

ISSUED DECISION

In the Matter of:

UK ANTI-DOPING LIMITED

and

DAVID COOKSON

Relating to:

Disciplinary Proceedings under the Anti-Doping Rules of the Rugby Football League

This is an Issued Decision as between UK Anti-Doping Limited (“UK Anti-Doping”) and Mr David Cookson (the “Athlete”) relating to an Anti-Doping Rule Violation arising from the Rugby Football League (the “RFL”) Anti-Doping Rules (the “Anti-Doping Rules” or “ADR”).

Background and Facts

1. UK Anti-Doping is the National Anti-Doping Organisation for the UK. It is responsible for managing the results of drug tests conducted under the Anti-Doping Rules of the RFL, the governing body for the sport of rugby league in Great Britain.
2. The Athlete is a 24-year-old rugby player with Oldham RLFC (the “Club”). At all material times he was a participant in the sport of rugby league and subject to the Anti-Doping Rules.
3. On 12 August 2012, the Athlete provided an in-competition sample (1102906) for doping control purposes at the RFL match between Oldham and Doncaster, pursuant to the Anti-Doping Rules (the “Sample”).
4. The Sample was submitted for analysis to the Drug Control Centre, Harlow, a World Anti-Doping Agency (“WADA”) accredited laboratory (the “Laboratory”).
5. On 29 August 2012, the Laboratory reported to UK Anti-Doping that an Adverse Analytical Finding in respect of methylhexanamine (“MHA”) had been detected in the Sample. MHA is a Prohibited Substance in-competition, and is included in Section 6.b of the WADA 2012 Prohibited List (the “Prohibited List”).

The Charge

6. The Athlete did not possess, nor has he ever possessed, a therapeutic use exemption in respect of MHA. Further, UK Anti-Doping identified no apparent departures from either the International Standard for Testing, or the International Standard for Laboratories, in respect of the collection and analysis of the Sample.
7. On 31 August 2012, the Athlete was issued with a Notice of Charge by UK Anti-Doping for

the commission of an Anti-Doping Rule Violation pursuant to Anti-Doping Rule 2.1. The Notice of Charge explained the facts relied on in support of the allegation, the details of the charge, the consequences of an admission or proof of an Anti-Doping Rule Violation and the procedure for analysis of the B Sample.

8. The Notice of Charge also imposed a Provisional Suspension upon the Athlete, which took effect as from that date.
9. On 4 September 2012, the Athlete admitted the Charge in writing. He also waived his right to have the B Sample tested.
10. On 12 September 2012, the Athlete was interviewed by UK Anti-Doping, and on 19 November 2012 (after taking legal advice) provided further evidence to UK Anti-Doping in writing.

Consequences

11. Anti-Doping Rule 10.2 provides:

10.2 Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of Prohibited Substances and/or Prohibited Methods

For an Anti-Doping Rule Violation under Article 2.1 (presence of a Prohibited Substance or its Metabolites or Markers), Article 2.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) or Article 2.6 (Possession of a Prohibited Substance and/or a 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 for increasing the period of Ineligibility (as specified in Article 10.6) are met.

12. Where an athlete is found to have committed an Anti-Doping Rule Violation under Anti-Doping Rule 2.1, and such offence is the athlete's first Anti-Doping Rule Violation, a period of Ineligibility of two (2) years must be imposed pursuant to Anti-Doping Rule 10.2 ("the Standard Sanction").
13. This was the Athlete's first doping offence.
14. The Athlete did not seek to rely in mitigation on Anti-Doping Rule 10.5.1 or 10.5.2. However, he sought to mitigate the Standard Sanction by way of Anti-Doping Rule 10.4.
15. Anti-Doping Rule 10.4 provides:

10.4 Elimination or Reduction of the Period of Ineligibility for Specified Substances under Specified Circumstances

10.4.1 Where the Participant can establish how a Specified Substance entered his/her body or came into his/her Possession and that such Specified Substance was not intended to enhance the Athlete's sport performance or to mask the Use of a performance-enhancing substance, and it is the Participant's first violation, the period of Ineligibility established in Article 10.2 shall be replaced with, at a minimum, a reprimand and no period of Ineligibility, and at a maximum a period of Ineligibility of two (2) years.

