



## Decision

by

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

**Morgan Edward Lewis**  
**(born 10 February 1987)**

hereafter:

**(“the Player”)**

(Nationality: U.S.A.)

**Whereas**, the Player underwent an in-competition doping test on 19 December 2010 in Essen, Germany, after the end of the game Essen vs Hannover held in the framework of the German 2<sup>nd</sup> division championship;

**Whereas**, the analysis of the Player's sample (sample No: 3659012) was conducted at the WADA-accredited Laboratory in Cologne, Germany (“Laboratory”). On 13 January 2011 the Laboratory informed the German Basketball Federation (Deutscher Basketball Bund, hereinafter “DBB”) that the analysis of the Player’s sample showed the presence of the prohibited substance “*carboxi THC*” in a concentration (282 ng/ml) higher than the threshold (18 ng/ml) established by the 2010 WADA List of prohibited substances;

**Whereas**, after being informed about the adverse analytical finding the Player sent a letter to the DBB, the relevant parts of which state as follows:

*“[...] This e-mail is in regards to the results of the anti-doping test performed on me in late December. I'm sure you've heard this time upon time, but I did not smoke. I am honestly not sure what happened and how the results were what they were. I am sincerely apologetic to this league, along with the whole ETB community. This was as shocking to me, as it was to them. The week of the test I was very sick with the flu. I was not aware we had to clear getting and taking any medicine with our physio, and I had a friend from Essen take me to the pharmacy and buy me different types of medicine. I spend nearly 50 Euros on different things from chest rubs, to inhalers, to liquids, and pills. They were all for cold and flu symptoms. I had been taking all sorts of different types of medicines that week, and that happened to be the week of the drug test. I told my physio and she was upset, and said she e-mailed the committee a list of the medicines I was taking. The medicine must have done something to effect (sic) the results of the drug test. I'm not sure what happened, I don't smoke anything with THC so I'm not sure how this happened. [...] I wanted to e-mail to apologize for this unfortunate event, and hopefully this will not effect any personal relationships I have made with anyone I met in this country. I also wanted to clear things up with the league, I am not an irresponsible person or a stupid person, I would not purposely put myself in this situation for something like this to happen and I feel completely horrible and embarrassed, I hope you understand. I would be more than willing to perform another test to prove I do not smoke or do any drugs. Hopefully the league can find a way to understand, and not give me the harshest of penalty, as I would love to return to this league and play again. I will agree with any punishment you seem fit, and understand, thank you for your time.”*

**Whereas**, shortly after the announcement of the positive result the team ETB Wohnbau Baskets Essen unilaterally terminated the Player's contract; as a result, the Player left Germany and returned to the United States;

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

**Whereas**, upon invitation by the DBB, on 2 February 2011 the Player stated he was unable to attend a hearing in person in Germany or by telephone conference submitting that



*“[...] I am back in the United States and currently do not have a cell phone. I obviously will not be at the hearing, but I did email the committee on how apologetic I am and I truly am. I apologize to the league, ETB organization and also the city of Essen, along with my family and friends. I'm not sure what else I can do, I hope the league and committee can be understanding with this matter. I have never been in trouble, I have never had trouble on or off the court, and this was a big mistake and misunderstanding. [...]”*

**Whereas**, on 11 February 2011 the DBB Anti-Doping Committee imposed on the Player a sanction of 2 years starting from 8 February 2010 (“the DBB Decision”);

**Whereas**, by letter dated 1 June 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 28 June 2011;

**Whereas**, on 8 June 2011 the Player informed FIBA that he would prefer to participate in a hearing by telephone conference and his FIBA-licensed agent, Mr Cuneyt Ungor (“the Agent”) would represent him at the hearing;

**Whereas**, on 28 June 2011 his Agent was heard via telephone conference by a FIBA Disciplinary Panel composed of Ms. Eleonora Rangelova, 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 Agent:

- confirmed that the Player did not contest the result of the test;
- stated that he has been representing the Player since the beginning of the 2010/2011 season but was informed about the positive finding with delay, due to his travelling in Australia at the end of January;

- stated that he approached the Player after the DBB decision and it was obvious from their discussion that the Player had smoked cannabis;
- stated that, although the Player was playing very well, his psychological status was fragile due to his father's death and also because he was starting his career in Europe and it was difficult for him to handle the pressure, adapt to the new life in Germany and the distance from his family;
- stated that the Player apologised for the adverse analytical finding and realized he had made a mistake;
- stated that the player had not played any official games since 15 January 2011 and is currently working in the U.S. in non-sports-related matters so as to secure an income;

