



## **Decision**

by

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

**Monty Mack**  
**(born 20 September 1977)**

hereafter:  
**(“the Player”)**

(Nationality: U.S.A.)

**Whereas**, the Player underwent an in-competition doping test on 20 April 2010 in Bucharest, Romania, after the end of the game CSA Steaua Turabo vs Gaz Metan Medias held in the framework of the Romanian national championship;

**Whereas**, the analysis of the Player's sample (sample No: 2497462A) was conducted at the WADA-accredited Laboratory in Bucharest, Romania (“Laboratory”). On 28 April 2010 the Laboratory informed the Romanian National Anti Doping Agency (“Romanian NADO”) that the analysis of the Player’s sample showed the presence of “*acid 11-nor-delta 9-tetrahydrocannabinol-9-carboxylic (carboxi THC) 237,30 ±15,61 ng/ml*” which is included in the 2010 WADA List of prohibited substances;

**Whereas**, on 6 May 2010 the Romanian NADO informed the Player of the adverse analytical finding and of his right to request the analysis of the B sample. The Player was also invited to attend the meeting of the *Hearing Commission for athletes and their support personnel who violated the anti-doping rules* which was scheduled on 13 May 2010;

**Whereas**, the Player did not request the analysis of the B sample;

**Whereas**, no hearing was held and no decision was taken regarding the Player's adverse analytical finding by the Romanian NADO or by the Romanian Basketball Federation;

**Whereas**, by letter dated 2 March 2011 FIBA informed the Player that the case was submitted to the FIBA Disciplinary Panel and provided to him the option of being heard either in person (for which a hearing in FIBA's headquarters in Geneva would have to be organised) or via telephone conference on 10 March 2011;

**Whereas**, on 3 March 2011 the Player informed FIBA that he could not leave the USA due to personal issues and would prefer to participate in a hearing by telephone conference;

**Whereas**, on 10 March 2011 the Player – accompanied by his agent Mr. Manuel Capicchioni – 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 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 one or two days before the game where the doping control took place he organised a party at his house where he smoked a cigarette containing the prohibited substance;
- submitted that this was the first and only time he has used cannabis and that he had no intention to enhance his performance;
- stated that he has been playing professional basketball in Europe for approximately ten years;
- stated that he did not play in any official games after the results were announced to him;
- apologised for the adverse analytical finding and asserted that this was his first anti-doping rule violation;

Now, therefore, the Panel takes the following:

### **DECISION**

**A period of four (4) months' ineligibility, i.e. from 25 March 2011 to 24 July 2011, is imposed on Mr. Monty Mack.**

### **Reasons:**

1. Article 13.7.5 of the FIBA Internal Regulations governing Anti-Doping (the "FIBA ADR") edition 2010 reads as follows:

*"In the event of an anti-doping rule violation within the country of a national member federation, the Disciplinary Panel is authorised to impose a provisional suspension and/or a sanction according to these Regulations if the national member federation fails to do so. The implicated Person has the right to be heard. He may be suspended provisionally before the hearing."*

2. Considering that neither the Romanian NADO nor the Romanian Basketball Federation took a decision on the Player's case, the FIBA Disciplinary Panel is competent to hear this matter.

3. 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. [...]*”

4. The Player has committed an anti-doping-rule violation pursuant to Article 2.1 of the FIBA ADR since a metabolite of THC, a prohibited 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.

5. 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.”*

6. 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.”*

7. In view of the fact that:

- the Player admitted to have used cannabis in a party a few days before the doping control;
- the concentration of the prohibited substance in the Player’s sample was 237,30 ±15,61 ng/ml which is significantly higher than the threshold of 15 ng/ml;
- the Player is responsible for the substance found in his body;
- the Player is a 34-year old experienced professional athlete, who was aware that cannabis is prohibited and still chose to use it;
- the Player asserted that he had no intention to improve his athletic performance and the use of the substance was simply in the framework of a social gathering;
- 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 four months.

8. 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 of this decision, i.e. on 25 March 2011.

Fédération Internationale  
de Basketball



**FIBA**

International Basketball  
Federation

We Are Basketball

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

Geneva, 25 March 2011

On behalf of the FIBA Disciplinary Panel

Dr. Wolfgang Hilgert  
President of the Disciplinary Panel