

07 February 2011

Prosecution case: Mr Michael Dean Pepper: Cycling

In terms of Article 2.1 the athlete, Mr Michael Dean Pepper, is charged with an anti-doping rule violation.

Article 8.4.3 grants SAIDS the right to present the charge against Mr Pepper to the tribunal panel.

Mr Pepper indicated that he waives his right to be present at today's hearing (Correspondence to Mr Fahmy Galant dated 6 February 2011: Document 1)

From this correspondence Mr Pepper appears to understand his rights in terms of the jurisdiction of this Tribunal, I therefore request permission to proceed in the absence of Mr Pepper.

The charge against Mr Peppers is that two substances listed on the 2010 List of Prohibited Substances in Sport were found to be present in the athlete's urine sample.

- The 2010 List is the applicable reference policy for this case since the doping offense occurred on the 17th Oct 2010 at the Amashovashova Cycle race in Durban (see DCF: document 2)

In terms of Article 2.1 of the SA Anti-Doping Rules the presence of prohibited or banned substances in an athlete's sample constitutes an anti-doping rule violation.

The sequence of events that led up to the rule violations have been reviewed by an independent committee, the Doping Control Review Commission. Their recommendation is correspondence from Prof. Hawksworth to Fahmy Galant et al on 12 November 2010 (Document 3). Article 7.3.1.3 (pg 21) requires SAIDS to nullify test result if any irregularities are found that would undermine the validity of the adverse analytical findings. No irregularities or non-conformities were reported on this sample collection procedure that could adversely affect or alter the integrity of the athlete's sample. The procedures of the sampling collection process and laboratory analyses conformed to International Testing Standards as defined by the World Anti-doping Agency.

Upon notification of the adverse analytical finding to the athlete, Mr Pepper exercised his right to have his B-sample tested to confirm or overturn the A-sample result (Document 4). The B-sample result confirmed the A-sample result (Document 5).

The athlete has not contested the validity or integrity of the sample collection process.

I would like to start with differentiating between the two substances that Mr Peppers tested positive because I believe they should be viewed separately as they are also under-different

classes on the List of Prohibited Substances and Methods. The review and confirmation procedures of the results by the Review Commission are also peculiar to the substances.

The first substance, Clenbuterol is a Beta-2 agonist and is listed under S3 on the List, "All beta-2 agonists (including both optical isomers where relevant) are prohibited except salbutamol (maximum 1600 micrograms over 24 hours) and salmeterol when taken by inhalation in accordance with the manufacturers' recommended therapeutic regime". The perceived performance enhancing application of clenbuterol is both stimulant and anabolic (lean muscle building effect). The presence of clenbuterol in the athlete's sample irrespective of concentration level constitutes an adverse analytical finding since the substance is not produced endogenously (WADA Intl Standard for Laboratories).

The "second" substance, Testosterone is reported as ratio between Testosterone and Epitestosterone (TE ratio). Testosterone is classified under Anabolic Androgenic Steroids (S1b) and is reported as an adverse analytical finding when the TE ratio exceeds 4:1. Since Testosterone is produced is also produced endogenously, when the laboratory reports a sample higher than 4:1, SAIDS has to three options:

1. Run a steroid profile using an adaptive model software where we have a history of more than 3 samples from the same athlete.
2. Collect two or more samples over a few weeks to build the steroid profile referred to above.
3. Send the B-sample to the another WADA accredited Laboratory to perform Isotope Ratio Mass Spectrometric (IRMS) analysis. SAIDS has a an agreement with the Cologne Lab in Germany where the sample was sent.

The analytical report from the Cologne Lab (Document 6) concluded "values of testosterone and testosterone metabolites indicate an application of testosterone or testosterone prohormones"

SAIDS would therefore like to affirm that Mr Pepper is guilty of an anti-doping rule violation.

"Rebuttal"

Recommendation:

SAIDS requests the tribunal to view our recommendation for the sanction within the framework of Article 10.6 – *Aggravating circumstances which may increase the period of ineligibility.*

Within the context of the commentary to 10.6 "... the athlete or other Person used or possessed multiple prohibited substances..." we recommend a sanction of 4yrs from date of notification.