

## INTERNATIONAL RUGBY BOARD

IN THE MATTER OF THE REGULATIONS RELATING TO THE GAME

AND IN THE MATTER OF THE TERMS OF PARTICIPATION IN THE IRB JUNIOR WORLD CHAMPIONSHIP 2012 AND IN THE MATTER OF AN ALLEGED DOPING OFFENCE BY **IAN WILSON MUZA (ZIMBABWE)** CONTRARY TO SECTION 17 OF THE TERMS OF PARTICIPATION AND REGULATION 21 .21

BEFORE A BOARD JUDICIAL COMMITTEE APPOINTED PURSUANT TO REGULATION 21.20 and 21.21 CONSISTING OF:

### Judicial Committee:

**Graeme Mew**, Chair (Canada)  
**Dr. George Ruijsch van Dugteren** (South Africa)  
**Gregor Nicholson** (Scotland)

### Appearances

*Ben Rutherford*, for the International Rugby Board

### In Attendance

Ian Wilson Muza (Player)  
Colleen de Jong (Team Manager, Zimbabwe Under 19/20 Rugby)  
Sifiso Made (CEO, Zimbabwe Rugby Union)  
Tim Ricketts (Anti-Doping Manager, International Rugby Board)

Hearing: 21 November 2012 by telephone conference

## REASONS FOR DECISION OF THE BOARD JUDICIAL COMMITTEE

1. In November 2011 Ian Wilson Muza (the "Player"), a member of the Zimbabwe Under 20 rugby squad, purchased 60mls of the banned substance stanozolol from an acquaintance called Lois.
2. The Player purchased syringes from a pharmacy, taught himself how to inject into the buttock and subsequently injected himself with stanozolol on eight to ten occasions over a four-week period. His objective was "to get bigger in the gym training as [he] was under pressure to get bigger for [his] position as tight-head prop". He acknowledged this "pressure" was self-induced. There was no mention of any other party pressurising the player to get bigger.

3. On 21 June 2012, while the Player was in Salt Lake City, Utah (USA) as a member of the Zimbabwe team in the 2012 Junior World Rugby Trophy tournament (the "Tournament"), the Player provided a Sample of his urine as part of out of competition doping control procedures. Analysis of the Player's Sample detected the presence of stanozolol, which is listed as category S1 Androgenic Anabolic Steroids on the *WADA List of Prohibited Substances and Methods 2012* (the "WADA Prohibited List"). As such, stanozolol is a Prohibited Substance under the anti-doping regulations of both the Tournament and the International Rugby Board (the "Board" or the "IRB").

4. The Player was notified of this Adverse Analytical Finding ("AAF") by the Zimbabwe Rugby Union (the "Union") on 29 June 2012. He was immediately provisionally suspended and has remained so to the present time. The Player was also removed from the team environment at the Tournament and took no further part in it.

5. Subsequent to being notified of the AAF, the Union wrote to the IRB's Anti-Doping Manager confirming that the Player admitted that he had committed an anti-doping rule violation and that he wished to make a written submission to a Board Judicial Committee and/or to provide Substantial Assistance in order to potentially reduce his sanction. Although this letter bears the date of 22 June 2012, it appears to have been sent under cover of an e-mail dated 1 July 2012.

6. This Board Judicial Committee ("BJC") was appointed to hear the case against the Player. By letter dated 19 September 2012 the Player was informed of the composition of the BJC and that a hearing would be held to address the issue of the appropriate sanction to be imposed. The Chairman of the BJC provided directions with respect to the exchange of evidence and the provision of written submissions. A hearing date was originally set for 29 October 2012. Following consultation with all concerned parties, that hearing was subsequently adjourned to 21 November 2012.

### **Anti-Doping Rule Violation Established**

7. At the outset of the hearing the Player confirmed his acceptance of the AAF. Accordingly, we are satisfied that the Player has committed an anti-doping rule violation contrary to Regulation 21.2.1<sup>1</sup>

### **Documentary Record**

8. The BJC had before it a record which included the Doping Control form, Team Member Consent Form, a Sample Analysis Report from the Sports Medicine Research & Testing Laboratory in Salt Lake City, Utah, the Preliminary Review Report, information concerning the anti-doping outreach session conducted in Tbilisi, Georgia in June 2011 and certain correspondence between the Board and the Union and between the Player and the Union/Board.

9. The Player gave oral testimony at the hearing.

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<sup>1</sup> The presence of a Prohibited Substance or its Metabolites or Markers in a Player's Sample.

10. Written submissions were received from the Board before the hearing and oral submissions were made by the legal representative of the Board at the hearing and by the Player with the assistance of his Union.

### **The Facts**

11. Brief reference has already been made at the outset of these reasons to the circumstances which led to the Player's anti-doping rule violation.

12. While the BJC has read the entire record and paid careful attention to the written and oral submissions and testimony, we refer only to those matters which we regard as necessary to convey our reasons for this decision.

