

NATIONAL ANTI-DOPING PANEL

Before:
Christopher Quinlan
Dr Terry Crystal
Judy Vernon

BETWEEN:

UK Anti-Doping

National Anti-Doping Organisation

-and-

Samuel Thompson

Respondent

IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE 2009 ANTI-DOPING RULES OF THE RUGBY FOOTBALL LEAGUE

DECISION OF THE ANTI-DOPING TRIBUNAL

Introduction

1. This is the final decision of the Anti-Doping Tribunal convened under Article 8 of the 2009 Anti-Doping Rules of the Rugby Football League ('the Rules') to determine a charge brought against Samuel Thompson (the Respondent) for commission of a doping offence in breach of Article 2.1 of the Rules.
2. Article 2.1 of the Rules makes it a doping offence to provide a sample that shows "the presence of a Prohibited Substance or its Metabolites or Markers".
3. The Respondent was a player for Whitehaven RLFC and subject to the Rules. He was tested on 10 December 2009. The urine sample he provided was found to contain 2-alpha-methyl-5-alpha-androstan-3-alpha-ol-17-one, a metabolite of

drostanolone. The Rules incorporate the World Anti-Doping Agency Prohibited List, which includes drostanolone at S1.1a (Anabolic Androgenic Steroids).

4. United Kingdom Anti-Doping Limited ('UKAD') is the National Anti-Doping Organisation for the United Kingdom and the Results Management Authority for the Rugby Football League.
5. The Tribunal held a hearing on the charge on 29 April 2010. In advance of the hearing the Respondent indicated that he did not wish to attend the hearing. He did not attend. The hearing was attended (in addition to the Tribunal) by
 - Jason Torrance, para-legal, UK Anti-Doping
 - Stephen Watkins NADP Case Officer
6. This document constitutes our final reasoned decision, reached after due consideration of the evidence and submissions.

Procedural History

7. The Respondent was charged with a doping offence by letter dated 29 January 2010. The letter set out the details of the alleged doping offence with which he is charged and a summary of the facts and the evidence relied upon by the RFL. The letter also imposed a provisional suspension with effect from 08.00 30 January 2010.
8. The letter further informed him that pursuant to Article 7.5.1 of the Rules he should reply to the letter indicating whether he wished to admit or deny the offence; whether he wished the B sample to be analysed; to show cause why he should not be provisionally suspended; and to make submissions as to sanction.
9. By email dated and timed 9 February 2010, 13.17, and addressed to Dean Hardman (RFL Operations Manager) the Respondent stated, "*With regards to our*

recent conversation with the suggestions you offered about my ban I have decided with (sic) the third option. Admit to taking a banned substance but put across my opinion of why I took the substance and tell the RFL and UKAD it was down to poor research...". By the admission in that email he waived his right to have the B sample tested. That email ('9 February email') continues in the terms set out below.

10. On 15 February 2010 the Tribunal Chairman Christopher Quinlan issued written procedural directions. In response thereto on 18 February 2010 (at a time unclear) Mr Watkins received an email from the Respondent which stated, "...I originally stated that I would like to put together a case for my actions with regards to my failed doping test back in December but I've had a long think about this. Ive (sic) come to the conclusion that it wouldnt (sic) be worth it as I know Im (sic) liable for what is inside my body. With this I dont (sic) want to waste yourself, UKAD and the RFL's time".
11. In response to a further email from Mr Watkins, on 19 February 2010 (at a time unclear) the Respondent stated, "I have already (sic) stated in a previous email that I do not wish to attend to (sic) the tribunal as my case is pointless."
12. On 25 February 2010 the Tribunal Chairman issued further written procedural directions. In response thereto on 26 February 2010 Mr Watkins received a further email from the Respondent which stated, "...I don't think my case is strong enough and also think it would be a waste of time as I know im (sic) liable for what I put in my body even if it is down to poor research...to attend such a hearing I would have to take time from work which I cant (sic) afford to do".
13. Ultimately the hearing was fixed for 29 April 2010 at the offices of Pinsent Masons LLP, 1 Park Row, Leeds, LS1 5AB. The Respondent was so informed. He did not attend the hearing. In light of the history and his repeatedly stated intention not to attend and satisfied that he knew the date and time of and location for the hearing, we proceeded in his absence.

