ground that a penalty is either "excessive" or "inappropriate" is limited to only those riders who were penalised or, while possible but unlikely, other riders who wanted less severe or no penalties for other riders. He also pointed to there being no reference under that rule to an appeal right seeking a harsher penalty using antonyms such as inadequate, insufficient or unreasonable. He submits that the Appellant is seeking to use this ground of appeal as a vehicle to obtain a

[3] *X v Motorcycling NZ,* ST05/25, 21 November 2025, at paras. [85]-[88] and [75] respectively.

harsher penalty, rather than demonstrate that the time penalty imposed was not reasonably open to the Judiciary Committee.

12. In our view Mr Fredrickson's argument on the issue of standing appears to ignore MOMS r.7.5.1, which states: "Any person or body affected by any decision of the Judiciary Committee may appeal to the Sports Tribunal ...".

13. Plainly X was affected by the decision of the Judiciary Committee, and he therefore has the necessary standing to appeal to the Tribunal. He has the same right as Y (the competitor penalised) to appeal against a penalty that is excessive or inappropriate.

14. As to what penalty might properly qualify as being inappropriate, we consider in the context of this appeal that it could capture a penalty that is too lenient, as in being outside the range of penalties available to the decision maker, or one that departs from a consistently applied penalty practice.

Grounds of Appeal

15. The grounds of this second appeal and issues to be determined are whether:

    a. natural justice was denied;

    b. the Judiciary Committee acted outside its powers and/or jurisdiction; and

    c. the penalty imposed was either excessive or inappropriate.

Analysis

First ground: Denial of Natural Justice

16. For the Appellant it is submitted that natural justice was denied because the Judiciary Committee approached its task with a pre-determined outcome in mind, of not changing the race result.

17. Four arguments were raised in support of that submission, with the first three being that: the number 1 plate number should not have been allocated to rider Y for a race in April 2026; the Committee considered the racing conditions during the hearing without prior notice to the Appellant; and that the independent eye-witness evidence of Daniel Spencer was not accepted.

18. Substantially for the reasons advanced by Mr Fredrickson, we find no merit in the Appellant's first three arguments. The first two are either irrelevant or of little consequence, while questions as to what evidence to accept or reject were factual issues and entirely for the Judiciary Committee to determine.

19. As to the fourth argument, the Appellant challenged the imposition of a 10 second time penalty for a breach of MOMS r. 6.10, as it was of no consequence to the race result. It was further argued that it ignores not only the penalty that must be imposed under MOMS r. 6.10, but also MNZ's previous practice when imposing penalties at Junior National Motocross events.

Approach to MOMS r. 6.10

20. MOMS r.6.10 states:

> 6.10 When overtaking, the onus is on the overtaking competitor to overtake without causing interference to the overtaken competitor. Any competitor guilty of foul or unfair riding shall be excluded, suspended, disqualified or otherwise punished.

21. Mr Fredrickson submits that MOMS r. 6.10 creates two separate offences, each of which can be penalised, namely:

a. causing interference when overtaking another competitor; and

b. foul or unfair riding.

22. Mr Fredrickson further submits that the Judiciary Committee correctly applied that approach and, having found that Y caused interference when overtaking X, it imposed a time penalty, being was one of the penalties available to it under MOMS r.7.4.2.

23. However, from our reading of the Judiciary Committee's decision, we are not convinced that is necessarily the approach it took. There is certainly no explicit statement to that effect, although it is conceded that neither is there any mention of "foul or unfair riding".

24. We also note that the interpretation promoted by Mr Fredrickson, is plainly at odds with the view adopted both by the first Judiciary Committee in its decision of 13 May 2025, and by the Tribunal that dealt with the first appeal. The Tribunal in its decision commented on the approach the first Judiciary Committee had taken with respect to MOMS r. 6.10 and said at para. [75]:

> 75. It clearly did consider the issue of "interference" under MOMS r. 6.10, finding that any "interference" that might be said to have occurred as a result of the passing manoeuvre was insufficient to amount to foul or unfair riding. Foul or unfair riding was always the substantial issue under MOMS r.6.10 – no penalty could be imposed under the clause without a finding that foul or unfair riding had occurred.

25. As to the correct interpretation of MOMS r. 6.10 our view aligns with that of the first Judiciary Committee and the earlier Tribunal decision. The rule creates a single offence of causing interference when overtaking another competitor, which can only be penalised if the interference constitutes foul or unfair riding. This interpretation is supported by the interplay of the two sentences of the rule itself, with MOMS r. 6.10

being a standalone provision which provides for its own specific set of penalties for a rider causing interference when overtaking another competitor.

