

In the matter between :

South African Institute for Drug-Free Sport (SAIDS) Complainant

and

Juan-Dre Du Toit Respondent

DETERMINATION

1. CHARGE :

The Respondent was charged on 17 November 2011 with an Anti-Doping Rule violation for contravening Article 2.1 of the 2009 Anti-Doping Rules of SAIDS, on 11 July 2011, in that he provided a urine sample (A2532682) during an out-of-competition test which, upon analysis by the South African Doping Control Laboratory at the University of the Free State, found the presence of the prohibited substances identified as 19-Norandrosterone and 19-Noreticholanolone, which are metabolites and/or precursors of the Anabolic Agent, Nandrolone. 19-Norandrosterone and 19-Noreticholanolone are categorized under Class S1 "Anabolic Agents" on the World Anti-Doping Code 2011 Prohibited List International Standard.

2. JURISDICTION :

- 2.1 In terms of Section 10(1)(e) of the South African Institute for Drug-Free Sport Act No. 14 of 1997, National Sports Federations

must adopt and implement Anti-Doping Policies and Rules which conform with the World Anti-Doping Code ("the Code") and with the requirements as set out in the SAIDS Anti-Doping Rules.

- 2.2 The Code is the core document produced by the World Anti-Doping Agency ("WADA") and provides the framework for the harmonization of Anti-Doping Policies, Rules and Regulations, across all sports and all countries around the world.
- 2.3 The South African Government has made a formal commitment to the Code and formally recognized the role of WADA through the Copenhagen Declaration of Anti-Doping in Sport (2003).
- 2.4 SAIDS is the statutory body established by the South African Government with the responsibility to promote and support the elimination of doping in sport in South Africa.
- 2.5 SAIDS has formally accepted the WADA Code and has adopted and implemented its Anti-Doping Rules in accordance with its responsibilities under the Code.
- 2.6 The International Rugby Board ("IRB"), in June 2004, adopted the Code and following an International Review of the Code by all signatories, with the new WADA Anti-Doping Code 2009 having been agreed with an effective implementation date of 1 January 2009. These Rules under the Code were adopted and implemented in conformity with the IRB's continuing efforts to eradicate doping in the sport of rugby.
- 2.7 The Respondent is a schoolboy Craven Week Prestige athlete who falls under and is bound by the IRB's Rules.
- 2.8 The Anti-Doping Rules so adopted by SAIDS and the IRB, are sports rules governing the conditions under which sport is played.

Athletes, including the Respondent, accept these Rules as a condition of participation and are bound by them.

- 2.9 The SAIDS Anti-Doping Rules apply to SAIDS, each National Federation of South Africa and each participant in the activities of the National Federations by virtue of the participants' membership, accreditation or participation in their National Federations or their activities and events. The Complainant in this matter has jurisdiction over the IRB and its members, including the Respondent, who are consequently subject to the SAIDS Anti-Doping Rules and the IRB Rules.

3. **DISCIPLINARY COMMITTEE :**

- 3.1 A Disciplinary Committee was convened by the Complainant in order to determine whether, in this case, a doping violation in terms of the SAIDS Rules and as embodied in the charge aforementioned, was committed by the Respondent.

- 3.2 The Committee consisted of :

Monty Hacker, Chairperson and an admitted attorney of some fifty years standing;

Ms Beverley Peters, a sports administrator, and;

Dr Rob Collins, a medical practitioner of eighteen years standing and currently practising as a sports physician over the past five of those years.

Nicolas Kock was the representative of the Complainant charged with the duty of prosecuting the Respondent.

- 3.3 The Hearing before the Panel/Committee was originally convened to be held on 7 December 2011, to commence at Southern Sun Hotel, Hulley Road, Isando, Kempton Park, OR Tambo International Airport, Gauteng, but owing to the ill health of the Chairman at the time, it was postponed to 19 January 2012 for the same venue at 15h30.
- 3.4 Both prior to the original Hearing which had been convened for 7 December 2011 and the rescheduled Hearing on 19 January 2012, the Respondent, through his mother and guardian (Mrs Marie Du Toit) advised SAIDS that both she and the Respondent declined to attend the Hearing, either in person or by teleconference. The explanation given to SAIDS for this non-participation in a frequent exchange of correspondence and telephone discussions between SAIDS and the Respondent's mother, was that she was working as was the Respondent and that they could, in any event, not afford to come from Polokwane to Kempton Park to attend the Hearing. Subsequently the respondent's mother informed SAIDS that even attendance at the Hearing by teleconference, in or out of working hours, did not suit them and that they would, neither of them, make themselves available to participate in the Hearing. The Respondent's mother further informed SAIDS that the Hearing in this matter was to proceed without either of them.
- 3.5 At the commencement of the Hearing on 19 January 2012, which was not attended by either the Respondent or his mother, the two Panel members, namely Dr Collins and Monty Hacker were present in person, together with the Prosecutor, Mr Kock, whilst the third Panel member, Ms Beverley Peters, at approximately 15h30 on Thursday 19 January 2012, joined and participated in the Hearing by teleconference from Durban, Kwa-Zulu Natal.

