

Issued Decision

UK Anti-Doping and Jami Mirwaise

5 August 2013

Disciplinary Proceedings Under the Anti-Doping Rules of the British Wrestling Association

This is an Issued Decision as between UK Anti-Doping Limited and Mr Jami Mirwaise relating to an Anti-Doping Rule Violation arising from the British Wrestling Association Anti-Doping Rules.

Background and Facts

1. The British Wrestling Association (“BWA”) is the governing body for the sport of wrestling in Britain. UK Anti-Doping (“UK Anti-Doping”) is the National Anti-Doping Organisation for the United Kingdom. It is responsible for managing the results of drug tests conducted under the BWA Anti-Doping Rules (the “Anti-Doping Rules” or “ADR”).
2. Mr Jami Mirwaise (the “Athlete”) is a thirty-five (35) year old wrestler. On 16 June 2013, he competed in the 96 kilogram Greco-Roman category at the BWA British Senior Championships (the “Event”). Following the competition, he provided an In-Competition sample for doping control purposes, pursuant to the Anti-Doping Rules (the “Sample”).
3. The Sample was submitted for analysis to the Drug Control Centre, King’s College London, a World Anti-Doping Agency (“WADA”) accredited laboratory (the “Laboratory”). On 1 July 2013, the Laboratory reported that an Adverse Analytical Finding in respect of oxandrolone had been made in respect of the Sample.
4. Oxandrolone is classified as an Anabolic Agent and is listed under S1 of WADA’s 2013 List of Prohibited Substances (the “List”).
5. On 2 July 2013, the Athlete was issued with a Notice of Charge by UK Anti-Doping, charging the Athlete with the commission of Anti-Doping Rule Violations pursuant to ADR Articles 2.1 (Presence of a Prohibited Substance in an Athlete’s Sample) and 2.2 (Use by an Athlete of a Prohibited Substance). The Notice of Charge explained the facts relied on in support of the allegations, the details of the charges, the consequences of an admission or proof of the Anti-Doping Rule Violations, and the procedure for analysis of the B Sample.
6. The Athlete did not request analysis of his B Sample.
7. ADR Article 7.5.4 provides:

“In the event that the Participant admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by [UK Anti-Doping] (or is deemed to have done so in accordance with the last sentence of Article 7.5.1), neither B Sample analysis nor a hearing is required. Instead, [UK Anti-Doping] shall promptly issue a decision confirming the commission of the Anti-Doping Rule Violation(s)

and the imposition of the specified Consequences, shall send notice of the decision to the Participant and to each Interested Party, and shall publish the decision in accordance with Article 14.”

8. On 16 July 2013, the Athlete confirmed that he admitted the charges and acceded to the specified Consequences. .
9. This decision is therefore issued pursuant to ADR Article 7.5.4.

Consequences

10. ADR Article 10.2 provides:

“Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of Prohibited Substances and/or Prohibited Methods

For an Anti-Doping Rule Violation under Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers), Article 2.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) or Article 2.6 (Possession of a Prohibited Substance and/or a Prohibited Method) that is the Participant’s first violation, a period of Ineligibility of two years shall be imposed, unless the conditions for eliminating or reducing the period of Ineligibility (as specified in Article 10.4 and/or Article 10.5) or for increasing the period of Ineligibility (as specified in Article 10.6) are met.”

11. Where an Athlete is found to have committed an Anti-Doping Rule Violation under ADR Article 2.1 or 2.2, and such offence is the Athlete’s first Anti-Doping Violation, a period of Ineligibility of two (2) years must be imposed pursuant to ADR Article 10.2 (“the Standard Sanction”).
12. This is the Athlete’s first doping offence.
13. The Athlete did not seek any mitigation of sanction under ADR Articles 10.5.1 or 10.5.2.
14. Given that the Athlete has admitted two separate Anti-Doping Rule Violations, the provisions of ADR Article 10.7.4 are relevant. ADR Article 10.7.4 provides:

“10.7.4 Additional rules for certain potential multiple offences:

a. A second Anti-Doping Rule Violation may only be considered for the purposes of imposing sanctions under Article 10.7 if the NADO can establish that the Participant committed the second Anti-Doping Rule Violation after he/she received notice, or after the NADO or its designee made a reasonable attempt to give notice, of the first Anti-Doping Rule Violation. Otherwise, the Anti-Doping Rule Violations shall be considered as one single first Anti-Doping Rule Violation, and the sanction imposed shall be based on the Anti-Doping Rule Violation that carries the more severe sanction. However, the occurrence of multiple Anti-Doping Rule Violations may be considered as a factor in determining aggravated circumstances under Article 10.6.”