**Whereas**, on 29 June 2011 the Panel invited the Player and his Agent to file further documentation in support of the arguments raised during the hearing;

**Whereas**, on 4 July 2011 the Player filed through his Agent a personal written statement, a quote from an email sent to his Agent shortly after the DBB Decision, a screenshot from his facebook account dated 22 December 2011 with reference to the death of his father, as well as playing statistics evidencing that he was the "most efficient player" of the German 2<sup>nd</sup> division until he stopped playing. The Player's email to the Agent reads as follows:

*"[...] this is what happened. I wasnt smoking the whole the season. just like a week before that last game before break started. I dont know i always get down that time of year. My dads birthday is dec 21 and around the time he died and i always get emotional and it was just tough being there by myself with no fam or friends. So i knew this girl and she smoked and one day i smoked and it made the time go a little easier. I dont know what else to say. It was a mistake but i didnt smoke couple times and the night before that last game. I dont know if that was why it was a high level or not but thats what happened."* (sic)

**Whereas**, the Player's written statement dated 1 July 2011 reads as follows:

*“Dear Sir or Madam,*

*I have made a serious mistake. The first time outside the U.S., I was depressed, especially because of my late father, whom I've missed highly in that time.*

*After discussions with my mother and my future wife, I realized that I need to approach these situations differently and we have developed a strategy for it.*

*The resolution of my contract after the positive doping test, I agree. At this point, I apologize*

*for the inconvenience. Sporty it was a great year for me as the most effective players in the Pro A.*

*I hope and pray for a lenient sentence, so my career rather than early on ends. I hope with all my heart that I still get a second chance to play basketball and I hope that I will end my career as a good player, stay as that in memories of people and transgression will be forgotten.”*

Now, therefore, the Panel takes the following:

## **DECISION**

**A period of nine (9) months' ineligibility, i.e. from 11 February 2011 to 10 November 2011, is imposed on Mr. Morgan Edward Lewis.**

### **Reasons:**

1. Article 13.7.2 of the FIBA Internal Regulations governing Anti-Doping (the “FIBA ADR”) edition 2010 reads as follows:



*“In accordance with Article 15.4.1 of the Code and in order to ensure that decisions adopted by organizations other than FIBA are in line with the Code and the regulations of FIBA, the Secretary General of FIBA may, upon request or ex officio:*

*[...]*

*b) submit a case to the Disciplinary Panel mentioned in Article 4-8.1 above.”*

2. 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. [...]*”

3. 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 substance listed in WADA's 2010 Prohibited List (the “2010 Prohibited List”) under letter S.8 (Cannabinoids) was found in his urine sample in a concentration greater than the statutory threshold. This fact remained uncontested.

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:

a) On the one hand:

- the Player admitted to have used cannabis with a purpose of managing his psychological problems in December 2010;
- the Agent confirmed that the Player used cannabis in that period and that the Player was without professional advice when confronted with the violation. As a result, the Player was afraid to admit the use of cannabis in his letters to the DBB Anti-Doping Committee;
- the Player was in his first year of playing professional basketball overseas and this was one of his first doping controls;
- the Player asserted that he had no intention to improve his athletic performance and that he has not used cannabis on other occasions;

- the Player affirmed that he had committed no previous anti-doping rule violation;
- the Player has expressed his regret for the violation committed;

b) On the other hand:

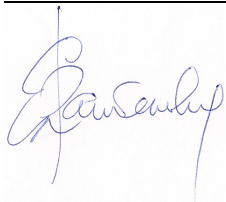
- the Player is responsible for the substance found in his body;
- the Player clearly lied to the DBB Anti-Doping Committee when stating that the source of cannabis must have been his medication against flu;
- the Player was well aware of the fact that cannabis is prohibited in basketball, he had been warned so by his Agent after arriving in Germany and still chose to use it;
- the concentration of the prohibited substance in the Player's sample was  $282 \pm 15,61$  ng/ml which is significantly higher than the threshold of 15 ng/ml;

and in view of the particular circumstances of this case and the Player's degree of fault, the Panel holds that it is appropriate to impose on the Player a sanction of nine 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 of the DBB decision, i.e. on 11 February 2011.
8. This decision is subject to an Appeal according to Articles 1-152 to 1-186 of the FIBA Internal Regulations as per the attached "Notice about Appeals Procedure".

Geneva, 8 July 2011

On behalf of the FIBA Disciplinary Panel



Eleonora Rangelova  
President of the Disciplinary Panel