

# *Superior Tribunal de Justiça Desportiva – MMA*

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Athlete: **ROY NELSON**

Disciplinary Commission: Complaint 10/2016

Notification date: 09/29/2016

## **Report**

It is about complaint offered by the STJDMMA Prosecutor against the professional MMA athlete Roy Nelson, on the event UFC FIGHT NIGHT held in Brasilia, Brazil, in 09/24/2016. The accusation reports that right after obtaining the technical knockout over Antonio “Big Foot” Silva, the athlete ROY NELSON walked toward the referee JOHN MCCARTHY, who was lowered checking the physical conditions of the knocked out opponent, and delivered a kick in his back.

Immediately thereafter, the athlete started to celebrate the victory in the octagon's grid and clearly uttered insults with obscene gesture (middle finger pointed) to the aforementioned referee. Highlights that the UFC is broadcast worldwide.

In preliminary analysis, this Court determined the PREVENTIVE SUSPENSION for the period of 90 (ninety) days, considered its beginning on 09/29/2016.

The complaint was received in part on 09/29, and the athlete was processed as an infraction in articles 111 and 113 of the CBJD-MMA. Once the deadline for presenting the defense has been opened, the athlete presented the same within the legal deadline.

In short, the athlete Roy Nelson claims in his defense that some events prior to the combat caused fear and panic in his person, reasons that led to undue

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action. Exposes even the fanaticism of Brazilian fans and the fear of the manifestations seen in the day Weighing factors as influencing factors.

In addition, the divergence in the interpretation of the rules, specifically the words of the referee during the combat, consisting of the term "work / work", considers that this expression means "to beat" and not to change position or to move. Complete reporting previous disagreements with referee John McCarthy in July 2016 and that he did not intend to assault the referee when the kick was struck.

Regarding the provisions of article 113 of the CBD-MMA, it has not manifested itself. Consideration of the merits.

Ethics, whether in sport or in the political, social or corporate world, is put to the test at all times.

The career of a professional athlete is based on overcoming, incessant search for notoriety, good results and titles, mainly, because the results imply good sponsorship.

Unfortunately, some athletes in the longing to reach these goals or self-promote, they pass the limit of ethics, do not measure efforts to polemize, as well as do not glimpse the negative consequences that a wrong conduct can generate, after all, the media propagates the information in a Speed, and for many times the damaging effect of an act, gesture and / or word can not be prevented.

Sometimes for lack of orientation athletes end up being punished and labeled as unethical, being morally and financially harmed by lack of ethics (sports).

The sports ethic is directly associated with behaviors that demonstrate respect for the sport, the other athletes and all involved in the promotion of the event.

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Some examples of this occur through the exchange of courtesies among opposing athletes, such as helping the opponent to stand up after the end of a bout, bow down in a sign of respect, acknowledge a good performance of the opponent or the simple fulfillment of the winner to the winner and vice versa.

All of these actions are closely linked to what we call "Fair Play" and this is not limited to the opponent but also to everyone involved in the promotion of the event (in this case the MMA).

Fair-Play can be understood as an elegant posture of the participants of a sports competition, which includes respect, honesty, loyalty, acceptance of the rules in force and, mainly, the understanding that opponents are only Sports opponents and not mortal enemies, be they overcome or victorious, with the awareness that the other is an indispensable companion in the practice of sport and its growth.

It is the manifestation of acceptance of the decisions of the referees, by the will to fight to win and by the firm rejection in obtaining the victory at any cost or to act in conformity even after the end of a combat or game, all for the respect.

Therefore, Fair-Play can be defined as ethics in the sports world. Unfortunately, "Fair-Play" is sometimes threatened by personal or commercial (media) interests that do not match the goals of the sport and end up tarnishing the sport's image.

In this sense, sports ethics give way to unethical conduct, through cheating, bribes, doping, name-calling, aggression (whether verbal or physical) and other.

Whether it is the offer of money to facilitate a victory or a defeat in the sport, whether it is to coerce the opponent, judges, referees and event promoters during competition with gross attitudes represented by obscene gestures,

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physical violence or personal offenses, such attitudes should be punished with rigor to be the example that unethical actions do not match the decency of the sport. One can not let wrong ones become the example for sports lovers.

Having submitted its reasons, this body welcomes the defense of the athlete that the attitude set forth in article 111 (chute) of the Brazilian Code of Sporting Justice-MMA did not have the power to assault (injurious) the physical integrity of the referee, however, Does not render the accused liable to acquittal or remission of punishment, but only attenuates the circumstance.

Even if it were right, the athlete has the obligation to respect the honor, to preserve the health, physical and moral integrity of the referee, and of all the others involved in the accomplishment of a competition, reason why nothing justifies the acts practiced. On the basis of the reasons given, it is inadmissible that personal issues are grounds for ethical and unsportsmanlike conduct. Imagine if all professional athletes discounted their frustrations, fear and personal traumas in the sport they practice. What would be the outcome? Certainly, they would not be sports but war camps, devoid of rules, enforcement, respect, ethics and limits.

This Court (STJD-MMA) together with the CABMMA and other regulators of this sport, strongly reprimand such conduct, all in the spirit of moralism, protectionism, efficiency, impartiality and seriousness that aim at MMA.

After all, protection of athlete's health, transparency of training (physical and technical), equality of conditions of professional athletes, respect for the public and promoters of events are the driving forces behind the work and efforts of this organization.

Therefore, it is considered as inadmissible the conduct practiced and exposed here, considered total disrespect to the referee, the public (face-to-face, TV and Internet) and to sports in general, here it smears the image of this before the

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world. The evidence carried in the case is irrefutable and sufficient to instruct the case on screen.

### **DECISION**

Given the above, as an infringement of articles 111 and 113, of the Brazilian Code of Sporting Justice-MMA I proceed to set the penalty dosimetry.

I fix the final penalty in 01 (one) year and a fine of R\$ 110.000,00 (one hundred and ten thousand reais), but in the dosimetry of the penalty, I apply the attenuating referring to the good antecedents of the athlete and the lack of intention of assaulting Physically the referee, which is why I reduce it to 09 months of suspension and a fine of R\$ 80.000,00 (eighty thousand reais).

The penalty also has the educational aspect in the case on screen, so we offer (as an exception) to the athlete ROY NELSON, the possibility of reducing the penalty imposed here for 06 months of suspension and a fine of R \$ 45.000,00 (forty-five thousand reais).

This reduction will occur only if the producer (UFC) authorizes the reported athlete to make the formal apology within the octagon or at a press conference by 12/31/2016 and preferably in the presence of the offended referee (John McCarthy).

Such a measure aims to promote a campaign among athletes to prevent acts of this nature, as the referee must be seen as the highest authority within the octagon.

The athlete is warned that in case of recurrence, the applicable aggravating factors will be applied.

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The penalty shall be counted as of 09/29/2016, when the athlete was duly notified of the preventive suspension applied.

I order CABMMA to be officiated, so that it can take note of the decision on merit and adopt appropriate administrative measures.

That's how I decide.

Brasília, November 10th, 2016.

**Marcelo Sedlmayer Jorge**

Presidente do STJD-MMA