15. The Athlete has committed two separate Anti-Doping Rule Violations. However, because the Athlete received notice of the violations all at the same time, the operative provision of ADR Article 10.7.4 is:

“the Anti-Doping Rule Violations shall be considered as one single first Anti-Doping Rule Violation, and the sanction imposed shall be based on the Anti-Doping Rule Violation that carries the more severe

sanction. However, the occurrence of multiple Anti-Doping Rule Violations may be considered as a factor in determining aggravated circumstances under Article 10.6.”

16. The impact of this provision as far as Consequences are concerned is that the Athlete should receive the Standard Sanction, notwithstanding that two Anti-Doping Rule Violations have been committed.
17. There is provision in the Anti-Doping Rules for the Standard Sanction to be increased. This provision is encapsulated within ADR Article 10.6, which provides:

“10.6 Aggravating Circumstances that may Increase the Period of Ineligibility

10.6.1 If the NADO establishes in an individual case involving an Anti-Doping Rule Violation other than under Article 2.7 (Trafficking or Attempted Trafficking) or Article 2.8 (administration or Attempted administration) that aggravating circumstances are present that justify the imposition of a period of Ineligibility greater than the standard period, then the period of Ineligibility otherwise applicable shall be increased up to a maximum of four years, unless the Participant can prove to the comfortable satisfaction of the hearing panel that he/she did not knowingly commit the Anti-Doping Rule Violation.

10.6.2 A Participant can avoid the application of Article 10.6.1 by admitting his/her Anti-Doping Rule Anti-Doping Rule Violation promptly after being confronted with it by the NADO.”

18. The Athlete has made a prompt admission in respect of the Charges, and therefore avoids the application of ADR Article 10.6.1.
19. The Athlete is deemed to have admitted the Anti-Doping Rule Violations as charged. The specified Consequences are that the Standard Sanction be imposed.
20. ADR Article 9.1 states:

“An Anti-Doping Rule Violation committed in connection with or arising out of an In-Competition test automatically leads to the Disqualification of any individual results obtained by the Athlete in the Competition in question, with all resulting consequences, including forfeiture of any medals, titles, points and prizes.”

21. The Athlete’s results at the BWA British Senior Championships are therefore Disqualified along with any resulting consequences.
22. The Athlete has not competed in any competition since 16 June 2013 in which he has obtained individual results: ADR Article 10.8 does not therefore apply.

Summary

23. UK Anti-Doping has issued this Decision, pursuant to ADR Article 7.5.4, which records that:
 - 23.1 Anti-Doping Rule Violations pursuant to ADR Articles 2.1 and 2.2 have been committed;
 - 23.2 A period of Ineligibility of two years shall be the Consequences imposed pursuant to ADR Article 10.2;

- 23.3 That period of Ineligibility is deemed to have commenced as from 2 July 2013, and will end at midnight on 1 July 2015;
- 23.4 The Athlete's status during this period of Ineligibility shall be as set out in ADR Article 10.10;
- 23.5 The Athlete's results at the Event are Disqualified, along with all resulting consequences, including forfeiture of any medals, titles, points and prizes; and
- 23.6 Pursuant to ADR Article 10.10.4, during the period of Ineligibility the Athlete shall remain subject to the Anti-Doping Rules.
24. The disposition of these proceedings on the terms set out above will be publicly announced via UK Anti-Doping's website.
25. This Decision may be appealed by the Athlete, the BWA, the **Fédération International de Lutes Associées** and WADA.

Dated this 5th day of August, 2013.