

JUDICIAL AWARD BY THE FISA DOPING HEARING PANEL

sitting in the following composition

Members: **John Boulton**
 Jo Hannafin
 Mike Tanner

In the case of Abdel Mohsen Massoud

The Facts

WADA conducted out of competition testing in Egypt on 22 June 2015. A urine and a blood sample were collected from Abdel Mohsen Massoud (“the Athlete”). The international testing agency, PWC, conducted the testing on behalf of WADA.

The urine Sample collected from the Athlete was numbered 3788549 and recorded on the Doping Control Form. The Athlete signed this form and received a copy. Abdel Mohsen Massoud declared on the doping control form that had taken a product although he could not remember the name, for pain of the skin on his legs. He made no comments on the doping control procedure. The WADA accredited laboratory in Cologne received the urine and the blood samples. The Cologne Laboratory received the “A and B” samples of the urine sample on 24 June 2015.

The Results from the Cologne Laboratory dated 8 July 2015 indicate that Sample A showed the presence of furosemide. Furosemide is included in the 2015 Prohibited Substances/Methods List of the World Anti-Doping Code. Furosemide is classified in class S5 Diuretics and Masking Agents.

The Athlete did not have a valid Therapeutic Use Exemption (TUE) for furosemide with FISA.

The Athlete was notified of the positive test result by the Executive Director of FISA in a letter dated 10 July 2015.

In an email dated 3 August 2015, the President of the National Federation, Khaled Zein El Din, confirmed that *“No we don't want to proceed with the analysis of the B sample.”*

In an email dated 23 August 2015, the National Federation sent the written statement of the Athlete as well as a completed questionnaire relating to how the Athlete believed the substance had entered his body. The National Federation confirmed that the Athlete cannot read or write so they translated the questions to the Athlete and answered them in English. The Athlete signed each page. Also sent was the label from the medication Lasix which the Athlete claimed that he had taken. ” The Executive Director of FISA appointed a FISA Hearing Panel (the

“Panel”) and the Athlete did not attend the Hearing which took place in Aiguebelette, France on 3 September 2015.

Evidence Provided for the Hearing

The material provided to the Panel was as follows:

1. The Doping Control Form
2. The Laboratory result
3. The completed Athlete’s Questionnaire
6. Statement of the Athlete
7. Label of the medication

Applicable law

The applicable rules

The applicable rules are the FISA Anti-Doping Rules in force at the time of the test (22 June 2015). These rules are consistent with the World Anti-Doping Code.

The relevant rules

The relevant rules in this case are the FISA Anti-Doping Bye Laws including but not limited to:

- Article 2.1.1 which states it is each Rower’s personal duty to ensure no Prohibited Substance enters his body;
- Article 10.2 which sets a period of four years’ ineligibility for a first violation for a prohibited substance, unless the anti-doping rule violation involves a specified substance and it can be established that the anti-doping rule violation was not intentional which means the period of Ineligibility shall be two years. The athlete shall have the opportunity to establish the basis for eliminating or reducing this sanction as provided in Articles 10.4 and 10.5;

Articles 10.4 and 10.5 Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances
- Article 10.4 No Fault or Negligence. If a Rower establishes in an individual case that he or she bears No Fault or Negligence, the otherwise applicable period of Ineligibility shall be eliminated.
- Article 10.5 Reduction of the Period of Ineligibility based on No Significant Fault or Negligence.

Merits

The Panel is satisfied that an anti-doping rule violation was established by the evidence of the laboratory analysis. There was the presence of furosemide in the Athlete's urine. The Rower does not contest the anti-doping rule violation.

There was no provisional suspension imposed under Article 7.9.2.

The Athlete claimed in his statement that he is a lightweight rower and that during Ramadan he wasn't losing the weight he wished to. He bought the medication, Lasix, on the advice of someone in a gym. He thought that a medication used to lose water from the body would not be considered as doping so he did not ask the pharmacist or the doctor as he normally does when he takes medication when he is ill.

The sample collection agency, PWC, arrived at the Athlete's training place at 14h10, but the Athlete was not present. The Athlete's Team Manager was notified and following a conversation with the Athlete, he informed the Doping Control Officer that the Athlete would arrive in 1 to 2 hours. The Athlete arrived at 15h05. The Athlete's urine sample was not dilute as it was reported by the Laboratory of Cologne to have a specific gravity of 1.030. The Panel concluded from the dilution of the sample that the Athlete did not take the medication following notification of the out of competition anti-doping test and that he took the medication as noted in his statement.

In relation to a consideration of whether the period of ineligibility of two years as prescribed by Article 10.2.2 should be reduced under Article 10.5 on the basis of "No Significant Fault or Negligence" the panel considered the following facts:

1. The athlete provided evidence that he had received education and information from his national federation about the risks associated with taking a medication without first consulting a doctor, albeit back in 2006 when he joined the national team;
2. The athlete provided evidence that he didn't take care to ask the pharmacist or the doctor of the national team as he does when taking any medication when ill, because he didn't think a medication which helps to lose weight would be considered doping, which the panel finds indicates that he was well aware of the need to check with medical experts before taking medications; and
3. The athlete did not indicate on the Doping Control Form that he had taken the substance some hours earlier on the day of the test.

These matters go to the question of the athlete's degree of fault which the panel is required to assess in determining whether to reduce the period of ineligibility under Article 10.5. The panel considers that these factors all indicate a significant degree of fault, in view of his level of knowledge of doping matters, and his choosing not to take the appropriate precautions or make known that he was taking the diuretic substance, as is the responsibility of an athlete in his position.

The panel finds that this degree of fault is such that there should be no reduction of the period of ineligibility.

The panel also considered the evidence of the athlete that he took the substance in order to lose weight, being a lightweight rower, and the fact that in lightweight rowing, the use of diuretics to achieve the required weight is potentially dangerous and strongly against the spirit of lightweight rowing, and in assessing his degree of fault, this, together with the factors mentioned above constitute a large degree of fault which obviates the option of reducing the period of ineligibility.

FOR THESE REASONS

The FISA Doping Hearing Panel finds:

1. The period of ineligibility will be two years from 3 September 2015, the date of the hearing.
2. This award is rendered without costs.

Aiguebelette, 3 September 2015

For the FISA Doping Hearing Panel:

John Boulton

Jo Hannafin

Mike Tanner