



Decision

by

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

Zaid Naem Alkhas
(born 7 March 1976)

hereafter:
(“the Player”)

(Nationality: Jordan)

Whereas, the Player underwent an in-competition doping test on 25 September 2011 in Wuhan, China, on the occasion of the 2011 FIBA Asia Championships for Men;

Whereas, the analysis of the Player's sample (sample No: 1973650) was conducted at the WADA-accredited Laboratory in Beijing, China (“Laboratory”). On 24 October 2011 the Laboratory entered into the Anti-Doping Administration & Management System (ADAMS) that the analysis of the sample with the above-mentioned number showed the presence of the prohibited substance “S6, *Stimulants/methylhexanamine (demethylpentylamine)*” established by the 2011 WADA List of prohibited substances;



Whereas, FIBA was informed of this result on the same day but was unable to identify the competition at which the sample was collected or the name of the player involved in view of the fact that the "Analysis Result Records" submitted by the Laboratory did not mention the date nor the site of the sample collection;

Whereas, after sending several requests and reminders to the Chinese Anti-Doping Agency and to the Chinese Basketball Association, FIBA received documentation enabling it to identify the Player (through a copy of the doping control form) only on 16 February 2012, and immediately initiated the results management process;

Whereas, by letter dated 1 March 2012 FIBA informed the Player about the adverse analytical finding and about his right to request the analysis of bottle B;

Whereas, by an undated letter which was received by FIBA on 9 March 2012 the Player waived his right to the analysis of bottle B and provided FIBA with his position in writing;

Whereas, by letter dated 19 March 2012 FIBA informed the Player that, in accordance with the FIBA Internal Regulations governing Anti-Doping ("FIBA ADR"), 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 30 March 2012;

Whereas, by an undated letter which was received by FIBA on 26 March 2012 the Player confirmed his preference for and participation in a hearing by telephone conference;

Whereas, by letter dated 27 March 2012 the Jordan Basketball Federation requested that FIBA impose a warning, a reprimand and no period of ineligibility on the Player, confirming that it will



conduct anti-doping education programs requiring the Player to lecture to young athletes about the dangers of doping;

Whereas, on 30 March 2012 the Player – assisted by his legal counsel, Mr. Laith Hadad – 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, Deputy-Chairman of FIBA's Medical Commission; Ms. Virginie Alberto, FIBA Anti-Doping Officer as well as Mr. Andreas Zagklis, FIBA Legal Advisor, were in attendance. The hearing was also attended by Messrs. Hilal Barakat and Ibrahim Sharawi, President and Secretary General respectively of the Jordan Basketball Federation, as well as by Mr. Tab Baldwin, head coach of Jordan's Men national team ("the Coach");

Whereas, in his written statement and at the hearing the Player:

- did not contest the result of the analysis and admitted the violation;
- stated that during the stay of the national team in China he felt "low on energy", fatigue and sick because he was not used to the local food offered in the hotel and therefore could not eat well;
- stated that, in order to address this problem, approximately two days before the doping control he went to a supplement store in China to buy an energy drink. The salesperson could not communicate properly in English but advised the Player to buy a product called Jack3d, of which the Player had never heard before;
- informed the Panel that he did not do research on the product due to time constraints and the heavy schedule of the team. He ingested one scoop on the way to the game of 25 September 2011 and, having no idea about the presence of a prohibited substance, he informed the doping control personnel accordingly and wrote the name of the supplement on the doping control form;

- stated that the night after the game of 25 September 2011, which was the last game of his team in the FIBA Asia Championships, he researched the product online and found out that it may contain a prohibited substance. For this reason he did not use Jack3D again;
- asserted that representatives from the Jordan Basketball Federation told the players prior to the FIBA Asia Championships to be careful with "what they put in their bodies" but did not show to them the FIBA Circular Letter of 31 January 2011 containing a warning for the substance methylhexaneamine;
- stated that he announced his retirement from the national team due to his age (35 years old at that time) and to the fact that he wanted to spend more time with his wife and newborn twins. He did not play in any competitions between October 2011 and January 2012 and currently plays at a local league in Jordan. He also visits young athlete's camps and speaks about doping;
- inquired, through his counsel, the reasons behind the delay in notifying the doping control results to him, despite the wording of Article 7.3 of the FIBA ADR ("*FIBA shall promptly notify the Player of ... the Adverse Analytical Finding*");
- admitted he should have dealt with the matter in a more professional way and is therefore fully responsible for the anti-doping rule violation, although he had no intention to enhance his performance;
- stated that he played in only two games throughout the competition due to Coach's decision;
- expressed his regret for the adverse analytical finding and stated that this was his first anti-doping rule violation after having been tested various times in the past;
- requested the Panel not to impose any sanction on him for an "accident" that occurred only once before one single game, because he needs to compete at the local league (which ends in May 2012), since basketball is the only source of income for his family;

