

Decision of the National Anti-Doping Disciplinary Panel.

Case Ref: NADDP 01/2016

Anti-Doping Commission (Malta)

-vs-

**DUSTY CASSAR (Athlete member of the
Ghaqda Regatta Nazzjoni u Qdif lehor
with Maltese Identity Card No 456796M)**

The National Anti-Doping Disciplinary Panel (hereinafter referred to as the 'Panel') consisting of Dr. Maria Azzopardi as Chairperson, and Dr. Aaron Formosa and Dr. Abigail Sciberras as members.

Before the commencement of this proceeding, Dr. Aaron Formosa M.D. and Dr. Abigail Sciberras declared to the Chairperson that they are not subject to any circumstance or conflict that could negatively affect their impartiality in the case under review. The same declaration was made by the Chairperson to the 'Panel'.

1. Preliminaries

Considered the Request by the National Anti-Doping Commission (Ref. No. ITSDUSCAS-15) of the 16th of December, 2015 to the Chairperson of the Panel to schedule a sitting for the hearing of a case concerning the alleged breach by Dusty Cassar of the Anti-doping Regulations (Legal Notice 17 of 2015, Sports Act, Chapter 455, Laws of Malta).

Took note and reviewed the following documents that were forwarded to the Panel at the initial stage by the Coordinator of the Anti-Doping Programme, namely:

- (i) The request to the Panel to schedule a hearing dated 16th December, 2015 (16b);
- (ii) The request by NADO to the National Association/Federation of the alleged breach by Dusty Cassar dated 14th December, 2015 (Doc 14b);
- (iii) Letter of Notification by NADO to Dusty Cassar of a possible violation of the Anti-Doping Rules dated 14th December, 2015 (Doc 13b);
- (iv) A copy of the Doping Control Officer Report Form and documents relating to the participation of Dusty Cassar in the Regatta filed by NADO following the doping test on the 8th of September, 2015 (Doc 1 to Doc 6);
- (v) A copy of the Analysis Report dated 11th December, 2015 (Doc 11);
- (vi) A copy of the Report of Adverse Analytical Finding (Doc 13 & 13a);
- (vii) Letter of Acceptance for provisional Suspension (Doc 18)

Took note of the Notice issued by the Panel to Dusty Cassar to appear before the Panel on the 11th February, 2016 at 11am and answer to the accusation based on Article 3(2)(a) and (b) of L.N 17 of 2015 of the Laws of Malta:

- " (2) *The following constitute anti-doping rule violations:*
- (a) *the presence of a prohibited substance or its metabolites or markers in an athlete's sample:*

(b) *the use or attempted use by an athlete of a prohibited substance or a prohibited method."*

Copy of the Notice of hearing was also forwarded to the Anti-Doping Commission, the 'Ghaqda Regatta Nazzjonalu u Qdif Iehor' and Malta Sports Council.

2. Merits:

2.1 Present at the sittings - Dusty Cassar accompanied by his father Marco Cassar, and Dr. Christina Borg DeBono, Dr. Lucienne Attard on behalf of the NADO.

2.2 The substance recorded in the Analysis Report of the urine 'A' sample of Dusty Cassar on the 9th of September, 2015 In-Competition, is Boldenone, considered as a prohibited substance classed as anabolic agent under S1.1 - Anabolic Androgenic Steroids on the 2015 Prohibited List.

2.3 Dusty Cassar admitted to the charges brought against him and further explained that he intentionally made use of the prohibited substance but when he made use of such substance he had no intention to participate in the Regatta. He stated that the Committee did not inform communicate any decision on his participation to the Regatta and he made use of the substance without any intention to participate in the Regatta but to appear in good form for the Photoshoot which he took part in some time before the Regatta. He was not aware that the substance would still emerge in the testing after two months and half that he made use of it.

2.4 It was confirmed that Dusty Cassar had accepted the Provisional Suspension imposed on him.

3. Considerations:

3.1 The Panel is satisfied that the presence of Boldenone classified as Anabolic Steroids under the Prohibited List 2015, in the urine sample (A Sample) of Dusty Cassar was proved in accordance of Article 3 (2) (a) (ii) (aa).

The Panel feels the obligation to deal with the claim raised by Dusty Cassar in relation to his lack of intention to make use of the substance for the Regatta, and declares that this cannot be considered as an excuse. The reasoning of the Panel is based the wording of the law itself under Article 3 (2) (a) (i) which clearly states that: *"it is each athlete's personal duty to ensure that no prohibited substance enters his or her body. Athletes are responsible for any prohibited substance or its metabolites or markers found to be present in their samples. Accordingly, it is not necessary that intent, fault, negligence of knowing use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under sub-regulation (2) (a)."* This article confirms that every athlete has the responsibility to ensure of any substance that enters his or her body and this irrespective of the intention for its use. Hence, the Panel is convinced that the athlete failed to his obligation to ensure that no prohibited substance entered his body.

The Panel took notice of the exhibited documents, of the fact that there was no request for the request on part of the athlete for the testing of the 'B' Sample, his admission the early admission to the charges in the presence of his father Marco Cassar and his acceptance to the Provisional Suspension.


4. Decision

Therefore on the basis of the above considerations, the National Anti-Doping Disciplinary Panel rules that:

4.1 Dusty Cassar has breached the Anti-Doping Regulations, 2015 [Art. 3(2)(a)] and WADA Code Art. 2.1, whereby the presence of a prohibited substance or its metabolites or markers has been found in Dusty Cassar's urine sample A that had been collected from him on the 9th of September, 2015.

4.2 And therefore the National Anti-Doping Disciplinary Panel as provided under Art 11 (2) (a) of the Anti Doping Regulations, 2015 and Art. 10.2.1 of the WADA Code is imposing on the athlete Dusty Cassar a suspension of ineligibility from any sports activities for a period of four (4) years commencing from the date of his provisional suspension.

4.3 A copy of this decision is to be forwarded to the Malta Rowing Association (Ghaqda Regatta Nazzjonali u Qdif lehor).

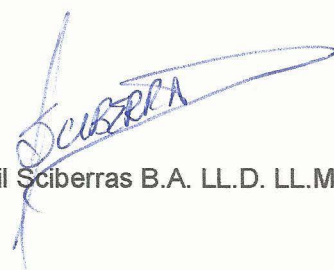


Dr. Maria Azzopardi B.A. LL.D. LL.M (Sports Law)
Chairperson



Dr. Aaron Formosa M.D.

Member



Dr. Abigail Sciberras B.A. LL.D. LL.M (Int. Sports Law)
Member

This 2nd day of March 2016

At Cospicua, Malta