



FIVB

Disciplinary Panel

Decision

In the matter of
Mr. Saber Hoshmand
(Iran)

5 September 2016

THE FIVB DISCIPLINARY PANEL

Constituted in accordance with Article 8.1.2
of the FIVB Medical and Anti-Doping Regulations 2016
and composed by

Ms. Margaret Ann Fleming, Chair	(Scotland) Disciplinary Panel Vice-Chair
Mr. Mounir Ben Slimane	(Tunisia) Disciplinary Panel Member
Dr. Annie Peytavin	(France) Medical Commission Member

heard the case identified as n. 3841578:

FACTUAL BACKGROUND

1. On 22 March 2016, the FIVB was notified by the WADA-accredited Laboratory in Cologne, Germany (“Laboratory”) regarding an Adverse Analytical Finding for the A-sample 3841578, which contained the prohibited substance S1.1A Exogenous Anabolic Androgenic Steroids (boldenone, boldenone metabolite 5 β -androst-1-ene-17 β -ol-3-one, and metandienone metabolite 17 β -hydroxymethyl-12a-methyl-18-norandrost-1,4,13-trien-3-one).
2. The above-mentioned urine sample was taken in-competition on 17 February 2016 in Kish Island, Iran during the 2016 World Tour Kish Island Open (“Event”) and belongs to the athlete Mr. Saber Hoshmand (Iran, born 17.02.1986; “Athlete”).
3. On 24 March 2016, the FIVB contacted the Volleyball Federation of the Islamic Republic of Iran (“VFIRI”) to inform the Athlete that he was provisionally suspended with immediate effect and that he had the right to request the analysis of the B sample by no later than 31 March 2016 and to attend the opening thereof.
4. On 31 March 2016, the FIVB sent a reminder to inform the Athlete of the deadline and request an answer as to whether he wished to request the analysis of the B sample.
5. By email dated 7 April 2016, the VFIRI provided FIVB with the Athlete’s request form asking for the analysis of the B sample.

6. By email dated 19 April 2016, the FIVB informed the VFIRI that the B sample analysis would be conducted on 26 April 2016.
7. By email dated 20 April 2016, the VFIRI informed the FIVB that no one would be attending the analysis of the B sample on behalf of the Athlete.
8. By email on the same day, the FIVB acknowledged that the Athlete would not have a representative attending the analysis of the B sample and that the FIVB would inform the VFIRI of the results of the B sample analysis.
9. By letter dated 4 May 2016, the FIVB:
 - informed the Athlete that the B Sample confirmed the A Sample analysis;
 - invited the Athlete to inform the FIVB by no later than 11 May 2016 as to whether the Athlete would like to be heard either 1) in person or 2) via teleconference on 30 May 2016 at 3 PM; and
 - invited the Athlete to provide his position by 11 May 2016.
10. By email on 11 May 2016, the VFIRI confirmed that the Athlete wished to be heard by teleconference on 30 May 2016 and informed the FIVB that the Athlete was aware of the test results.
11. On the same day, the FIVB acknowledged receipt of the VFIRI's email and again requested that the Athlete submit his position.
12. By email dated 30 May 2016, the VFIRI provided the FIVB with the Athlete's position, which submitted the following:
 - The Athlete was from a very small village and had to travel to a neighbouring city to have access to a fitness centre;
 - The Athlete claimed that two medications that he had taken had led to the positive test;
 - First, the Athlete had a cold and sore throat before the Kish Island tournament and had been injected with Dexamethasone during the tournament;
 - Second, the Athlete had been taking Methan 10 which was recommended to him by a trainer at the fitness centre that he went

to. The Athlete stated that he did not know that this pill would have caused him to test positive.

- The Athlete included the following exhibits with his position:
 - A photo of the Methan 10 box.

13. On the same day, the hearing via telephone conference was attended –aside from the FIVB Disciplinary Panel– by the FIVB Medical and Anti-Doping Manager Mrs. Nadège Veintimilla, the FIVB Legal Advisors Mr. Andreas Zagklis and Mr. Christian Keidel, the FIVB Legal Affairs Manager Mr. Stephen Bock, the Athlete and the VFIRI representative, Hooman Bagheri.

