

SPORT DISPUTE RESOLUTION CENTRE OF CANADA

IN THE MATTER OF THE CANADIAN ANTI-DOPING PROGRAM

**AND IN THE MATTER OF AN ANTI-DOPING RULE VIOLATION BY JAKE GLASS
ASSERTED BY THE CANADIAN CENTRE FOR ETHICS IN SPORT**

**No.: SDRCC DT-10-0137
(Doping Tribunal)**

Canadian Centre for Ethics in Sport (CCES)

Football Canada

-and-

Jake Glass (Athlete)

-and-

**World Anti Doping Agency (WADA)
(Observer)**

BEFORE: Carol Roberts (Arbitrator)

Appearing:

For the Athlete:

No one appeared

For the Canadian Centre for Ethics in Sport:

David Lech and Alexandre T. Maltas

For Football Canada:

No one appeared

INTRODUCTION

1. The Canadian Centre for Ethics in Sport (CCES) is an independent, not-profit organization that promotes ethical conduct in all aspects of sport in Canada. The CCES also maintains and carries out the Canadian Anti-Doping Program (CADP), including the provision of anti-doping services to national sport organizations and their members. As Canada's national anti-doping organization, the CCES is in compliance with the World Anti-Doping Code (Code) and its mandatory international standards. The CCES has implemented the Code and its mandatory international standards through the CADP, the domestic rules that govern this proceeding. The purpose of the Code and of the CADP is to provide protection for the rights of athletes to fair competition.
2. Jake Glass is an athlete in the sport of junior football and a member of Football Canada. As a member, he is subject to the Rules of the CADP, which was adopted by Football Canada on December 10, 2008.
3. Mr. Glass was subjected to the doping control procedure at an in-competition doping control in Kamloops, B.C. on September 11, 2010. Mr. Glass had advance/prior notice of being selected. He provided a sample and did not indicate any concerns with respect to the sample collection process on the Doping Control Form.
4. The World Anti-Doping Agency (WADA) accredited laboratory in Montreal received Mr. Glass' sample on September 14, 2010, and on September 30, 2010, reported an adverse analytical finding for Cannabis metabolites measured at 96 ng/mL, as well as an indication of Cocaine and 4-Methyl-2-hexanamine. Cannabis in a concentration greater than 15 ng/mL and any amounts of cocaine and 4-Methyl-2-hexanamine are all prohibited substances according to the 2010 WADA Prohibited list.
5. Following receipt of the adverse analytical finding, CCES conducted an initial review to determine whether or not Mr. Glass had a Therapeutic Use Exemption (TUE) or if there was any apparent departure from the Doping Control Rules or the laboratory analysis that undermined the validity of the adverse analytical findings. CCES determined that there was no apparent departure from the Doping Control Rules or the laboratory analysis and that Mr. Glass had not been granted a TUE.
6. On October 1, 2010, as part of the initial review process, CCES sought an explanation from Mr. Glass for his adverse analytical finding. Mr. Glass did not provide any explanation. In the absence of a request or waiver from Mr. Glass, CCES subsequently tested Mr. Glass' B-sample, which confirmed the initial results.
7. On October 15, 2010, CCES issued a Notice of Doping Violation to Mr. Glass pursuant to Rule 7.66 of the Rules, asserting a single anti-doping rule violation. Only Cannabis is a specified substance that allows flexibility in reducing the otherwise mandatory sanction. Cocaine and 4-Methyl-2-hexanamine attract a mandatory two year sanction for the first violation. CAPD Rule 7.54 provides that the sanction imposed for a single violation with multiple substances detected shall be based on the violation that carries the more severe sanction. Therefore, CCES proposes that a sanction of two years ineligibility be imposed.

8. On November 4, 2010, CCES issued a Notice to Mr. Glass imposing a provisional suspension, effective October 15, 2010.
9. Rule 7.23 of the CADP provides that a Doping Tribunal must hold a hearing to impose the consequences provided for under the Rules unless the athlete waives the right to a hearing. Mr. Glass did not waive his right to a hearing.
10. I was appointed the arbitrator in this matter on November 29, 2010 and convened a preliminary teleconference on December 7, 2010.