13. The Player was unable to provide a surname for Lois. The bottle containing the stanozolol had a sticker on it. The liquid was clear. Lois did not tell him about any possible side-effects of using stanozolol. However, the Player knew through his research on the internet that there might be side-effects. He knew it was a banned substance and that taking it was a risk. His internet research led him to believe that it would take two months to clear his system. He did not think about whether the purchase and usage of stanozolol could violate any provisions of the criminal law.

14. At the time of his purchase of the stanozolol, the Player was living in Durban, South Africa. He knew Lois from a gym in Durban. The Player does not know whether Lois had any connection to rugby. The gym was used by both rugby players and other members of the public. The Player said that he and Lois were "just people who met at the gym". He had known Lois for approximately one year when he purchased stanozolol from him. He has not purchased anything else from Lois. He does not know anyone else who has purchased anything from Lois. The Player paid ZAR600 or ZAR700 (€50 – €60) for the stanozolol.

15. The Player says that while he did notice any increase in his weight, there was, perhaps, an increase in strength.

16. The Player said he was unaware of any anti-doping rule violations committed by other members of the Zimbabwe team at around the same time.

17. The Player confirmed that he had undergone anti-doping education. He had attended an anti-doping session at the Junior World Trophy in Georgia in 2011 and had received anti-doping education materials.

18. The Player had used supplements as part of his fitness/nutrition regime. In particular, he used protein shakes, pre-workout drinks and creatine. However, he denied having used any other Prohibited Substances. In response to questioning relating to his desire to get bigger and his statement that he did notice any increase in weight after his 4-week course of stanozolol, he said that subsequently he did nothing more to get bigger. He felt that that short period of use was enough.

19. The Player, who is studying business administration, indicated that he was not claiming that there was No Fault or No Significant Fault in relation to his anti-doping rule violation but expressed an interest in providing Substantial Assistance in order to obtain a reduction of the presumptive sanction for his anti-doping rule violation. However, the Player could only give the vaguest details about Lois. He said he lived in The Bluff area of Durban and frequents the Virgin Active gym there and the Harlequins rugby club gym which is open to the public and was where they met. He did not think that Lois played for the club. The last contact the Player had with Lois was early in 2012 when they spoke about "gym stuff". He had had no contact since then but had his mobile number and planned to contact him. To date, the Player has not provided anything close to the sort of information that would be necessary to support the prosecution of charges against Lois or anyone else.

## **Discussion**

20. The presumptive sanction for a first Anti-Doping Rule Violation involving the presence in a player's Sample of a Prohibited Substance is a period of Ineligibility of two years<sup>2</sup>.

21. It is possible for the two year sanction to be reduced if the player can establish, on a balance of probabilities, the existence of "Exceptional Circumstances". In this case, the only category of Exceptional Circumstances that would apply is in relation to the rendering by the Player of "Substantial Assistance". In that regard, Regulation 21.22.6 (clause 22.6 of the Tournament Programme) provides as follows:

"The Judicial Committee ... may prior to the final appellate decision under Regulation 21.27 or the expiration of the time to appeal, suspend part of the period of Ineligibility imposed in an individual case where the Player or other Person has provided Substantial Assistance to the Judicial Committee ... criminal authority or professional disciplinary body which results in the Board discovering or establishing an anti-doping rule violation by another Person or which results in a criminal or disciplinary body discovering or establishing a criminal offence or a breach of professional rules by another Person. After a final appellate decision under Regulation

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<sup>2</sup> Regulation 21.22.1

The period of Ineligibility imposed for a violation of Regulation 21.2.1 (Presence of Prohibited Substance or its Metabolites or Markers), Regulation 21.2.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) and Regulation 21.2.6 (Possession of Prohibited Substances and Methods) shall be as follows, unless the conditions for eliminating or reducing the period of Ineligibility, as provided for in Regulations 21.22.3, 21.22.4, 21.22.5.1, 22.6, 21.22.7 and/or 21.22.8 or the conditions for increasing the period of Ineligibility, as provided in Regulation 21.22.9, are met:

First violation: Two years.

21.27 or the expiration of the time to appeal, the Judicial Committee ... may only suspend a part of the applicable period of Ineligibility with the approval of WADA and the Board. The extent to which the otherwise applicable period of Ineligibility may be suspended shall be based on the seriousness of the anti-doping rule violation committed by the Player or other Person and the significance of the Substantial Assistance provided by the Player or other Person to the effort to eliminate doping in sport. No more than three quarters of the otherwise applicable period of Ineligibility may be suspended. If the otherwise applicable period of Ineligibility is a lifetime, the nonsuspended period under this Regulation must be no less than eight years. If the Judicial Committee ... suspends any part of the period of Ineligibility under this Regulation 21.22.6, the Judicial Committee ... shall promptly provide a written justification for its decision to each Anti-Doping Organisation having a right to appeal the decision. If the Judicial Committee ... subsequently reinstates any part of the suspended period of Ineligibility because the Player or other Person has failed to provide the Substantial Assistance which was anticipated, the Player or other Person may appeal the reinstatement pursuant to Regulation 21.27.2"

