

**RUGBY FOOTBALL UNION**

**IN THE MATTER OF RUGBY FOOTBALL UNION REGULATION 20 AND INTERNATIONAL  
RUGBY BOARD REGULATION 21**

**BETWEEN :**

**THE RUGBY FOOTBALL UNION**

**AND**

**JOHN FREEMAN**

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**DECISION OF THE SINGLE JUDICIAL OFFICER**

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**Judicial Officer :** Antony M. Davies

**Player :** **JOHN FREEMAN**

**Appearances and  
Attendances :** Papers only

**Decision**

1. The sanction imposed for this anti-doping rule violation is a period of ineligibility of **TWO YEARS** for the Player commencing 18<sup>th</sup> April 2013 (the date upon which the Player was notified of the adverse analytical finding and provisionally suspended) and concluding on (but inclusive of) 18<sup>th</sup> April 2015. In the meantime, the Player's status is that governed by IRB Regulation 21.22.13.

**The Factual Background**

2. The material facts are not in dispute. On 2<sup>nd</sup> April 2013, the Player provided a urine sample following a doping control test at the match between [REDACTED]. The sample returned an adverse analytical finding which highlighted the presence of Benzoyllecgonine, a metabolite of Cocaine, and 11-nor-delta-9-tetrahydrocannabinol, a metabolite of Cannabis, in his "A Sample". Both substances are listed on the WADA Prohibited List 2013 under the sections S6(a) non-specified stimulants, and S8 Cannabinoids, respectively.

3. The Player was informed of the results of the doping control test by letter of 17<sup>th</sup> April 2013, in which he was notified that in accordance with RFU Regulation 20.11.2 and 20.11.3 the RFU Director of Legal and Governance had decided that there was a case to answer and the Player should be provisionally suspended from 18<sup>th</sup> April 2013 until determination of his case. The Player was informed of his right to have his "B Sample" analysed and asked for his written response, stating how he believed the substances came to be in his system.

4. On 30<sup>th</sup> April 2013, the Player responded to the RFU's requests stating the following :

*"Firstly I sincerely apologise for the situation I have put myself in.*

*I attended a stag night in [REDACTED] at the time I wasn't playing any more rugby that season due to an [REDACTED] injury. I play at a non-professional non-paid level and for me rugby is something I do certain weeks and not others. On this occasion I got a phone call Monday to see if I wanted to play on Tuesday because one of the first team players was injured .... I said yes".*

5. On 6<sup>th</sup> June 2013, the RFU received a letter from the Player's Solicitors in which they confirmed that he did not request a hearing in person

*"Mr. Freeman does not require a hearing in person however we would ask that he is notified of the findings as soon as possible. In addition we would be extremely grateful if you would advise Mr. Freeman of the date in which this violation will be publicised so he can prepare both himself and his family for the same".*

6. On 11<sup>th</sup> May 2013, the World Anti-Doping Agency increased the threshold level for Cannabis to 150ng/mL. The Player's level was 71.8ng/mL (below the new threshold level) and therefore does not constitute an Anti-Doping Rule violation from 11<sup>th</sup> May 2013. Accordingly, the Player falls to be sanctioned only for the adverse analytical finding in respect of the metabolite of Cocaine.

### **The Regulatory Regime/The Doping Offence**

7. The IRB Anti-Doping Regulations which are adopted by the RFU in RFU Regulation 20 set out the framework under which all players can be subjected to doping control. The Regulations adopt the mandatory provisions of the World Anti-Doping Code ("the Code").

8. Both the IRB Anti-Doping Regulations and the Code are based on the principles of personal responsibility and strict liability for the presence of Prohibited Substances or the use of prohibited methods.

9. Pursuant to Regulation 21.2.1 (Clause 2.1 of the Programme) the "presence of a Prohibited Substance or its metabolites or markers in a player's sample" constitutes an Anti-Doping Rule violation.

10. Regulation 21.2.1(a) provides :

*"It is each player's personal duty to ensure that no Prohibited Substance enters his body. Players are responsible for any Prohibited Substance or its metabolites or markers found to be present in their samples. Accordingly, it is not necessary that intent, fault, negligence or knowing use on the player's part be demonstrated in order to establish an Anti-Doping Rule violation under Regulation 21.2.1".*

11. In relation to the principle of personal responsibility Regulation 21.6 (Clause 6 of the Programme) provides :

*"6.1 It is each Player's responsibility to ensure that :*

- (a) No Prohibited Substance is found to be present in his body and that Prohibited Methods are not used;*
- (b) He does not commit any other Anti-Doping Rule violation;*
- (c) ...*
- (d) He informs Player Support Personnel, including, but not limited to, their doctors of their obligation not to use Prohibited Substances and Prohibited Methods and to take responsibility to ensure that any medical treatment received by them does not*

*violate any of the provisions of the Regulations.*

6.3 *It is the sole responsibility of each Player, Player Support Personnel and Person to acquaint themselves and comply with all of the provisions of these Anti-Doping Regulations including the Guidelines".*

12. Pursuant to Regulation 21.3.1, the RFU has the burden of establishing an Anti-Doping Rule violation to the comfortable satisfaction of the Single Judicial Officer. The Player accepts and does not challenge the analytical findings of the laboratory. Accordingly, I find that the RFU has established to the required standard the Anti-Doping Rule violation; that is the presence of the Prohibited Substance Benzoyllecgonine in the Player's bodily sample.

