



Decision

by

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

Christopher Bracey
(born 12 July 1980)

hereafter:
(“the Player”)

(Nationality: U.S.A./Irish)

Whereas, the Player underwent an out-of-competition doping test organised by the National Anti-Doping Agency of Greece (“ESKAN”) on 22 September 2011 in Athens, Greece (sample no. 1923034);

Whereas, the analysis of the Player's sample was conducted at the WADA-accredited Laboratory in Athens, Greece (“Laboratory”), which informed ESKAN that the analysis showed the presence of the prohibited substance Hydrochlorothiazide in the Player's sample.

Whereas, by letter dated 18 November 2011 the ESKAN informed the Hellenic Basketball Federation (“HBF”) about the adverse analytical finding and the Player's right to request the

analysis of the B sample. By letter of the same day, the HBF contacted the Player through his club Pagrati A.O. (“Greek Club”) forwarding the information received from ESKAN and also imposing a provisional suspension on the Player;

Whereas, the Player did not exercise his right to have the B sample analysed;

Whereas, on 7 December 2011 the Player, assisted by the President of the Greek club as his attorney in fact, was heard by the HBF One-Member Judicial Body (“HBF Judge”). During the hearing, the Player produced an empty bottle of the medication LISINOPRIL-HCTZ, which contains hydrochlorothiazide, as well as a hand-written prescription by his Chicago-based family doctor Frederick A. Barber MD (“Dr. Barber”);

Whereas, on 16 December 2011 the HBF Judge decided to impose a 2-year period of ineligibility on the Player;

Whereas, on 22 December 2011 the HBF sent to FIBA an English translation of the HBF Judge’s decision. Upon FIBA’s request, on 31 January 2012 the HBF forwarded to FIBA a copy of the Player’s file;

Whereas, by letter dated 23 February 2012 FIBA informed the Player that the FIBA Disciplinary Panel would decide whether and to what extent a sanction should be imposed upon the Player for the purposes of FIBA competitions. In the same letter, the Player was informed about his right to be heard either in person (in which case a hearing at FIBA’s headquarters in Geneva would have to be organised) or via telephone conference;

Whereas, on 13 March 2012 the Player was heard via telephone conference by a FIBA Disciplinary Panel composed of Dr. Wolfgang Hilgert, member of FIBA’s Legal Commission and

of Dr. Souheil Sayegh, Vice-Chairman of FIBA's Medical Commission; Ms. Virginie Alberto, FIBA Anti-Doping Officer and Mr. Andreas Zagklis, FIBA Legal Advisor, were in attendance;

Whereas, at the hearing the Player *inter alia*:

- did not contest the result of the test;
- stated that he did not play with the Greek Club until several weeks after arriving in Greece and undergoing the doping control, since he suffered from a hamstring injury. He only played a few minutes on 5 November 2011 and participated in only one other game;
- stated that the Greek Club did not provide him with any anti-doping education and the team did not have a team doctor. He was just visiting a physiotherapist appointed by the Greek Club in order to address the hamstring injury;
- affirmed that since the date of his provisional suspension (18 November 2011) he had not participated in any competitions;
- asserted that this was his first anti-doping rule violation, after having successfully passed numerous doping controls in the past;

Whereas, at the closure of the hearing, the FIBA Disciplinary Panel granted the Player a time-limit of 3 days to produce a copy of his medical file. By email of 16 March 2012 the Player submitted a summary of his position together with a document entitled “PROGRESS NOTES” and signed by Dr. Barber, which provides a detailed description of the Player’s various medical examinations from 16 August 2007 until 21 December 2011;

Whereas, in his written statement of 16 March 2012 the Player submitted the following:

“1. Please consider the fact that I have very high blood pressure that needs to be controlled by medication.

2. When I began taking Linsinopril/Hydrochlorthyazide I was retired from playing basketball. The exact date that I began taking the pills was February 22 2011. It makes absolutely no sense that I would be masking illegal drugs for performance enhancement not only because I would never do that but also that I wasn't even playing professional basketball..

