



Fédération Internationale
de Basketball

FIBA

International Basketball
Federation

We Are Basketball

Decision

by

the FIBA Secretary General

in accordance with

Article 13.7.2 of the

FIBA Internal Regulations governing Anti-Doping

in the matter

Jason Anthony Smith

(born 13 September 1983)

hereafter:

(“the Player”)

(Nationality: US-American)

Whereas, the Player underwent an in-competition doping test on 17 December 2011 on the occasion of a regular season game in the German “Pro B” league; upon being asked whether he had taken any medication, the Player indicated that he had been using “Diabetic Insulin Hunolog Lantis” containing insulin, a prohibited substance under Article S.2.3 of the 2011 WADA Prohibited List;

Whereas, on 23 December 2011, the Player applied to the National Anti Doping Agency of Germany (“NADA”) for a Therapeutic Use Exemption (“TUE”), submitting a confirmation from his doctor that it was medically necessary for the Player to use insulin;

Whereas, NADA granted the requested TUE for insulin on 13 January 2012;

Whereas, the analysis of the Player's sample was conducted at the WADA-accredited Institute of Doping Analysis and Sports Biochemistry ("IDAS") in Kreischa, Germany, on 3 January 2012 and (specifically for insulin) on 24 February 2012; neither of the analyses showed any indication for use of substances included in the 2011 WADA Prohibited List;

Whereas, on 30 March 2012, the Player explained in writing to the Anti-Doping Commission of the German Basketball Federation (hereinafter referred to as the "ADC") that he had been suffering from diabetes since the age of three and had taken insulin ever since; the Player further submitted that he had not been aware of insulin being a prohibited substance and that in 2007 he had contacted FIBA and thought that the reply of FIBA's Anti-Doping Officer was enabling him to play anywhere in Europe without taking any further steps such as applying for a TUE;

Whereas, in the hearing before the ADC held on 23 May 2012, the Player's counsel made reference to the Player's written explanations above;

Whereas, on 23 May 2012, the ADC decided to impose on the Player a period of six months' ineligibility, commencing on 28 March 2012 (the "ADC Decision");

Whereas, on 1 July 2012, the Player's brother provided FIBA with a copy of the ADC decision;

Now, therefore, the FIBA Secretary General takes the following:



DECISION

The decision issued by the German Basketball Federation on 23 May 2012 is adopted by FIBA.

For the purposes of FIBA Competitions, a period of six months' ineligibility, i.e. from 28 March 2012 to 27 September 2012, is imposed on Mr. Jason Anthony Smith.

All national member federations shall apply this decision for the purposes of their national competitions and shall take all necessary action to render this decision effective.

Reasons:

1. Article 4-13.7.2 of the FIBA Internal Regulations governing Anti-Doping (the "FIBA ADR") 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:

a) decide that a decision taken by a national member federation or by organisations outside FIBA and its national member federations (e.g. state bodies, the IOC, national anti-doping organisations or other national or international sports organisations inside or outside the Olympic movement) be adopted for the purposes of FIBA Competitions, if the following requirements are cumulatively met:

- i) the accused Person has been cited properly;*
- ii) he has been given an opportunity to be heard;*
- iii) the decision has been properly communicated;*
- iv) the decision is not in conflict with the regulations of FIBA;*
- v) extending the sanction does not conflict with ordre public.*



In deciding whether the above-mentioned requirements are fulfilled, the Secretary General of FIBA, the FIBA Appeals' Panel or the CAS shall not review the merits of the decision in question.

Under exceptional circumstances the Secretary General of FIBA may request the parties involved to state their position only as regards the fulfilment of the abovementioned requirements. No person shall be entitled to challenge the substance of the decision in question.

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

2. FIBA initially notes that the Player has been cited properly in the ADC Decision and that he was given an opportunity to be heard before the ADC. In fact, the Player admitted the violation in his written submission of 30 March 2012 filed before the ADC and, although he did not personally appear at the hearing of 23 May 2012, was represented by counsel who made express reference to the written submission in his pleading.
3. Further, FIBA notes that the ADC Decision was properly communicated to the Player, as evidenced by the fact that on 1 July 2012 the Player contacted FIBA, through his brother, in order to receive further information about the ADC Decision that had been sent to him.
4. Lastly, FIBA finds that the ADC decision is not in conflict with the FIBA Regulations. The provisions applied by the ADC Commission are in compliance with articles 4-10.2, 4-10.5.2 and 4-10.5.4 of the FIBA ADR, especially with respect to insulin being a prohibited (and non-specified) substance and regarding the double reduction of the sanction due to the lack of significant fault or negligence and due to the Player's admission of the violation. Also, the sanction imposed is in line with the minimum period of ineligibility provided for in article 4-10.5.5 the FIBA ADR. In addition, extending the sanction does not conflict with *ordre public*.



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5. In accordance with article **4-13.7.4** of the FIBA ADR, all national member federations shall apply this decision for the purposes of their national Competitions and shall take all necessary action to render such decision effective. To this end, FIBA shall publish this decision on its website.

6. This decision is subject to an Appeal according to the FIBA Internal Regulations governing Appeals as per the attached “Notice about Appeals Procedure”. Pursuant to Article **4-13.7.2** cited above *“In deciding whether the above-mentioned requirements are fulfilled, the Secretary General of FIBA, the FIBA Appeals’ Panel or the CAS shall not review the merits of the decision in question”*.

Geneva, 19 July 2012

Patrick Baumann

FIBA Secretary General