



Decision

by

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

[Mr. A]

[date of birth]

hereafter:

(“the Player”)

[Nationality]

Whereas, the Player underwent an in-competition doping test on *[Date]* in *[Country]*;

Whereas, the analysis of the Player's sample *[Number of sample]* was conducted at the WADA-accredited Laboratory in *[Country]* (“Laboratory”). On *[Date]* the Laboratory informed FIBA through ADAMS that the analysis of the Player’s sample showed the presence of “*Carboxy-THC greater than the Decision Limit of 18 ng/mL. The mean concentration measured is 24.6ng/mL. The combined standard uncertainty (uc) estimated by the Laboratory at the threshold is 1,2 ng/mL.*”. This constitutes an adverse analytical finding;

Whereas, on *[Date]* FIBA informed the Player of the adverse analytical finding and of his right to request the analysis of bottle B from his sample;

Whereas, on [Date], the [Country] Basketball Federation wrote to FIBA as follows:

“We informed player [Name] and give him the letter.

He refused from analysis of bottle B.

We are the first time in same situation, because before our player have not positive doping control test.

We understand that will be disqualification for this player and we stoped his playing in our championship till receive decision from FIBA.

What we need to do now? Please help us.

Sorry for the late reply.” [sic]

Whereas, by letter dated [Date] 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 [Date];

Whereas, on [Date], the [Country] Basketball Federation wrote to FIBA as follows:

“We are ready to telephone conference on [Date] at 3-00 pm (Geneva time).

Player [Name] also will be with us. He can't speak English, only Russian. Our vice-president [Name] can translate him everything.”

Whereas, on [Date] the Player – assisted by [Name], Vice-President of the [Country] Basketball Federation, as translator – was heard via telephone conference by a FIBA Disciplinary Panel composed of Dr. Wolfgang Hilgert, member of FIBA’s Legal Commission and of Dr. Peter Harcourt, Chairman of FIBA's Medical Commission. Ms. Virginie Alberto, FIBA Anti-Doping Officer as well as Mr. Andreas Zagklis, FIBA Legal Advisor, were also in attendance;



Whereas, in his submissions the Player stated that:

- he did not contest the result of the analysis;
- approximately 10 days before the doping control and while he was still in [Country], he attended a party with friends and relatives at his neighbours' house where he was offered a cigarette. He smoked the cigarette without knowing that it contained cannabis;
- he is not a smoker but accepted to smoke the cigarette because he wanted to show off to the people around him in the party;
- the ingestion of the substance had no connection with his playing activities and he did not intend to enhance his performance. He was anyway still with the team in [Country] and they departed to [Country] only 2-3 days after he attended the party;
- after receiving FIBA's letter, he and the [Country] Basketball Federation investigated the issue and came to the conclusion that the cigarette smoked in that party was the source of cannabis;
- this was only his second international competition and he has had no experience or education in anti-doping matters;
- he has regretted for his actions and understands that this violation will have implications beyond his sporting career, given the rarity of doping cases in [Country] and the nature of the prohibited substance;
- this is his first anti-doping rule violation;
- he has not participated in any competitions after FIBA's letter of [Date] which led [Country] Basketball Federation to provisionally suspend him;

Now, therefore, the Panel takes the following:

DECISION

A period of three (3) months' ineligibility, i.e. from [Date] to [Date], is imposed on [Name].



Reasons:

1. Article 2.1 of the FIBA Internal Regulations governing Anti-Doping ("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 ADR since Carboxy-THC, a prohibited specified substance listed in WADA's 2012 Prohibited List under letter S.8 (Cannabinoids), was found in his urine sample. This fact remained uncontested.
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 admitted to have used cannabis in a social gathering approximately 10 days 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 [Country] Basketball Federation made its own investigation and also confirmed the Player’s version of the facts;
- 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.
6. The Panel notes that, although FIBA as the results management authority did not provisionally suspend the Player, the [Country] Basketball Federation as his national federation disallowed him any participation in competitions from the day after FIBA's letter of [Date] and "till receive decision from FIBA". This was confirmed in [Country] Basketball Federation's email to FIBA of [Date] as well as by the statements of [Name], [Country] Basketball Federation's Vice-President, during the hearing. Therefore, 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 that the [Country] Basketball Federation provisionally suspended the Player, i.e. on [Date], given that he has not participated in any official (national or international) basketball competitions since that date.
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, 4 February 2013

On behalf of the FIBA Disciplinary Panel

Dr. Wolfgang Hilgert
President of the Disciplinary Panel