Attempted Notice to Athlete

11. Mr. Glass did not participate in the preliminary teleconference call.
12. Mr. Glass provided the Sport Dispute Resolution Centre of Canada (SDRCC) with his mailing address and telephone number. The SDRCC also had the cellular telephone number for the athlete's girlfriend, with whom he was apparently residing. I am advised by staff at SDRCC that Mr. Glass participated in a resolution facilitation (RF) process. After the RF process, the staff at SDRCC made several attempts to contact the athlete. Telephone calls to the athlete's telephone number went to a voice mailbox that was full. Telephone calls to the athlete's girlfriend's telephone number were unanswered. Correspondence sent by email was not responded to. A process server was unsuccessful in serving the athlete with documentation about the hearing. I am advised that the process server was told that the athlete had moved to California. Although Mr. Glass did not respond to any communications regarding this hearing, he did participate in the RF process and information regarding this hearing was sent to his correct email address and communicated to him at two telephone numbers. I am therefore satisfied that he was aware of his rights, including the right to participate in these proceedings.
13. I concluded that the Athlete, although not having waived his right to a hearing, had chosen not to participate in it. I ordered, pursuant to Rule 7.5 of the SDRCC Rules, that the hearing proceed in the absence of the athlete. I further ordered that the hearing be conducted by way of written submissions and that Mr. Glass had the right to make submissions at any time in the process.
14. On December 21, 2010, the CCES filed the affidavit of Jeremy Luke, the Director of the Anti-Doping Program for CCES. The affidavit and its exhibits provide the information and business records of the CCES regarding the alleged anti-doping allegation and constitutes the evidence of CCES. Copies of these documents were sent to the Athlete.
15. According to the schedule I established on December 7, 2010, Mr. Glass had the right to file his written response, if any, by December 31, 2010, and that CCES had the right of a reply, if any, by January 12, 2011. That proposed schedule was to be subject to review if Mr. Glass demonstrated any interest in participating. CCES filed its written submission on January 11, 2011.

16. As Mr. Glass did not respond in any way to the CCES evidence or submission by January 12, 2011, this decision is made on the basis of the documentation before me as of that date.

Submissions of CCES

17. CCES submits that the evidence, which has not been contradicted, establishes that Mr. Glass committed a violation involving prohibited substances and that the mandated sanction for that violation is a 2 year period of ineligibility commencing on the date he was provisionally suspended, that is October 15, 2010, in accordance with Rule 7.14 of the CADP.
18. CCES also submits that because Mr. Glass has not provided any evidence of exceptional circumstances that would warrant reduction or elimination of the sanction, the mandated sanction is a 2 year period of ineligibility.

DECISION

19. I am satisfied that Mr. Glass was given every opportunity to participate in a hearing before me. He failed to respond to the many attempts made to seek his participation in a hearing or to indicate a waiver of his right to a hearing. The parties were advised that I would make a decision based on the written submissions I received. CADP Rule 7.85 provides that I may draw an adverse inference against an athlete for refusing or failing to participate in the hearing process.
20. The proper selection of the Athlete for testing, the integrity of the sample collection and the chain of custody of the urine sample are all well established on the record. WADA accredited laboratories are presumed to have conducted sample analysis and chain of custody in accordance with the provisions of the Laboratory Rules. (CADP Rule 7.82) The WADA lab has reported an adverse analytical finding and there is no evidence that the analytical process used by the Lab was improper or flawed.
21. The CCES has met its burden of proof to establish an anti-doping rule violation. Under Rule 7.16 and 7.17, the athlete is responsible for any prohibited substance or its metabolites found to be present in his sample. It is not necessary that intent, fault, negligence or knowing use on an athlete's part be demonstrated to establish this anti-doping rule violation. (see *CCES & GC v. Scott Lelievre*, SDRCC DT-4-0014, February 7, 2005).
22. Mr. Glass has provided no explanation for the adverse analytical finding. In the absence of any contrary evidence or satisfactory explanation, I am comfortably satisfied, on the evidence before me, that an anti-doping violation has occurred under the CADP and the Rules prohibiting the use of a prohibited substance.
23. Although Cannabis is a specified substance which potentially allows for flexibility in reducing an otherwise mandated sanction if small amounts are detected, this is not the

case with cocaine and 4-Methyl-2-hexamine. The presence of those substances, in any quantity, provide for a mandatory 2 year sanction for a first violation.

24. Rules 7.44 to 7.47 of the CADP provide for circumstances where the mandated sanction may be reduced or eliminated for "exceptional circumstances". The athlete bears the onus of proving those exceptional circumstances. As Mr. Glass has not provided any evidence to support the finding of an exceptional circumstance, I am bound to impose the sanction of a two year period of ineligibility according to Rule 7.38.
25. The period of ineligibility commences October 15, 2010, the date Mr. Glass's provisional suspension commenced.
26. No submission was made on costs and I make no order.

DATED at VANCOUVER, BRITISH COLUMBIA this 20th day of JANUARY, 2011

A handwritten signature in black ink, appearing to read "C. L. Roberts". The signature is written in a cursive, flowing style with a large initial "C" and "R".

C. L. Roberts
Arbitrator

