



Decision

by

the FIBA Disciplinary Panel established in accordance with
Article 8.1 of the
FIBA Internal Regulations governing Anti-Doping
in the matter

Georgios Palalas
(born 20 March 1981)

hereafter:
(“the Player”)

(Nationality: Cyprus)

Whereas, the Player underwent an in-competition doping test on 1 June 2009 in Nicosia (Cyprus) on the occasion of the XIII Games of the Small States of Europe (the “Games”);

Whereas, on 11 June 2009 the Player provided a letter to the National Anti-Doping Organization of Cyprus (the “CYP-NADO”) admitting that he had “*smoke[d] a cigarette containing cannabis*” three days before the doping control and that, in case the laboratory analysis would result in an adverse analytical finding, he would not “*challenge the result [or] ask for the analysis of the B sample*”;

Whereas, the analysis of the Player's sample was conducted at the Laboratory of Athens (Greece), which is a WADA-accredited laboratory. On 1 July 2009 the Laboratory informed CYP-NADO that the sample showed the presence of metabolites of cannabis in excess of 30 ng/ml;

Whereas, by letter dated 13 July 2009 FIBA suspended the Player with immediate effect, both for international and national competitions;

Whereas, on 31 July 2009 the Player exercised his right to be heard via telephone conference by a FIBA Disciplinary Panel composed of Mr. Antonio Mizzi, President of FIBA's Legal Commission and of Dr. Heinz Günter, Vice President of FIBA's Medical Commission. Ms. Cendrine Guillon, FIBA Anti-Doping Manager, and Dr. Dirk-Reiner Martens, FIBA Legal Advisor, were also in attendance;

Whereas, the Player

- did not contest the result of the test;
- admitted that he smoked a cigarette containing cannabis at a party on 28 May 2009;
- stated that he had no intention to enhance his performance and that he regrets the use of cannabis;
- affirmed that he had committed no previous anti-doping rule violation;
- stated that since the last game of his national team on 6 June 2009 he had not played professional basketball.

Now, therefore, the Panel takes the following:

DECISION

A period of three months ineligibility, i.e. from 7 June 2009 to 6 September 2009, is imposed on Mr. Georgios Palalas.

Reasons:

1. According to Article 4.6.f. of the Doping Control Guide for the Games:

“In the event that the Sample A analysis results are confirmed, the Chairperson of the SESG shall call a meeting of the Organizing Committee of the SESG. The athlete, a maximum of three representatives from his/her delegation, and a representative of the corresponding International Federation will be invited to this hearing. Notwithstanding the aforementioned, the corresponding International Federation has full jurisdiction for results

management if the above mentioned hearing cannot be held within the period of the Games.”

(emphasis added by the Panel)

2. In the present case, the laboratory results were announced to the CYP-NADO on 1 July 2009, i.e. after the end of the Games. Therefore, the FIBA Disciplinary Panel has jurisdiction to decide this case in accordance with Article 8 of the FIBA Internal Regulations governing Anti-Doping (the “FIBA ADR”).
3. The Player has committed an anti-doping-rule violation pursuant to Article 2.1 of the FIBA ADR, since cannabis, a specified substance listed in WADA's 2009 Prohibited List under letter S.8 (Cannabinoids), was found in his urine sample. This fact remained uncontested.

4. According to Article 10.4 of the FIBA ADR:

“Where a Player or other Person can establish how a Specified Substance entered his or her body or came into his or her possession and that such Specified Substance was not intended to enhance the Player’s sport performance or mask the use of a performance-enhancing substance, the period of Ineligibility found in Article 10.2 shall be replaced with the following:

First violation: At a minimum, a reprimand and no period of Ineligibility from future Events, and at a maximum, two (2) years of Ineligibility.

To justify any elimination or reduction, the Player or other Person must produce corroborating evidence in addition to his or her word which establishes to the comfortable satisfaction of the hearing panel the absence of an intent to enhance sport performance or mask the use of a performance enhancing substance. The Players or other Person’s degree of fault shall be the criterion considered in assessing any reduction of the period of Ineligibility.”

5. In view of the fact that:

- the Player admitted to have used cannabis by letter signed 11 June 2009, i.e. twenty days before the results of the laboratory analysis were announced;
- the Player confirmed also at the hearing that he used cannabis on 28 May 2009 while celebrating at a party with a group of friends who invited him “to join them” and smoke together a cigarette of cannabis;

- the Player asserted that he used cannabis only for personal reasons and not in order to improve his athletic performance;
- the Player affirmed that he had committed no previous anti-doping rule violation;
- the Player has expressed his regret for the violation committed;

and based on previous practice, the Panel holds that it is appropriate to impose on the Player a sanction of three months.

6. In his letter dated 11 June 2009 the Player made reference to Article 10.5.4 of the FIBA ADR which reads as follows:

*“Where a Player or other Person voluntarily admits the commission of an anti-doping rule violation **before having received notice of a Sample collection** which could establish an anti-doping rule violation (or, in the case of an anti-doping rule violation other than Article 2.1, before receiving first notice of the admitted violation pursuant to Article 7) and that admission is the only reliable evidence of the violation at the time of admission, then the period of Ineligibility may be reduced, but not below one-half of the period of Ineligibility otherwise applicable.”*

(emphasis added by the Panel)

7. The Panel notes that the Doping Control Form, signed by the Doping Control Officer and the Player, indicates that the Player received notice of the Sample collection at 08:16 hrs. on 1 June 2009 and underwent a doping control a few minutes thereafter, at 08:35 hrs. Therefore, the Player cannot benefit from the application of the above provision, since he admitted to the anti-doping rule violation 10 days after he was notified of the sample collection.
8. Upon reviewing whether the Player’s admission at the time it was provided could have any legal consequences on this case, the Panel considered Article 10.9.2 of the FIBA ADR which reads as follows:

“Where the Player promptly (which, in all events, means before the Player competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule violation by FIBA, its Zone or National Federation, the period of Ineligibility may start as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred.”



9. In the present case the Player admitted the anti-doping rule violation well before he was “confronted” with it. The Panel deems it fair to apply by analogy (*argumentum a maiore ad minus*) Article 10.9.2 of the FIBA ADR and thus decides that the period of ineligibility is to start on 7 June 2009, i.e. the next day after the last official game in which the Player participated.

10. This decision is subject to an Appeal according to the FIBA Internal Regulations governing Appeals as per the attached “Notice about Appeals Procedure”.

Geneva, 6 August 2009

On behalf of the FIBA Disciplinary Panel

A handwritten signature in blue ink, appearing to read 'Antonio Mizzi', with a long horizontal stroke extending to the right.

Antonio Mizzi
President of the Disciplinary Panel