Whereas, at the hearing the Coach testified that



- the Player was the only member of the team that experienced problems in adapting to local food during their stay in Wuhan, China and complained several times to the Coach;
- there has been a team-meeting and a general discussion with the players do be careful with what they consume;
- he was not aware of the fact that the Player used Jack3D. The person who could provide advice on supplements would be the team's physiotherapist.

Now, therefore, the Panel takes the following:

DECISION

A period of six (6) months' ineligibility, i.e. from 1 January 2012 to 30 June 2012, is imposed on Mr. Zaid Naem Alkhas.

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 ADR since methylhexaneamine (demethylpentylamine), a prohibited substance listed in WADA's 2011 Prohibited List (the "2011 Prohibited List") under letter S.6.b (Specified Stimulants) 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. The Panel notes that the Player admitted the violation and the use of the prohibited substance from the outset and has been consistent in his pleadings throughout the proceedings. He was straightforward in his answers to the Panel, in particular the circumstances under which he decided to buy Jack3D, how he used it and subsequently declared it while at the doping control

station. The testimony of a key person in the Jordan national team delegation, such as the Coach, who was present at the time of the crucial events and has long experience of coaching national teams in FIBA competitions, corroborates the Player's version of the facts. The Panel finds on the basis of the above evidence that Article 10.4 of the FIBA ADR is applicable to this case.

6. On the other hand, the Panel finds that the Player, a 36-year professional who has participated with his national team in the highest level of national team competitions (amongst others, the 2010 FIBA World Championships) and has had sufficient exposure to basketball outside Jordan through his NCAA career, was indeed negligent in (a) failing to research the ingredients of the supplement before using it; (b) purchasing and using the product upon recommendation of a supplement-store salesman in China, with whom he was unable to communicate properly in English; and (c) not requesting his national federation personnel, be it a physiotherapist or a doctor, for assistance in determining whether he was allowed to consume the supplements prior to entering a FIBA competition.
7. In view of the circumstances of this case, the Player's degree of fault and the jurisprudence of this Panel in similar cases involving the same substance and the same supplement (see *ex multis* decision of 31 March 2011 in the case of Anthony Weeden, also involving the use of Jack3D), the Panel decides that it is appropriate to impose a sanction of six (6) months on the Player.
8. According to Article 10.9.1 of the FIBA ADR:

“Delays Not Attributable to the Player or other Person

Where there have been substantial delays in the hearing process or other aspects of Doping Control not attributable to the Player or other Person, the FIBA or Anti-Doping Organization imposing the sanction may start the period of Ineligibility at an earlier date commencing as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred.”

9. In the case at hand, the Panel finds that the communication (or lack thereof) among the various authorities involved (FIBA Asia, which organised the competition; Chinese NADO, which conducted the doping controls; the Laboratory, which analysed the sample; Chinese Basketball Association, which hosted the competition; and FIBA, which has results management for FIBA competitions) resulted in having the results management process initiated more than five (5) months after sample collection: FIBA sent its notice to the Player's on 1 March 2012 for a test conducted on 25 September 2011. At the same time, the Panel notes that the proceedings have been significantly accelerated thereafter by the Player's swift admission of the violation upon being confronted with it and by his waiver of the B sample analysis. Also, after the FIBA Asia Championships the Player remained more than three months off-season and without any activity, unaware of his positive finding.

10. Therefore, there have been long and substantial delays in the doping control process leading to this hearing, which were not attributable to the Player. In view of such exceptional – seemingly unprecedented in basketball – circumstances, and without the intention to provide any guidance for future cases, the Panel decides that the period of ineligibility shall start on 1 January 2012.

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

Fédération Internationale
de Basketball



International Basketball
Federation

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Geneva, 17 April 2012

On behalf of the FIBA Disciplinary Panel

Dr. Wolfgang Hilgert

President of the Disciplinary Panel