

**SA INSTITUTE FOR DRUG FREE SPORT (SAIDS)
DISCIPLINARY HEARING**

ATHLETE : MR LWANDILE ZINTO

SPORTS FEDERATION : BOXING SOUTH AFRICA

DATE OF HEARING : 29 JULY 2010

PLACE OF HEARING : SAIDS OFFICE, CAPE TOWN

DISCIPLINARY PANEL : ADV NG KOCK (CHAIR)
DR N JAFFER
MR J ABRAHAMS

PROSECUTOR : KHALID GALANT

CHARGE : ANTI-DOPING RULE VIOLATION IN TERMS
OF ARTICLE 2.1 OF THE SAIDS ANTI-DOPING
RULES

PLEAD ENTERED : NOT GUILTY

The Athlete appeared via tele-conference before a SAIDS Anti-Doping Disciplinary Committee on Thursday 29th July 2010 charged with a violation of anti-doping article 2.1 relating to the presence of a prohibited substance in the Athlete's sample. The substance identified was Cannabinoids, in a concentration of 66ng/ml (nanograms/millilitre), which is significantly above the permitted threshold of 15ng/ml.

The Athlete confirmed in written correspondence that he was informed of his rights by SAIDS. The Athlete was represented at the hearing by a lawyer, Mr Spato Handi. It was further confirmed that the Athlete did not request a B sample testing.

The Athlete disputed the jurisdiction of the SAIDS Anti-Doping Disciplinary Committee to deal with the disciplinary hearing. The Athlete was informed that SAIDS was established as a statutory body by Government through the Institute for Drug-Free

Sport Act of 1997 as amended in 2006 as the independent Anti-Doping Organisation for South Africa. The SAIDS Anti-Doping Disciplinary Committee is independent from SAIDS and it has jurisdiction to hear any anti-doping rule violation that occurred within each National Federation of South Africa, and each participant in the activities of the National Federations by virtue of the participant's membership, accreditation, or participation in their National Federations, or their activities or events. The hearing continued on the basis that all parties were ad idem on the validity of the jurisdiction of SAIDS and the SAIDS Anti-Doping Disciplinary Committee.

The Prosecutor presented evidence of the presence and concentration level of the prohibited substance in the Athletes Sample (A2415353) and introduced the documentary evidence copies of which were provided to the panel and to the Athlete.

The Athlete accepted the prosecutor's evidence relating to the presence and concentration level of the prohibited substance, but pleaded not guilty as it was argued that the presence of the prohibited substance cannabinoids was due to the inhalation of second hand smoke.

The prosecutor confirmed that the Athlete had been provisionally suspended since the 25th March 2010.

The prosecutor also presented the conclusions of the analytical report from the South African Doping Control Laboratory in Bloemfontein and documentary evidence relating to this study was introduced.

The Athlete explained the circumstances relating to his living arrangements with his siblings who are chronic marijuana users that resulted in the inhalation of second hand smoke. The Athlete stated that he is a non-drinker and a non-smoker due to his profession.

The Prosecutor submitted that in the event of a guilty finding consideration should be given to a severe reprimand and that the Athlete should submit to a drug rehabilitation programme.

The Athlete put forward mitigating factors primarily relating to his clean record, that he has subsequently changed his living arrangements, that both his parents are deceased, that the inhalation was secondary/incidental, and that there was no

intention to enhance his sport performance due to the incidental nature of the transgression.

The panel informed that the evidence provided by the Athlete and the Prosecutor would be taken under advisement by the panel, The decision and sanction of the Panel would be communicated to the Athlete and to Boxing South Africa (BSA) by SAIDS as soon as reasonably possible.

The Panel, after further deliberation, finds that the Athlete is **guilty under article 2.1 of the rules relating to the presence of a prohibited substance in the Athletes sample.**

The reasons for this finding are the following:

- a) clear evidence of the presence of a prohibited substance (Cannabinoids) in a concentration significantly above the permitted threshold; and
- b) the Athlete waived his right to have B-sample taken;
- c) the Athlete did not establish no fault or negligence on his part in that he could not have known or suspected; or could not reasonably have known nor suspected even with the exercise of utmost caution that he had used or had been administered the prohibited substance (Cannabinoids).
- d) acceptance by the Athlete that none of his rights, relating to the test, the pre-hearing procedure and the hearing itself, had been violated.

Following deliberation the panel decided that the sanction should be that of:

- A) Imposition of a period of ineligibility of twelve (12) months of which six (6) months are suspended. The Panel concurred that the period of ineligibility be credited against the period for which he had been provisionally suspended. Accordingly, the Athlete would be prohibited from competing as a boxer until Saturday 25th September 2010;**
- B) Furthermore, that during the six (6) month suspended period (26th September 2010 until 25th March 2011) the boxer be subject to a series of voluntary urine test at the behest of SAIDS;**

- C) Should the Athlete test positive again for any prohibited substance during the period 26th September 2010 until 25th March 2011 the maximum sentence of two years will automatically come into effect and the Athlete would have to be formally enrolled into a drug rehabilitation programme.**

In determining the sanction the panel considered the following as relevant:

1. The Athlete had put forward the incidental inhalation of second hand smoke that could explain the level of the prohibited substance in his sample on the night of the testing.
2. The exposure to second hand smoke was due to his living arrangements at the time where he lived with his two brothers who are chronic users of cannabis.
3. It is common cause that a passive smoker of marijuana may test positive, but the level of metabolites in such cases may occasionally reach as high as 25ng/ml. However, the level detected in passive smokers is usually ***much less*** than 25ng/ml. The athlete concerned had 66ng/ml cannabinoids metabolites in his urine present.
4. For readings in excess of 25ng/ml to be possible through second hand marijuana smoke extreme exposure is required i.e. spending a few hours sealed in a room that is unventilated filled with marijuana smokers during an evening might cause someone exposed to that quantity of smoke to test positive in a drug test the next morning;
5. The studies of Cone and colleagues (1986; 1987a, 1987b) confirmed that to produce urinary metabolites above 20ng/ml extreme experimental conditions as set out above needs to be applied. A scenario that a non-smoker was unlikely to submit (her) himself to for the long periods of time required in order to produce a reading above 20ng/ml.
6. The Athlete as a competitive sportsperson should have reasonably foreseen that such an extreme exposure shortly before a fight to a prohibited substance may result in a positive drug test.

Disciplinary Panel: Adv NG Kock, Dr N Jaffer, Mr J Abrahams

Date: 13 August 2010