22. The corresponding provision of the WADA Code, Article 10.5.3, contains a commentary, the pertinent portions of which provide as follows:

"The co-operation of Athletes, Athlete Support Personnel and other Persons who acknowledge their mistakes and are willing to bring other anti-doping rule violations to light is important to clean sport. Factors to be considered in assessing the importance of the Substantial Assistance would include, for example, the number of individuals implicated, the status of those individuals in the sport, whether a scheme involving Trafficking under Article 2.7 or administration under Article 2.8 is involved and whether the violation involved a substance or method which is not readily detectable in Testing. The maximum suspension of the Ineligibility period shall only be applied in very exceptional cases. An additional factor to be considered in connection with the seriousness of the anti-doping rule violation is any performance-enhancing benefit which the Person providing Substantial Assistance may be likely to still enjoy. As a general matter, the earlier in the results management process the Substantial Assistance is provided, the greater

the percentage of the otherwise applicable period of Ineligibility may be suspended.

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If a portion of the period of Ineligibility is suspended, the decision shall explain the basis for concluding the information provided was credible and was important to discovering or proving the antidoping rule violation or other offense.

.....

If any condition upon which the suspension of a period of Ineligibility is based is not fulfilled, the Anti-Doping Organization with results management authority shall reinstate the period of Ineligibility which would otherwise be applicable".

23. The Player in his written statement and his comments to the BJC, appealed for leniency.

24. For its part, the Board submits that the Player has admitted fault and that there are no mitigating circumstances that would warrant a reduction of the presumptive sanction on the basis of "Exceptional Circumstances".

25. The facts of this case are not dissimilar from those in *IRB and SARU v. Jacques Van Staden* (2012), a decision of a post-hearing review body of the South African Rugby Union. There the Player had not identified a "friend" who had provided him with Nandrolone. The extent of his "Substantial Assistance" was a promise to co-operate with any investigation that might be conducted in the future.

26. The post-hearing review body noted that under Regulation 21.22.6 a player must first establish that he or she has provided Substantial Assistance. Only once that threshold has been passed is it open to a Judicial Committee to consider the rendering of further assistance in the future for the purposes of determining how much of the period of Ineligibility should be suspended.

27. In the present case, the Player has not yet provided any meaningful Substantial Assistance. He cannot, therefore, satisfy the first requirement of Regulation 21.22.6.

28. For this reason, we find that the Player is not entitled to a reduction of his sanction at this time. If he is able to render Substantial Assistance in the future he may, subject to the provisions of Regulation 21.22.6, apply for part of his period of Ineligibility to be suspended.

29. Indeed, the stark fact of the matter is that the Player is a cheat. He has acknowledged cheating. He has offered no real mitigating circumstances. That said,

the Player apologised for his conduct. We accept that apology as genuine. He is young and may still have a future in the Game when his period of Ineligibility is over.

### **Decision**

30. On 21 June 2012 the Player committed an anti-doping rule violation, namely the presence in his bodily Sample of stanozolol. Stanozolol is an Anabolic Androgenic Steroid under Section 1 of the WADA Prohibited List.

31. The sanction imposed for this anti-doping rule violation is a period of Ineligibility of two years, commencing 29 June 2012 (the date upon which the Player was notified of the AAF and provisionally suspended).

32. It follows, therefore, that the Player's period of Ineligibility shall end on 28 June 2014.

33. The Player's attention is drawn to IRB Regulation 21.22.13 which provides, *inter alia*, that:

"No Player...who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a match and/or tournament (international or otherwise) or activity (other than authorised anti-doping education or rehabilitation programmes) authorised or organised by the Board or any Union or Tournament Organiser. Such participation includes but is limited to coaching, officiating, selection, team management, administration or promotion of the Game, playing, training as part of a team or squad, or involvement in the Game in any other capacity in any Union in membership of the IRB".

The full text of Regulation 21.22.13 concerning status during Ineligibility should be consulted.

### **Costs**

34. If the Board wishes us to exercise our discretion in relation to costs pursuant to Regulation 21.21.10 written submissions should be provided to the BJC via Mr. Ricketts by 17:00 Dublin time on 28 February 2013. Any responding written submissions from the Player to be provided by no later than 17:00 Dublin time on 7 March 2013.

**Review or Appeal**

35. This decision is final, subject to referral to a Post Hearing Review Body (Regulation 21.25) or an appeal, where the circumstances permit, to the Court of Arbitration for Sport (Regulation 21.27). In this regard, attention is also directed to Regulation 21.24.2, which sets out the process for referral to a Post-Hearing Review Body, including the time within which the process must be initiated.

15 February 2013

A handwritten signature in black ink, appearing to read 'Graeme Mew'. The signature is stylized with a large initial 'G' and a horizontal line under the name.

Graeme Mew, Chairman