14. During the hearing, the Athlete noted that he sent his written statement, and his position was the same as his written statement. Subsequently, the members of the FIVB Disciplinary Panel and the FIVB Legal Advisor asked the Athlete some questions, which revealed the following information:

- The Athlete had mainly competed in national level events. He had only competed in one Confederation level event in Thailand in March 2015 and had never competed at a world event before the Event;
- The Athlete confirmed that he was from a small village and was not aware of the effects of the substance that he was taking;
- The Athlete confirmed that he had a cold before the Event and had been injected with Dexamethasone by a doctor at a hospital in Iran. He claimed that he received injections two days before the Event and half an hour before each match for three days during the Event;
- The Athlete confirmed that he had received Methan 10 from a trainer at the fitness centre near his village. He stated that he had to travel approximately 50 kilometres to get to the fitness centre. He purchased Methan 10 at Pharmazon a month before the Event after asking his trainer at the fitness centre for something to help him with his recovery from training;
- The Athlete stated that the adverse analytical finding was totally unintentional because he did not know what he was taking;

- The Athlete stated that he was selected by the VFIRI three weeks before the Event;
- The Athlete stated that he cannot speak or understand English very well so he had an official from the VFIRI help him fill out the Doping Control Form. Regarding why he failed to disclose Dexamethasone and Methan 10, the Athlete stated that he had told the Iran National Anti-Doping Organisation (“Iran NADO”) official what substances he was taking. He was sure that he told the Iran NADO official about Dexamethasone but was not sure about Methan 10;
- The Athlete stated that he never participated in any classes for anti-doping because the classes were in Tehran, which was hard for him to travel to and he could never go when the VFIRI had classes;
- When asked about the presence of boldenone, the Athlete stated that he had no idea how that was in his system but claimed that it was likely due to his intake of Methan 10 and Dexamethasone;
- The Athlete informed the Panel that he did not research the substance because he trusted the trainer;
- In his closing statement, the Athlete apologized for taking the substances which he did not know were prohibited and that playing beach volleyball was his only profession so he requested leniency from the Panel.

LEGAL CONSIDERATIONS

15. According to the WADA 2016 Prohibited List, the substances boldenone, boldenone metabolite 5β -androst-1-ene-17 β -ol-3-one, and metandienone metabolite 17 β -hydroxymethyl-12a-methyl-18-norandrost-1,4,13-trien-3-one are included in the category “S1.1A Exogenous Anabolic Androgenic Steroids” and are prohibited in- and out-of-competition.
16. According to Article 2.1 of the FIVB MADR, the presence of a prohibited substance in an athlete’s bodily specimen constitutes an anti-doping rule violation, sanctioned as per Article 10 of the FIVB MADR.

17. The above-mentioned sample (Nr. 3841578) belongs to the Athlete.
18. No Therapeutic Use Exemption exists in the case, as per Article 4.4 of the FIVB MADR.
19. Based on the above, the FIVB finds that the Athlete committed an anti-doping rule violation under Article 2.1 of the FIVB MADR because the prohibited substances, boldenone, boldenone metabolite 5β -androst-1-ene-17 β -ol-3-one, and metandienone metabolite 17β -hydroxymethyl-12 α -methyl-18-norandrost-1,4,13-trien-3-one, were present in the Athlete's Sample on 17 February 2016. Given this finding, the Panel must now determine what the period of ineligibility should be for the Athlete based on his anti-doping rule violation.
20. According to Article 4.2.2 of the FIVB MADR, all prohibited substances are deemed specified substances except substances in the classes of anabolic agents and hormones and those stimulants and hormone antagonists and modulators so identified on the Prohibited List. Category "S1.1A Exogenous Anabolic Androgenic Steroids" falls into the categories of the abovementioned exception and, consequently, the prohibited substances in the case at hand (boldenone, boldenone metabolite 5β -androst-1-ene-17 β -ol-3-one, and metandienone metabolite 17β -hydroxymethyl-12 α -methyl-18-norandrost-1,4,13-trien-3-one) are considered a Non-Specified Substances.
21. The FIVB Disciplinary Panel notes that the period of ineligibility for a violation of Article 2.1 FIVB MADR concerning a Non-Specified Substance shall be as follows:
 - four (4) years when the anti-doping rule violation does not involve Specified Substance, unless the Athlete can establish that the anti-doping rule violation was not intentional (Article 10.2.1.1 FIVB MADR);
 - two (2) years if the Athlete can establish that the anti-doping violation was not intentional (Article 10.2.2 FIVB MADR).
22. Based on the evidence before it, the Panel finds that the Athlete has failed to establish that the anti-doping rule violation was not intentional. The Athlete cannot explain the presence of boldenone and its metabolites in his system. His explanation that the presence of this substance was due to his intake of Methan 10 and Dexamethasone cannot scientifically explain the presence of these substances