10.4.2 To qualify for any elimination or reduction under this Article 10.4, the Participant must produce corroborating evidence in addition to his/her word that establishes, to the comfortable satisfaction of the hearing panel, the absence of an intent to enhance the Athlete's sport performance or mask the Use of a performance-enhancing substance. The Participant's degree of fault shall be the criterion considered in assessing any reduction of the period of Ineligibility.

16. MHA is a “Specified Substance” in the Prohibited List.

Application of Article 10.4

17. The Athlete has participated in an interview with UK Anti-Doping, has provided a statement himself and has provided statements from third parties by way of corroboration. The Athlete’s evidence can be summarised as follows:

17.1. The Athlete used a supplement called “JST Nomax” (the “Supplement”) as a training aid. He used the Supplement prior to club or personal training sessions, approximately three to four sessions a week, to counteract fatigue resulting from a combination of his daily work and these training sessions.

17.2. The last time the Athlete used the Supplement prior to competing on 12 August 2012 was on the morning of 11 August 2012, prior to training. The Athlete corroborated the timing of his use of the Supplement on 11 August 2012 by providing a witness statement from his partner, who prepared the Supplement for him that morning. The Athlete stated, and the Club confirmed, that they provide their players with an energy drink on game days, meaning that the Athlete had no need to take the Supplement on game days.

17.3. The Athlete confirmed that he had never received any formal anti-doping education, and was informed simply to use “reputable” brands associated with rugby. The Athlete did not consult the Prohibited List, but prior to using the Supplement, he searched rugby-related websites for “reputable” supplement and nutrition brands; spoke to staff at a local gym; carried out internet research on the JST website; and checked the ingredients listed on the Supplement.

18. The packaging of the Supplement refers to “1,3-Dimethylamylamine”, a synonym of MHA, as being one of its ingredients. UK Anti-Doping does not dispute that the Athlete has established, on a balance of probabilities standard, that MHA entered his system by way of the use of the Supplement.

19. UK Anti-Doping does not dispute that the Athlete had no intent to enhance performance (or mask the use of another Prohibited Substance). UK Anti-Doping accepts the Athlete’s assertion that he was not using the Supplement to cheat or gain any form of sporting advantage, and that the use of MHA was inadvertent.

Fault

20. UK Anti-Doping notes that the Athlete’s level of knowledge in relation to anti-doping is minimal. He has received no formal anti-doping education. Nevertheless, every athlete has a personal duty to acquaint themselves with their anti-doping responsibilities.

21. The Athlete did endeavour to check the Supplement, albeit fleetingly. He followed the guidance provided by his Club when selecting and checking the Supplement. He was also satisfied that the product was a “reputable” nutritional supplement. However, even the most rudimentary internet search quickly reveals that 1,3-Dimethylamylamine is a substance that athletes need to be wary of.

22. The Athlete has a degree of fault, but it is less than a well-educated athlete with access to a support network of doctors and nutritionists. Accordingly, UK Anti-Doping believes that a period of Ineligibility of six (6) months is the appropriate Consequence. The Athlete accepts this.

Summary

23. UK Anti-Doping has issued this Decision, pursuant to ADR 7.5.4, which records that:

- 23.1. An Anti-Doping Rule Violation in accordance with ADR 2.1 has been established;
- 23.2. A period of Ineligibility of six months shall be the Consequences imposed pursuant to Anti-Doping Rule 10.4;
- 23.3. That period of Ineligibility is deemed to have commenced on 31 August 2012 and will expire at midnight on 28 February 2013; and
- 23.4. The Athlete's status during this period of Ineligibility shall be as set out in Article 10.10:

10.10 Status during Ineligibility

A Participant who has been declared Ineligible may not, during the period of Ineligibility, participate in any capacity (or, in the case of an Athlete Support Personnel, assist any Athlete participating in any capacity) in a Competition, Event or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened, authorised or recognised by (a) the NGB or by any body that is a member of, or affiliated to, or licensed by the NGB; (b) any Signatory; (c) any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory's member organisation; or (d) any professional league or any international- or national-level Event organisation. In addition, save where the Anti-Doping Rule Violation involved only a Specified Substance, some or all financial support or benefits (if any) that the NGB might have otherwise provided to the Participant shall be withheld. In addition, the NGB shall take all steps within its power to have the period of Ineligibility recognised and enforced by all relevant parties, including other Signatories pursuant to Code Article 15.4."

- 23.5. The disposition of these proceedings on the terms set out above will be publicly announced via UK Anti-Doping's website.

Dated this 10th day of January, 2013.