



Decision

by

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

Anthony Gordon Younger
(born 01 April 1980)

hereafter:
(**“the Player”**)

(Nationality: U.S.A.)

Whereas, the Player underwent an in-competition doping test on 16 November 2010 in Liege, Belgium, after the end of the game Belgacom Liege vs Barak Netanya held in the framework of the 2010-11 EuroChallenge Men (sample no. 2561700);

Whereas, the analysis of the Player's sample was conducted at the WADA-accredited Laboratory in Seibersdorf, Austria (“Laboratory”). On 10 December 2010 the Laboratory informed FIBA through ADAMS that the analysis of the Player’s sample showed *“the presence of Carboxy-THC, a metabolite of the prohibited substance THC, at a concentration of 20,2 ng/ml, which is greater than the decision limit of 18 ng/ml. The combined standard uncertainty (uc) estimated by the laboratory at the threshold is 1,5 ng/ml. This constitutes an adverse analytical finding”*;

Whereas, on 15 December 2010 FIBA informed the Player of the adverse analytical finding and of his right to request the analysis of bottle B from his sample;

Whereas, by letter dated 22 December 2010 the Player through his legal counsel waived his right to have bottle B analysed and requested to be heard by the FIBA Disciplinary Panel;

Whereas, by letter dated 12 January 2011 FIBA informed the Player that the FIBA Disciplinary Panel would decide on his case and provided to him the option of being heard either in person (in which case a hearing at FIBA's headquarters in Geneva would have to be organised) or via telephone conference on 26 January 2011;

Whereas, on 20 January 2011 the Player's counsel informed FIBA that the Player opted for a hearing by telephone conference and requested a postponement of the hearing due to previous commitments of the counsel as well due to the competition schedule of the Player, who would be travelling with the team that date;

Whereas, on 21 January 2011 FIBA informed the Player that the hearing was rescheduled for 3 February 2011;

Whereas, on 31 January 2011 the Player informed FIBA that his counsel was ill and thus unable to attend the hearing and that he would remain on a sickness leave for the following two weeks. For this reason, along with important competitions (domestic cup finals) taking place on the week of 7 February, the Player requested the hearing to be scheduled on a date after 14 February 2011;

Whereas, on 1 February 2011 FIBA informed the Player that (a) his request for a second postponement of the hearing was accepted and a new hearing date would be soon communicated to him, (b) in view of the additional delays in the adjudication process and that already a period of

more than two months since the doping control in question had passed, during which the Player had been participating in competitions, the FIBA Secretary General decided to provisionally suspend with immediate effect the Player from all national and international competitions in application of Article 7.5.2 of the FIBA Anti-Doping Regulations governing Anti-Doping (“FIBA ADR”);

Whereas, on 2 February 2011 the Player through his agent informed FIBA that he would like to attend the hearing of 3 February and that he was looking for alternative legal representation;

Whereas, on 3 February 2011 the Player – assisted by his legal counsel Mr. Yuval Dovrat and his agent Mr. Zeev Groos – was heard via telephone conference by a FIBA Disciplinary Panel composed of Dr. Wolfgang Hilgert, member of FIBA's Legal Commission and of Dr. Heinz Günter, President of FIBA's Medical Commission; Ms. Virginie Alberto, FIBA Anti-Doping Officer, Mr. Amir Ibrahim, FIBA Anti-Doping Assistant, Mr. Benjamin Cohen, FIBA Legal Affairs Manager as well as Mr. Andreas Zagklis, FIBA Legal Advisor, were in attendance;

Whereas, at the hearing the Player:

- did not contest the result of the test;
- stated that he signed an employment contract with the club Barak Netanya in Israel on 9 November 2010, i.e. only a week before the doping control of 16 November 2010;
- stated that, approximately a week before signing his contract and while still a free agent, he attended a social event where he smoked a cigarette;
- submitted that he didn't know that the cigarette he smoked contained cannabis and he discovered about this only after the analysis of the sample was announced to him and after asking several friends who also attended that social gathering;
- stated that he had no intention to enhance his performance and that he regrets the use of cannabis;

- affirmed that since the provisional suspension was imposed he had not participated in any competitions;
- asserted that this was his first anti-doping rule violation;

Whereas, after the end of the hearing the Player sent to FIBA a letter with his position and a copy of his contract with the club Barak Netanya dated 9 November 2010;

Now, therefore, the Panel takes the following:

DECISION

A period of three (3) months' ineligibility, i.e. from 1 February 2011 to 30 April 2011, is imposed on Mr. Younger.

Reasons:

1. Article 2.1 of the FIBA ADR reads as follows:

“ARTICLE 2 ANTI-DOPING RULE VIOLATIONS

Players and other Persons shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the Prohibited List.

The following constitute anti-doping rule violations:

2.1 The presence of a Prohibited Substance or its Metabolites or Markers in a Player's Sample.

2.1.1 It is each Player's personal duty to ensure that no Prohibited Substance enters his or her 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 violation under Article 2.1. [...]”

2. The Player has committed an anti-doping-rule violation pursuant to Article 2.1 of the FIBA FIBA ADR since a metabolite of THC, a prohibited specified substance listed in WADA's 2010 Prohibited List (the "2010 Prohibited List") under letter S.8 (Cannabinoids) was found in his urine sample. This fact remained uncontested.
3. With respect to the Player's argument that he smoked cannabis in a period when he had no contract with a team, the Panel wishes to underline that the violation committed by the Player is not that of Use (Article 2.2 of the FIBA ADR) but that of Presence of a prohibited substance (Article 2.1 of the FIBA ADR) in his body during a main official competition of FIBA on 16 November 2010.
4. According to Article 10.2 of the FIBA ADR

"The period of Ineligibility imposed for a violation of Article 2.1 (Presence of Prohibited Substance or its Metabolites or Markers), [...] shall be as follows, unless the conditions for eliminating or reducing the period of Ineligibility, as provided in Articles 10.4 and 10.5, or the conditions for increasing the period of Ineligibility, as provided in Article 10.6, are met:

First violation: Two (2) years' Ineligibility."

5. 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."



6. In view of the fact that:

- the Player admitted to have used cannabis in a social gathering approximately two weeks before the doping control;
- the Player is responsible for the substance found in his body and he should have made sure that the cigarette did not contain cannabis before smoking it;
- the Player asserted that he smoked the cigarette 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.

7. The Panel deems it appropriate pursuant to Article 10.9 of the FIBA ADR that the period of ineligibility is to start on the date the provisional suspension, i.e. on 1 February 2011, given that the Player has not participated in any official basketball competitions since that date.

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

Geneva, 9 February 2011

On behalf of the FIBA Disciplinary Panel

Dr. Wolfgang Hilgert
President of the Disciplinary Panel