without additional supporting evidence. Without an explanation as to how boldenone entered his system, the Panel finds that he cannot prove that its presence was unintentional. Ultimately, the Athlete has a duty of care and responsibility to ensure that the substances that enter his body are not prohibited.

23. The Panel is also convinced that the anti-doping rule violation in the present case was, in part, due to his lack of education about doping. Had the Athlete been more educated, he would have been aware that he should check any and all substances that he puts into his body before taking them. The Panel would like to note that at least part of this responsibility lies with the National Federation, especially with athletes that compete at mainly a national level. In present case, the Panel feels that the VFIRI had a duty of care that it owed to the Athlete but it failed to honour it.

24. The 2016 FIVB MADR is very strict when it comes to the presence of non-specified substances that cannot be shown to be unintentional. The Panel feels that this sanction is especially harsh in the present case in which the Athlete suffered from a lack of education. However, the Panel is required to apply the FIVB MADR in accordance with its provisions. Consequently, the Panel has no choice but to find that the Athlete shall be sanctioned with a period of ineligibility of four (4) years. Given that the Athlete was provisionally suspended by the FIVB on 24 March 2016, this four (4) year period of ineligibility shall begin on that date and shall conclude on 23 March 2020 pursuant to Article 10.11.3 of the FIVB MADR.

Taking all the above into consideration

THE FIVB DISCIPLINARY PANEL

Concludes and Decides

1. The athlete Mr. Saber HOSHMAND (Iran) has committed an anti-doping rule violation (presence of the prohibited substances “S1.1A Exogenous Anabolic Androgenic Steroids (boldenone, boldenone metabolite 5 β -androst-1-ene-17 β -ol-3-one, and metandienone metabolite 17 β -hydroxymethyl-12a-methyl-18-norandrost-1,4,13-trien-3-one”) according to Article 2.1 of the FIVB MADR.
2. A sanction of four (4) years of ineligibility shall be imposed on the athlete Mr. Saber HOSHMAND according to Article 10.2.1.1 FIVB MADR.
3. The period of ineligibility shall start on 24 March 2016 and end on 23 March 2020 according to Article 10.11 FIVB MADR.
4. The decision may be appealed in accordance with the attached Notice of Appeals.

Decided in Lausanne, on 5 September 2016

For the FIVB DISCIPLINARY PANEL



Ms. Margaret Ann Fleming

Chair

NOTICE OF APPEALS

(doping cases)

An appeal may be filed against the decision exclusively before the Court of Arbitration for Sport (CAS), in accordance with Article 13 of the FIVB Medical and Anti-Doping Regulations 2016 (FIVB MADR) and with the provisions of the Code of Sports-Related Arbitration (see www.tas-cas.org).

The time-limit to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of the decision by the appealing party.

In accordance with Article 14.7 of the FIVB MADR: “Notice to an Athlete or other Person who is a member of a National Federation may be accomplished by delivery of the notice to the National Federation.”

In the event of an appeal, the decision shall remain in effect while under appeal unless the CAS orders otherwise.

The address and contact details of the CAS are the following:

Court of Arbitration for Sport

Avenue de Beaumont 2

1012 Lausanne, Switzerland

Tel: +41 21 613 50 00

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