

IN THE SOUTH AFRICAN INSTITUTE FOR DRUG-FREE SPORT

ANTI-DOPING DISCIPLINARY COMMITTEE

HELD AT HOLIDAY INN ROSEBANK

In the matter of: Mr. Daniel Ross Hurlin

RULING

Composition of the Panel

1. The Disciplinary Committee was appointed by the South African Institute for Drug-Free Sport (SAIDS). SAIDS is a statutory body created by section 2 of South African Institute for Drug-Free Sport Act 14 of 1997, as amended in 2005 when SAIDS accepted the World Anti-doping code. The Anti-doping Rules 2009 Published by SAIDS are applicable to the present proceedings. (**"the Rules"**)

2. The SAIDS Anti-doping Disciplinary Committee (**"the Committee"**) has been Appointed in terms of Article 8.1 of the Rules. The committee consisted of Mandla Tshabalala, Dr. Ephraim Nematswerani and Prof. Yoga Coopoo.

The pro-forma prosecutor for SAIDS was Mr Nick Kock. The hearing in this matter was conducted through teleconferencing.

3. PRELIMINARY ISSUES

3.1 The athlete was initially represented by Ms. Alexandra Schlupe prior to the hearing. However Ms Alexandra formally withdrew as a representative of the athlete, therefore leaving athlete unrepresented.

3.2 The athlete failed to attend the hearing. The prosecution made a submission that the hearing should proceed in the athlete's absence and in fact relied on Article 8.4.5 which states that:

"A failure by any party or their representative to attend a hearing after notification will be deemed to be an abandonment of their right to a hearing. This right may be reinstated on reasonable grounds."

3.3 The prosecution further informed the that the athlete was informed and served with all necessary and relevant documents for the hearing. The prosecution further submitted that, the failure of athlete to attend the hearing amounts to the abandonment of the hearing.

3.4 The prosecution further alluded to the fact that the athlete has in fact informed SAIDS that he will not attend the hearing and in a letter dated 19 July 2012, the athlete accepted the sanction that may be imposed against him and he specifically stated that "I accept the two (2) years suspension as of 19 July 2012."

4. RULING ON THE PROSECUTION SUBMISSION

The panel was satisfied that the athlete was properly informed of the hearing and that his actions (failure to attend the hearing) amount to abandonment of the hearing. In the premise we decided to proceed with the hearing in the athlete's absentia.

5. CHARGE

The charge against Mr. Hurlin ("**the athlete**") is contained in a letter dated 19 July 2012, which letter was addressed to the athlete. The charge stems from the analytical report received from the South African Doping Control Laboratory which confirms the presence of 19-Norandrosterone (the concentration is 15 ng/ml which is above the World Anti-Doping Agency decision limit of 3,9ng/ml) and 19-Noreticholanolone, which are metabolites and/or precursors of the Anabolic Agent Nandrolone, in the athlete urine sample (sample number 2635320) provided during an in-competition test on 23 June 2012 at 16h46 at the South African Power lifting Championships.

6. PLEA

The Athlete could not plead as he was not present during the hearing.

7. BURDEN OF PROOF

The prosecution needed to discharge a burden of proof and in so doing relied on the Article 3.1 which states that:

"SAIDS has the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether SAIDS has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation that is made. The standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt."

A Doping Control Form from SAIDS for the in-competition testing of the athlete signed by the athlete acknowledging that he has read the notice was presented into evidence.

The athlete conceded on the Doping Control Form that he has been notified of his selection for doping control and that he gives his consent to provide samples for anti-doping research.

8. FINDINGS

Applicable Rules

The charge against the athlete constitutes a breach of Article 2.1 of the Anti Doping Rule, which rule states that "The presence of a prohibited substance or its Metabolites or Makers in the Athlete's sample." Rule 2.1.1 specifically states that

"It is each Athlete's personal duty to ensure that the Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Makers 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"

"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*. There was prohibited substance found in the athlete's body after he was tested, it is upon the athlete to take reasonable steps in ensuring that no banned substance enter his body, and it was not the case in this matter.

It is evident from the charge and the evidence presented that the athlete has violated the SAIDS Rules. There is overwhelming evidence from the analytical report received from the Doping Control Laboratory which confirmed the presence of a Metabolite as it appears on the charge in the athlete's urine. The presence of the aforesaid metabolite constitutes a violation of the SAIDS rules. In these circumstances, the prosecution has proved to the comfortable satisfaction of the panel that the athlete has in fact violated Article 2.1.1 of the Rules. Dr. Nematswerani (panellist) raised his concern with regard to the type of substances which the athlete used. He stated that the substances are of a serious nature and that the container states very clearly the substances which are contained in the Metabolite. The athlete showed no concern and in fact through the exchange of documents between the Athlete and SAIDS, the Athlete admitted guilt by requesting SAIDS to impose the 2 years suspension (letter dated 19 July 2012). In the circumstances and after consideration of the evidence before us, we therefore find the athlete guilty as charged.

9. SANCTIONS

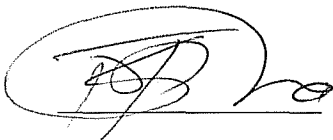
After the panel thoroughly deliberated the possible sanction, we unanimously came to the following sanction:

The athlete is hereby suspended for a period of two (2) years from the date of the notification of the athlete or from the date of receiving the analytical report/result from the South African Doping Control Laboratory i.e. 19 July 2012.

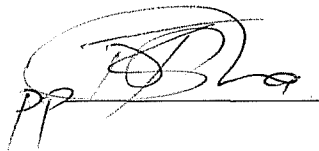
10. REASONS

In imposing such a sanction, the panel was guided by the rules, specifically Article 10.9.1 which states that "except as provide below, the period of ineligibility shall start on the date of the hearing decision providing for ineligibility or, if the hearing is waived, on the date ineligibility is accepted or otherwise imposed." Also taking into account what was raised by Dr. Nematswerani with regard to the seriousness of the substance the athlete took and according to the doctor, if penal clauses were discretionary, the athlete would have received a more severe sanction than the one stipulated by SAIDS. The attitude of the athlete towards SAIDS prior to the hearing leaves much to be desired, the athlete could have, at least, attended the hearing in order to argue his mitigating circumstances. He showed disrespect to the SAIDS processes. However the SAIDS Rules further provides that at 10.9.2 "Any period of Provisional Suspension (whether imposed or voluntarily accepted) shall be credited against the total period of Ineligibility to be served." Therefore the athlete's provisional suspension is credited to the total suspension period imposed herein above.

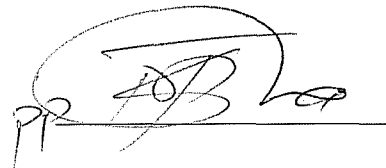
Date: 16 October 2012



Mandla Tshabalala



Dr. Nematswerani



Prof. Yoga Coopoo