26. Although uncertainty remains as to the Judiciary Committee's approach to MOMS r. 6.10, on balance we infer that it followed the correct approach. That would be consistent with the approach adopted by both the first Judiciary Committee and the Tribunal that dealt with the first appeal. We assume, of course, that the Judiciary Committee would have read the Tribunal's decision.

27. Having found that Y had caused interference, which meant it was no longer a racing incident, we infer that the Judiciary Committee must have found that it was either foul or unfair riding. However, given that it recorded in its decision that there was a degree of careless riding, but no finding of deliberate, reckless or dangerous riding, we took that as an indication that it did not regard the interference to be in the most serious category by any means. We acknowledge that the Judiciary Committee, as experts in the sport of motorcycling, clearly understood the distinctions between causing interference, a racing incident, and foul or unfair riding.

28. On the first ground of appeal, we are not persuaded that there has been a denial of natural justice on any procedural aspects, as claimed by the Appellant, while the matters advanced in relation to MOMS r. 6.10 appear to properly fall under the other two grounds of appeal.

Second & third grounds: Acting outside powers and inappropriate penalty

29. We will deal with these two grounds together as they do go hand in hand. In essence, the argument for the Appellant is that by imposing a 10 second time penalty, the Judiciary Committee imposed an inappropriate penalty, being one that was not properly open to it, based on a correct interpretation of MOMS r. 6.10. It was also an inappropriate penalty as it departed from a well-settled practice in the sport of motocross, in relation to the imposition of infringements or sanctions.

30. As a preliminary observation, it is unfortunate that the Judiciary Committee did not provide reasons as to why it chose a 10 second time penalty, and why it chose not to exclude, suspend or disqualify, which were the first options they were obliged to consider under MOMS r. 6.10. As for the obligation to provide reasons, that is set out in MOMS r. 7.6.10(c) and was mentioned in the Tribunal's earlier decision. Had reasons been provided on the penalty issues just mentioned, it might have avoided claims of pre-determination.

31. For the Appellant it was argued that published guidance available on the MNZ website meant that the Judiciary Committee had to exclude Y where it found he had breached MOMS r. 6.10 for foul or unfair riding. That guidance stated:

> **Foul or Dangerous Riding**
>
> The Steward or Clerk of Course of the meeting will exclude any competitor who in their opinion is guilty of any foul, unfair or dangerous conduct. The Steward may also declare the race void if, in their opinion, an offending rider jeopardised the fair chances of one or more of the other riders.

32. Having assessed that argument we take the view that the MOMS rules must take precedence and if there is an inconsistency, as appears to be the case here, the rules will prevail.

33. Mr Fredrickson referred the Tribunal to MOMS r. 7.4.2, which lists the penalties a Judiciary Committee can impose. A time penalty appears at r. 7.4.2(j) as one of the penalty options. That is not at issue, but what is at issue is whether a 10 second time penalty was, in the circumstances of this case, an available penalty under MOMS r. 6.10.

34. As previously quoted, the second sentence of MOMS r. 6.10 states that, "Any Competitor guilty of foul or unfair riding shall be excluded, suspended, disqualified or otherwise punished". Exclusion, suspension and disqualification are each straightforward penalties and readily understood, but what is the meaning of "or otherwise punished"?

35. The phrase must be viewed in its proper context and linked to the three preceding penalties of exclusion, suspension and disqualification. The use of the word "punished" as opposed to "penalised" might also give some indication as to what was intended.

36. In interpreting what "or otherwise punished" means and the penalties it might encompass, we consider that the *ejusdem generis* rule comes into play and helps. The effect of that rule is that the penalties that could be imposed under MOMS r. 6.10 would be limited to those coming within the same general category as the three specific penalties mentioned in the same sentence, being exclusion, suspension or disqualification. In other words, they must be comparable in severity or effect as the penalties of exclusion, suspension or disqualification. Each of those penalties, of course, would have the severe consequence of removal from the race, which would extinguish any advantage gained by the overtaking rider.

37. Clearly the 10 second time penalty imposed on Y is in no way comparable to exclusion, suspension or disqualification. Indeed, while the penalty reduced Y's winning margin

by 10 seconds, he still retained his first placing. In practical terms the penalty had no impact on Y or on the race result and it could hardly be described as a punishment.

38. Viewed in that way, we conclude that the 10 second time penalty that the Judiciary Committee imposed was not one that was available to it under MOMS r.6.10 and therefore it acted outside its powers.