3.6 There being no witnesses for either SAIDS or the Respondent, the Hearing proceeded in the presence of the members of the Panel; and the Prosecutor.

4. **COMPLAINANT'S CASE AGAINST RESPONDENT – PRESENTED BY MR KOCK :**

4.1 As set out in the charge aforementioned, the Complainant *charged the Respondent with having committed an Anti-Doping Rule violation, more especially the contravention of SAIDS Rule 2.1.*

4.2 SAIDS Rule 2.1 reads as follows :

"2.1 The Presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's Sample

2.1.1 It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes 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 Athlete's part be demonstrated in order to establish an Anti-Doping Rule violation under Article 2.1.

2.1.2 Sufficient proof of an Anti-Doping Rule violation under Article 2.1 is established by :

The presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives his right to have his B Sample analysed, and the B Sample is not analysed."

- 4.3 The onus of proving this contravention lies with the Complainant.
- 4.4 The Respondent waived the analysis of his B Sample and his A Sample, as analysed by the South African Doping Control Laboratory at the University of the Free State on 13 July 2011, therefore conclusively revealed the presence of 19-Noreticholanolone, metabolites of and/or precursors. The concentration of 19-Norandrosterone is 19ng/ml. This is above the WADA decision limit of 3.2ng/ml, (adjusted for SG). The combined standard uncertainty (Uc) is 0.18ng/ml.
- 4.5 The Respondent, in a letter addressed to him by SAIDS dated 11 August 2011, was advised of the Laboratory's findings aforementioned at his out-of-competition test on 11 July 2011 at the Coca Cola Craven Week Rugby Tournament, and was invited to elect to have his B Sample tested, whilst being notified that he had been provisionally suspended with immediate effect, from competing and participating in any authorised or organised sport by any professional league or any international or national level event, organized as per Article 10.10 "Status During Ineligibility" as of the date of that letter. In that same letter, the Athlete was advised of his right, through a written submission to SAIDS, within seven days after receipt of the letter of 11 August 2011, to respond to the assertion that an Anti-Doping Rule had been violated by him.

4.6 No written submissions were received from the Respondent by SAIDS, nor were any explanations given by the Respondent (or his mother) for the presence of the Prohibited Substances in the Respondent's urine sample, to counter the assertion that the latter had violated the Anti-Doping Rule.

4.7 It was submitted by Mr Kock that there had been no co-operation whatever by either the Respondent or his mother with SAIDS concerning the elements of this matter or the Hearing.

5. **SUBMISSIONS BY MR KOCK :**

5.1 That the charge against the Respondent had been proved by the Laboratory analysis of the Respondent's A-Sample.

5.2 That no evidence either in mitigation or at all had been presented by or on behalf of the Respondent.

5.3 That there having been no co-operation by the Respondent or his mother with SAIDS in connection with this matter, there were no mitigating circumstances concerning the commission of the Anti-Doping offence by the Respondent.

5.4 Whereas had there been co-operation on the part of the Respondent or his mother, SAIDS might have been willing, upon the Respondent having been found guilty of committing the Anti-Doping offence as charged, to seek the first offence two year suspension sanction to commence from the date upon which he was provisionally suspended, namely 11 August 2011. However, SAIDS, in the circumstances, was not willing to do so, and now sought a guilty finding from the Panel with the imposition of the two year sanction commencing effectively from the date of the Hearing, namely 19 January 2012.

6. CONCLUSION :

- 6.1 The Panel, after deliberation, accepted the evidence and submissions of the Complainant.
- 6.2 Accordingly, the Respondent was found guilty of contravening SAIDS Anti-Doping Rule 2.1.
- 6.3 The sanction imposed upon the Respondent, Juan-Dre du Toit, is a two year suspension commencing 19 January 2012.
- 6.4 The sanction imposed in 6.3 above replaces the Respondent's provisional suspension on 11 August 2011 and the Respondent's ineligibility during this two year sanction shall preclude him from competing and participating in any authorised or organised sport by any provincial league or any international or national level event organised as per Article 10.10 "Status During Ineligibility" for the duration of the sanction hereby imposed by the Panel.

DATED at JOHANNESBURG ON THIS THE 31ST DAY OF JANUARY 2012.



MONTY HACKER
Chairman

**With BEVERLEY PETERS and DR ROB
COLLINS having concurred with this
Determination**