### **Sanction**

13. The IRB's regulatory framework stipulates that in imposing the appropriate sanction I am required to apply the relevant provisions of Regulation 21 (which are based on the World Anti-Doping Code). The period of ineligibility for a Prohibited Substance for a first time offence is **TWO YEARS**. This is the Player's first offence. This period of ineligibility may be eliminated or reduced in the event that conditions are met. These are set out in IRB Regulation 21.22.4 (No Fault or Negligence) and 21.22.5 (No Significant Fault or Negligence).

#### **21.22.4 No Fault or Negligence**

*If a Player or other Person establishes in an individual case that he bears No Fault or Negligence, the otherwise-applicable period of Ineligibility shall be eliminated. When a Prohibited Substance or its Markers or Metabolites is detected in a Player's Sample in violation of Regulation 21.2.1 (presence of a Prohibited Substance or its Metabolites or Markers), the Player must also establish how the Prohibited Substance entered his system in order to have the period of ineligibility eliminated. In the event this Regulation 21.22.4 is applied and the period of ineligibility otherwise applicable is eliminated, the anti-doping rule violation shall not be considered a violation for the limited purpose of determining the period of Ineligibility for multiple violations under Regulation 21.22.10.*

#### **21.22.5 No Significant Fault or Negligence**

*If a Player or other Person establishes in an individual case that he bears No Significant Fault or Negligence, the otherwise-applicable period of Ineligibility may be reduced, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this section may be no less than eight years. When a Prohibited Substance or its Markers or Metabolites is detected in a Player's Sample in violation of Regulation 21.2.1 (presence of Prohibited Substance or its Metabolites or Markers), the Player must also establish how the Prohibited Substance entered his system in order to have the period of Ineligibility reduced.*

14. The Player has not made formal representations, either on his own account or through his Solicitors, to demonstrate his suitability for a reduction, but as I am considering the matter on the basis of the papers before me, I feel duty-bound to consider the issue for him.

15. The Player is a 36 year old who has been playing rugby socially since the age of 13. He has always played at a non-professional level and is not remunerated for his participation in the sport. He immediately admitted the rule violation in writing and sincerely apologised for his actions. He is contrite and finds himself in an extremely unfortunate situation which he maintains was completely unforeseen.

16. The Player's case was that he attended a friend's stag night in [REDACTED]. He was suffering from an [REDACTED] injury and was not due to play any more rugby that season. Nonetheless he received a telephone call on 1<sup>st</sup> April 2013 requesting him to play the

following day [REDACTED] as one of the first team players had suffered an injury. He agreed.

17. I cannot help but note the Player agreed to play, knowing that he had deliberately and intentionally ingested a prohibited substance. He knew, or ought to have known, that he was subject to in competition testing. In my view, he took a calculated risk in full knowledge of the consequences in the event he returned an adverse analytical finding.

18. I can find no evidence on the papers before me which satisfy me that the conditions for eliminating or reducing the period of ineligibility under IRB Regulation 21.22.4 or 21.22.5 are met.

### Determination

19. Cocaine is a powerful central nervous system stimulant. The dangerous effects of cocaine are part of the reason for its prohibition. Whether snorted or smoked as crack, cocaine damages the nervous, respiratory and circulatory systems and its use can lead to addiction, dependency, anxiety and psychotic disorders. It is abused in sport, both for its properties as a stimulant and for the psychological effects which can "permit" enhanced short term extreme physical activity. On use, cocaine breaks down spontaneously into its metabolites. Those metabolites can remain detectable in urine for periods in excess of seven days. As a consequence of its capacity to act as a powerful central nervous system stimulant and the risk of serious injury resulting from its use, it is not a specified substance.

20. I have no reason to doubt the Player's contention that the cocaine was taken on the stag weekend to [REDACTED] a couple of days before the match in which the in competition testing took place. It was taken in a "social" setting, with no intention of improving sporting performance. The Player admits taking it. He knew it was "banned". He took it with another drug he knew also to be banned, namely cannabis, and he knew it was subject to in competition testing. He knew what he was doing and did it deliberately.

21. For the reasons outlined, the sanction imposed for this anti-doping rule violation is a period of ineligibility of two years commencing 18<sup>th</sup> April 2013 (the date upon which the Player was notified of the adverse analytical finding and provisionally suspended) and concluding on (but inclusive of) 18<sup>th</sup> April 2015.

22. 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) ... 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 with the IRB."*

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

### Costs

24. The RFU recognises the Player's amateur status and his position within the game and, quite rightly in my view, does not seek any award of costs against him. Consequently, no such order is made.

Appeal/Review

25. This Decision may be appealed by the Player (or others) in accordance with RFU Anti-Doping Regulation 20.12 and 20.13.



A.M. Davies,  
Single Judicial Officer

Date: 18<sup>th</sup> July 2013