3. Before taking Linsinopril I was taking Conversyl and Tenormin prescribed by Dr. Attipas Sortiris while I was playing in Cyprus in 2010. After tearing my Achilles Tendon I left the team in May of 2010 and basically decided to retire. I had enough Tenormin and Conversyl to last me through January of 2011. I went a few weeks without pills and then decided to see my Doctor in Chicago so he could check my blood pressure. As you can see in the attached medical file it was 156/100 which he felt was much too high. I told him that I was taking Tenormin and Conversyl and it was working just fine. He told me that we do not offer Tenormin or Conversyl in America. He prescribed me Linsinopril/Htcz which my mother also takes and is the number one pill prescribed for hypertension in America.

4. In September of 2011 Pagrati Basketball was interested in signing my Brother Bryan Bracey to their basketball club. He told them that he would play for them if they signed me as well. I previously played in Greece and had very good seasons so they knew of me. They told him that they thought I was retired due to my injury. I decided to try and make a comeback and signed with them as well. I do not know why I did not mention my blood pressure during the doping test. In no way was I trying to hide anything. I simply thought it had no relevance to me playing basketball.

My conclusion: Please know that if you do decide to punish me that I will be serving a ban based on principle but in actuality did nothing to cheat or to make me a better basketball player. The two things that I did do wrong were failing to mention that I had hypertension at the drug test and being ignorant that the meds I was taking to control my blood pressure contained a banned substance.

Please consider this info along with the attached medical files from my doctor Dr Frederick Barber.

Now, therefore, the Panel takes the following:



DECISION

A period of six (6) months' ineligibility, i.e. from 18 November 2011 to 17 May 2012, is imposed on Mr. Christopher Bracey.

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 Hydrochlorothiazide, a prohibited specified substance listed in WADA's 2011 Prohibited List under letter S.5 (Diuretics and Other Masking Agents) was found in his urine sample. This fact remained uncontested in the proceedings.
3. 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.”

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’s medical condition and respective treatment with the substance Hydrochlorothiazide is established through the medical reports submitted by the Player, in particular the “PROGRESS NOTES” which specify the examination of 22 February 2011 and the treatment prescribed by Dr. Barber;
- the Player had been taking medication for his hyper-tension while playing for a FIBA club in Cyprus without testing positive;
- the change in medication took place at a time (February 2011) when he was out of contract and without any intention to seek employment, since he remained without a club during the entire 2010/2011 and was recovering from a surgery to his Achilles tendon;

- the Player produced at the hearing before the HBF Judge an open bottle of the medication LISINOPRIL-HCTZ which was prescribed and purchased in the US and was the source of the prohibited substance;
- the Player had not participated in any competitions before the doping control for approximately 2 years and, in addition, he was in September and October 2011 side-lined and could not play *or train* due to an injury unrelated to the medication or to a prohibited substance that could be concealed by Hydrochlorothiazide. Further, the doping control of 22 September 2011 was conducted as part of the process to obtain a license in Greece upon the Player's arrival from the US;
- the information provided by the Player regarding his playing activities in France, Greece and Cyprus is consistent with his transfer records at FIBA, the award 0118/2010 of the Basketball Arbitral Tribunal on a financial dispute (Bracey vs Achilles Kaimakliou BC¹) and publicly available statistics of the Player²;
- it is evident from the circumstances relating to the doping control that the Player had no intention to enhance his performance or to mask the use of a prohibited substance;
- the Player is responsible for the substance found in his body and he should have made sure that a Therapeutic Use Exemption was granted to him prior to joining a FIBA club;
- the Player did not mention his medication to the doping control officers or on the doping control form while he noted "IBUPROFEN, CREATINE";

the Panel decides that it is appropriate to impose on the Player a sanction of six (6) months. The Panel emphasizes that it reached the above conclusions on the basis of very particular circumstances as evidenced, and without therefore intending to give any direction whatsoever for future cases.

¹ http://www.fiba.com/downloads/v3_expe/fat/dec11/0118_Bracey_AchilleasKaimakliou.pdf

² <http://www.eurobasket.com/player.asp?Cntry=GRE&PlayerID=58753>

6. The Panel deems it appropriate pursuant to Article 10.9.3 of the FIBA ADR that the period of ineligibility shall start on the date of the provisional suspension imposed on the Player by the HBF, i.e. on 18 November 2011, since he has remained ineligible and did not participate in any competitions ever since.

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

Geneva, 28 March 2012

On behalf of the FIBA Disciplinary Panel



Dr. Wolfgang Hilgert
President of the Disciplinary Panel