The Tribunal's Decision

Determination of the Charge

14. Article 2.1 of the Rules provides that a doping offence shall be constituted by:

"The presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample, unless the Athlete establishes that the presence is consistent with a TUE ('Therapeutic Use Exemption') granted in accordance with Article 4."

15. The A-sample taken from the Respondent on 10 December (A1083463) was found to contain 2-alpha-methyl-5-alpha-androstan-3-alpha-ol-17-one, a metabolite of drostanolone, a Prohibited Substance. No action was taken in respect of a further atypical finding, namely an elevated testosterone/epitestosterone ratio.

16. The Respondent admitted the offence in the 9 February 2010 email.

Consequences

17. Article 10.2 of the Rules provides that

"For an Anti-Doping Rule Violation under Article 2.1 (Presence of Prohibited Substance or its Metabolites or Markers), Article 2.2 (Use or Attempted Use of Prohibited Substance or Prohibited Method) or Article 2.6 (Possession of Prohibited Substances and/or Prohibited Method) that is the Participant's first violation, a period of Ineligibility of two years shall be imposed, unless the conditions for eliminating or reducing the period of ineligibility (as specified in Article 10.4 and/or Article 10.5) or the conditions for increasing the period of Ineligibility (as specified in Article 10.6) are met."

18. This is the Respondent's first violation.

19. Article 10.4 does not apply: drostanolone is not a Specified Substance. Article 10.5.1 does not apply: it is not suggested that there was no fault or negligence.
20. In the 9 February email, the Respondent continued, “...drostanolone...is a mild form of steroid which in many cases would’nt (sic) improve my performance. I taken (sic) this substance solely down to joint pain and with an insight to correcting old injuries...I have never been a cheat and have always believed in you get out what you put in...”
21. He adds that each of his previous (five) tests he was “confidently clean”.
22. We considered whether the account given by the Respondent established No Significant Fault or Negligence (Article 10.5.2). The Respondent has the burden of satisfying the Tribunal, on the balance of probabilities (Article 8.3.2) of each element. His case appears to be that he took the substance following inadequate research to alleviate or otherwise treat joint pain and/or injury.
23. As he (rightly) observed, the Respondent is responsible for what he puts into his body. That is enshrined in Article 1.3.1.b.i of the Rules, under the heading Core Responsibilities, which provides
- “It is the personal responsibility of each Athlete...to comply with these Rules in all Respects, including*
- i. *Taking full responsibility for what he/she ingest and uses...”*
24. In the circumstances, his account fails to establish No Significant Fault or Negligence under Article 10.5.2.
25. Accordingly the period of ineligibility imposed on the Respondent is 2 years.
26. In light of his ready admission, UKAD stated that it “would not object” to the Tribunal back-dating commencement of the period of Ineligibility to the date the

sample was collected, namely 10 December 2009. Article 10.9.2 of the Rules states that such is a matter for the Tribunal's discretion. We can see no good reason for doing so. Therefore, in accordance with Article 10.9.3 of the Rules the period of Ineligibility shall run from the date of the provisional suspension, namely 30 January 2010 until midnight on 29 January 2012.

27. The Respondent's status during the period of Ineligibility is as provided in Article 10.10 of the Rules, namely he may not participate in any capacity in a competition or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened authorised or recognised by the RFL or by any body that is a member of, or affiliated to, or licenced by the RFL".

Summary of Decision

28. For the reasons set out above, the Tribunal makes the following decision

- i. A Doping Offence contrary to Article 2.1 of the Rules has been established
- ii. The period of Ineligibility imposed is two years starting on 30 January 2010 and ending at midnight on 29 January 2012.

Right of Appeal

29. In accordance with Article 13 of the Rules the Respondent may appeal against this decision by lodging a Notice of Appeal within 21 days of receipt hereof.

Christopher Quinlan, Chairman

Dr Terry Crystal

Judy Vernon



Signed on behalf of the Tribunal

6 May 2010