Infringement notices or sanctions

39. Prior to the hearing of this appeal, and in response to a request from the Appellant, the Chair requested MNZ to provide details of all previous infringement notices and sanctions imposed for causing interference when overtaking under MOMS r. 6.10. This was from 1 January 2024. It transpired that no previous infringement notices or sanctions had been imposed under that rule.

40. However, in the interests of candour, MNZ did provide details of all infringement notices and penalties issued under the MOMS rules since 1 January 2024, against all age ranges (in redacted format to protect personal information) and race events (off-road versus road events).

41. As to the relevance of that material, Mr Fredrickson submitted that it demonstrated that 10 second time penalties were a common and recognised feature of the MNZ disciplinary and competition framework. It also illustrated that a 10 second time penalty was neither irrational, arbitrary, extraordinary nor outside the range of sanctions reasonably available to the Judiciary Committee.

42. The Appellant took a contrary view, it being maintained that the infringement notices provided clear evidence that time penalties are not used in the sport of “Off-Road” motocross, but they are in “Road” events. It also showed a consistent pattern or established practice in the off-road events of relegations being imposed for minor on track infringements, such as missing a peg marker. The Appellant also pointed to the fact that time penalties are only applied for minor infringements in “Road” – the other sub-category of the sport.

43. Having analysed the material ourselves, we could not find any offence in the summary of infringements for “Off-Road” motocross, which resulted in a time penalty. That supports the Appellant’s argument that relegation is the established practice for penalties in motocross, and it also supports a conclusion that the penalty for foul or unfair riding in the present case should have been one of relegation.

44. On the second and third grounds of appeal we are satisfied that the Judiciary Committee acted outside its powers in imposing a 10 second time penalty as such a

penalty was not an available option under MOMS r. 6.10, given that it was not in any way comparable to the other penalties specified under the rule, namely exclusion, suspension and disqualification.

45. We are also satisfied on the evidence presented to the Tribunal by MNZ, that in the sport of motocross the appropriate penalty was one of relegation.

Disposition

46. Under Tribunal Rule 58(a), the Tribunal has the power to make any decision that the body appealed from was capable of making on the original application. Generally, such a step would only be taken if there was insufficient time to refer the matter back to the sport involved to make a fresh decision. That is not the position here but given the length of time this matter has taken to be resolved and the fact that the dispute involves two young athletes, we think it is in the best interests of all parties that the matter is finalised without any further delay.

47. For those reasons we have decided to determine the issue of penalty, based on the factual findings already made by the Judiciary Committee.

48. The Judiciary Committee found that Y caused interference while overtaking. We have inferred that the Committee considered it to be foul or unfair riding, but it was not in the most serious category by any means. Nonetheless, given that it occurred on the final bend of the race and a short distance from the finishing line, it is an inescapable conclusion that the interference placed X at a disadvantage and must have had some bearing on the final placings. We also have regard to what appears to be the established practice for penalties in motocross, of imposing a penalty of relegation.

49. The Appellant argued that a two-place relegation was the ordinary practice for missing a peg marker. Even though the evidence presented by MNZ supported relegation, the infringement notice evidence merely indicates “relegation” and does not provide further detail as to the number of relegation places.

50. Taking the Judiciary Committee’s finding that the unfair riding was of minor severity, we consider relegation to be appropriate in the circumstances given the requirement of MOMS r. 6.10.

51. We therefore conclude that relegation by a single placing is all that is required to meet the penalty provisions of MOMS r. 6.10.

52. However, MNZ should ensure that, if a two-place relegation practice is indeed the minimum starting point within the sport, implementation of penalties is fair and

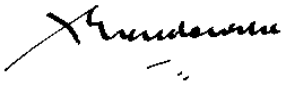
consistent with that practice and applied fairly by stewards and judiciary committees in the future.

Result

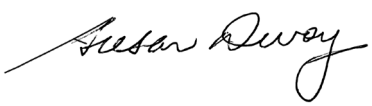
53. We allow the appeal on the basis that the 10 second time penalty the Judiciary Committee imposed was not one that was available to it under MOMS r. 6.10 and in imposing it the Committee had acted outside its powers. It was also an inappropriate penalty as it departed from an established sporting practice in motocross.

54. The 10 second time penalty is set aside and in substitution Y is relegated to second place, which promotes X to first place for that race. We leave it to MNZ to amend any further consequences arising out of this change of result.

Dated: 12 November 2026



John Macdonald
Tribunal Chair



Dame Susan Devoy



Dan Buckingham MNZM