

Wharf to Wharf Wheeling into Wharf To Wharf controversy ⁷⁻¹⁻⁹²

Athlete says he has a right to compete for prize money

By ED WYEDA
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SANTA CRUZ — An old controversy with a new twist could end up with local wheelchair athlete Jerry Deets taking the popular Wharf To Wharf Race to court.

Deets, a professional wheelchair athlete from Santa Cruz, says that since the Wharf To Wharf Race, which annually draws a field of 12,000 runners, does not have a wheelchair division, he is going to compete for the \$5,000 first prize.

"And if I win, I am going to claim the money," says the 42-year-old Deets.

Deets met Monday with race directors Kirby Nicol and Mark McConnell, hoping to persuade them to create a wheelchair division for the 20th running of the race, July 26, from the Santa Cruz Municipal Wharf to the Capitola Wharf. He has made the request many times the past several years, and their answer was the same: no.

"We are not a wheelchair race," McConnell said. "We are a footrace. The money will go to the top finishers who run the race by foot. It will not go to anybody who does anything other than that, including anyone in a wheelchair."

"If you ride a motorcycle, or ride a bicycle, we're not going to give (the money) to you," McConnell said. "And if you're in wheelchair, we're not going to give it to you."

Matt Bishop, a Napa attorney and a friend of Deets, plans to represent Deets if the issue gets to court.

"If he wins, which I believe he will win," Bishop said, "and isn't given the money, we are going to seek a legal remedy."

In the past, the Wharf To Wharf Race, a highly successful

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— Kirby Nicol,
race director

benefit for local track and field programs, has stuck to its policy of not offering a wheelchair division, or any other age-group or specialty divisions.

"We've got a successful format and have no reason to change," Nicol said of the event, which has sold out its limit of entries in advance the past few years. "I suppose it's a matter of time before somebody wants us to have an Egyptian division or gay division."

It is Deets' contention that since he is registered to compete like everyone else in the race, it's his right to compete for the money.

"It's time to force the issue," he said.

Deets said his ultimate goal is "to promote my sport, and if I have to step on toes to do that, then I will step on toes to have a (wheelchair) division put in."

Nicol said the reason for not having a wheelchair division is because the finishing portion of the course — a downhill into Capitola Village — is not safe for wheelchair racers. Deets, who



Dan Coyro/Sentinel file

Gary Kerr of Campbell finished first in his chair in 1984. But Armando Siquieros, far right, was the official winner.

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has raced internationally and routinely trains on the Wharf To Wharf course, contends the finish area is safe.

It's possible for Deets to finish first overall, since he's covered the 6-mile race course in 25 minutes, 30 seconds during training runs — 2 minutes better than the course record set last year by Brian Abshire.

Deets has competed in races around the world, including the Boston Marathon, and has a personal best of 23 minutes, 51 seconds for 10 kilometers (6.2 miles). His best marathon time is 1:43:12, and has a half-marathon best of 55:10. He is a former record holder in the Wheelchair Olympics shot put, and has represented the U.S. in both the Pan American Wheelchair Games, and the Wheelchair

Olympics. He is a former all-America wheelchair basketball player.

Nicol contends that Deets has no right to the prize money, because racing in a wheelchair gives him an unfair advantage over other entrants.

The race offers special prizes to the top 100 men and top 100 women. But this year, for the first time, it has added prize money.

In both the men's and women's divisions, first place is worth \$5,000, with second worth \$3,000 and third place getting \$1,000. Also, the first man and woman finishers from Santa Cruz County win \$1,000 each, bringing the total prize money to \$20,000.

Deets said his goal has not been to sue the Wharf To Wharf Race.

"But if it comes down to it, I have to take the ball and run with it," he said. "I think my position is correct."

"It's a free country and he can do whatever he wants to do," Nicol said. "He has to know there are consequences. If that is what his intent is, we'll have to wait and see."

Sid Wallinski, the litigation rights director for the Disabled Rights Defense Fund in Berkeley, said the Wharf To Wharf Race may not be in a good position if the issue reaches the courts.

"They (race organizers) are exposing themselves to substantial liability," said Wallinski, who also teaches disability rights at Santa Clara University. "This isn't some obscure moral issue. They (race organizers) are running headlong into no less than three very clear (legal) statutes. You cannot discriminate in any way against a physically handicapped person."

Deets agrees about having an advantage over other runners.

"If I take money, it probably isn't fair," he said. "But that is my leverage. If they don't create a division, then I guess I am just like anybody else, in their eyes. But when it comes to winning the prize, then I'm not like anybody else."

Wallinski said the federal American Disabilities Act, which went into effect this year, "is absolutely clear, and designed to close every possible loophole. It's clear that even if you hold a one-time event, you still can't discriminate. You can only judge persons on individual merits."

"They have no basis of excluding him," Wallinski said, "unless there is a very strange physical aspect of the race. Either they are incorrect, and (the course) is safe, or it is not safe and they are obligated to make it safe."