

SA INSTITUTE FOR DRUG FREE SPORT (SAIDS)

ANTI DOPING DISCIPLINARY HEARING

ATHLETE: CHAZLIN LAMINI

ATHLETE'S FATHER: FRANKLIN LAMINI

ATHLETE'S AUNT: JOULENE WILLEMSE

SPORTS FEDERATION: SOUTH WESTERN DISTRICT RUGBY

DATE: 24 APRIL 2012

PLACE OF HEARING: 1 MONA CRESCENT, NEWLANDS, CAPE TOWN

DISCIPLINARY PANEL ("PANEL"): RAPHAEL GRANT BRINK (CHAIRMAN & LEGAL REPRESENTATIVE)

GEORGE VAN DUGTEREN (MEDICAL REPRESENTATIVE)

YUSUF ABRAHAMS (SPORTS ADMINISTRATOR & REPRESENTATIVE)

PROSECUTOR: NIC KOCK

SAIDS REPRESENTATIVES: FAHMY GALANT

SWD RUGBY OBSERVER: JOHAN PRINSLOO

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

LEGAL FRAMEWORK

SAIDS is an independent body established under Section 2 of the South African Institute for Drug-Free Sport Act 14 of 1997 (as amended). SAIDS has formally accepted the World Anti-Doping Code adopted and implemented by the World Anti-Doping Agency in 2003. In so doing, SAIDS introduced anti-doping rules and regulations to govern all sports under the jurisdiction of South Africa Sports Confederation and Olympic Committee, as well as any national sports federation.

The SAIDS Anti-Doping (“the Rules”) were adopted and implemented in 2009. These proceedings are therefore governed by the Rules. This SAIDS Anti-Doping Disciplinary Panel has been appointed in accordance with Article 8 of The Rules.

HEARING

The hearing took place on 24 April 2012 at 17H30 at the SAIDS offices in Newlands, Cape Town with the athlete and his representatives included via teleconference.

The Chairperson opened the hearing and explained that the documentation provided in respect of the hearing showed that an adverse analytical finding was made in respect of the presence of Prednisone and Prednisolone from a sample taken in an in-competition test from the athlete on the 10 September 2011 and that the athlete was advised of his suspension in participation of any authorised or organised sport on 24 October 2011. On 27 October 2011 the athlete was advised that he may apply for a retroactive Therapeutic Use Exemption (TUE).

The following sequence of events describes the sequence of events as it transpired in respect of the matter at hand:

10/9/2011

In competition test after u19 game Sharks v SWD in Durban.

Sample # 2632779.

DCF: declared use of Prednisone/ Sinustat / DPH Syrup / Myprodol.

22/9/2012

Sample received by laboratory; analysis started 28 September 2011.

11/10/2011: Lab Report= Prednisone & Prednisolone

24/10/2011

Player Notified by letter (via SARU):

-AAF for prednisone & prednisolone

-Provisionally suspended as of 24/10 (given info. re provisional hearing)

-DCF & Lab Report provided.

26/10/2011

Reply (signed by J Prinsloo, SWD CEO, Player & Father):

- acknowledges asserted ADRV;
- does not waive right to Hearing;
- waives right to have B sample tested.
- Attached = note from GP: " treated for bronchitis on 7/9/11 with Sinustat and DPH, CoAmoxyclav and Prednisone". Physio: early September Rx Myprodol, for calf injury."

27/10/2011:

SAIDS letter:

SAIDS supplementary Review findings:

- declared Prednisone on DCF
- may apply for a retroactive TUE
- medical practitioner must complete TUE application, providing history and relevant documentation
- TUE application will be submitted to TUEC who will decide on approval
- if additional information required, TUEC will ask
- meanwhile remain provisionally suspended
- if TUE approved, SAIDS will review AAF and will consider:
 - o retroactive application of the TUE and
 - o nullification of the AAF
- if TUE is not approved, Hearing will be convened.

27/10/2011:

TUE application by Dr. I.J. De Villiers (George).

Submitted by fax by SWD Rugby Unie.

22/11/2011:

email from SAIDS to "SWD Eagles":

"with regard to TUE application for Chazlin , would you be so kind as to request he submit an 'Updated Comprehensive Medical Report' from the doctor who completed the (TUE application) form. The outstanding form in to be completed in English and only once its submitted then the application will go for the Final Decision by the TUE Committee"

23/11/2011:

email from SANLAM Disability Claims (Employee Benefits) Writer trying to help Chazlin who is "just visiting us in Cape Town". We are all stressed up and does not want to delay the process going forward".

24/11/2011:

Letter from Dr. I.J De Villiers= Medical Report

"This 19 year old male was examined by me today. I could find no acute or chronic disease.

He has no injuries.

Systemic examination was normal.

Urine: clear.

(signed).

29/3/2012:

email from Jouleen Willemse (SANLAM) providing details of Dr. De Villiers.

(note: these details were on the Dr's faxed medical report of 24/11/2011)

2/4/2012:

email from Anique Coetzee confirming she “has made contact with Dr De Villiers and will get the report from him”.

11/4/2012:

Typewritten Drs Report in English, confirming the important information provided on the TUE application.

12/4/2012:

email from Anique Coetzee to dr De Villiers

“I received the Medical Report yesterday, unfortunately it is still insufficient, could you please use my attached example for your perusal and future reference.

I am concerned, if Chazlin is found guilty in the impending hearing he could loose his job and be banned for unto 5 years. Your assistance would be greatly appreciated.”

ATTACHED: photocopy of Orthopaedic Report re Infraspinus Tendonitis (providing History, Examination, Treatment suggestion)

17/4/2012

cover note from Fahmy Galant re “Charge” Letter.

PROCEDURE

The Chairperson advised the parties that he was satisfied that the panel had sufficient information to make a decision and did not require further witness testimony and requested whether the parties were happy that the panel proceed to make a ruling without further testimony. Both parties acknowledged their consent.

FACTORS TAKEN INTO ACCOUNT

The panel found that the athlete was entitled to apply for a retroactive TUE and that the sequence of events showed that the athlete had made concerted attempts to have his doctor provide the necessary documentation for consideration.

Furthermore that it appeared that the delay in finalising the documentation to the degree required was in some part due to lack of clarity as to precisely what was required from the doctor and/or the athlete.

That the excessive delay had severely prejudiced the athlete in that even had a TUE not been applied for, the sanction appropriate to the violation by the athlete was likely to have been less than a six month suspension due to the nature of the substance and the surrounding circumstances.

DECISION

The panel accordingly decided unanimously as follows:

1. That the period of suspension be lifted with immediate effect.
2. That the present hearing be finalised should a retroactive TUE be granted once the TUE Committee has finalised its decision on the matter.
3. That the present hearing is adjourned to a date and time to be set should a retroactive TUE not be granted once the TUE Committee has finalised its decision on the application.
4. That the medical representative on the Panel (Dr. George Van Dugteren) be mandated to assist the athlete and his doctor in providing the necessary information required to the TUE Committee as a matter of urgency with the proviso that the assistance offered was ex gratia and that ultimately the responsibility to provide the documentation was the responsibility of the athlete who would face the consequences in respect of failure to produce same.

5. That SAIDS be requested to review its protocols and procedures in respect of communicating with an athlete and the TUE Committee with a view to ensuring that clear documentary requirements are communicated to the athlete which would ensure that the athlete would be in a position to obtain the necessary documentation from his/her doctor and any other relevant parties thereby avoiding similar scenarios arising in future.