

SAIDS

DISCIPLINARY HEARING

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| DISCIPLINARY PANEL | ADV J LUBBE SC (CHAIR) |
| | DR G VAN DUGTEREN |
| | PROF E TERBLANCHE |
| ATHLETE | MS RIANA ROSSOUW |
| PROSECUTOR | ADV N KOCK |
| PLACE OF HEARING | BLOEMFONTEIN |
| DATE OF HEARING | 25 October 2011 and 10 May 2012 |

[1] Introduction

The facts in this matter are interesting and tragic. The athlete has tested positive for the use of diuretics twice.

At the first hearing on 13 August 2010 she was found guilty of an anti-doping rule violation and the sanction imposed was a period of ineligibility of fifteen months. At this hearing she testified that the diuretics were prescribed for chronic swelling of her face, hands and feet, a medical condition diagnosed as **oedema**. She applied for a TUE after the positive test but the application was refused. She testified that she had not applied for a TUE previously because she was not originally part of the squad that took part in the tournament at which she was tested. Her coaches also knew that she was taking the diuretics but did not know that she would be tested or that it would be a problem as they assumed it was chronic medication. She appeared at the first hearing without legal assistance and her Federation also did not assist her at all.

At this first hearing it was recorded in the decision that the athlete was clearly uneducated in respect of anti-doping rules and implications and in respect of what was needed to obtain a proper TUE. It was also accepted by the panel that she suffered from the chronic medical condition of fluid retention (**oedema**) for which she took the prescribed diuretic medication, and that she had no intention of enhancing her performance.

During October and November 2010 the athlete consulted a specialist physician and a specialist surgeon in Bloemfontein. The diagnosis was one of **lymph oedema praecox** with a recommendation that she must be treated symptomatically by her general practitioner. A TUE application was submitted by the general practitioner on 22 March 2011 but the application was refused because it was not completed in English. The application was re-submitted on 15 June but

it was again refused on the basis that the diagnosis was not clear and the indication for treatment with a diuretic was not justified.

The athlete continued to take the same prescribed diuretic medication on medical advice in order to relieve her chronic symptoms during her period of ineligibility. She was again tested during the period of ineligibility on 11 July 2011, and was again found to have an adverse analytical finding for diuretics.

[2] The hearing on 25 October 2011

The athlete was charged with an anti-doping rule violation for the presence of prohibited diuretics in her sample. At the hearing on 25 October 2011 the athlete was again unrepresented and her National Federation was also not present and offered no assistance. She pleaded guilty to the charge that she committed an anti-doping rule violation of Article 2.1 of SAIDS Anti-Doping Rules by continuing to take her prescribed diuretic medication.

After careful consideration of the history of this matter the panel concluded that there is a strong possibility that the medical profession has failed the athlete by not obtaining a TUE for her condition, and that it would be wrong and unfair, especially as she was unrepresented, not to assist her to file a proper application for a retroactive TUE.

In terms of sections 8.1.1 (c) and 8.2.2 of SAIDS Rules 2009 the panel must perform its functions fairly, impartially and independently. Where, as in this matter, an unrepresented athlete appears before a panel, it is the duty of the panel to assist the athlete to ensure the athlete receives a fair hearing. On the evidence before us it is clear that the athlete suffers from an illness that requires medication for which she requires a TUE. On the evidence it further appeared to the panel that if the athlete is properly assisted by an expert medical practitioner in the field of sport medicine, a TUE would in all probability be granted.

Mr. Kock correctly and fairly had no objection to the granting of a postponement to enable the athlete to submit an application for a TUE and the matter was the postponed *sine die*.

The athlete was advised to contact Dr. Louis Holtzhausen, Head of the Division of Sport and Exercise Medicine at the University of the Free State, who undertook to assist the athlete.

[3] The hearing on 10 May 2012

At the resumption of the hearing on 10 May 2012 the panel was informed that an initial TUE application submitted by Dr Holtzhausen had been refused (no reasons given), and that it took more than six months before the TUE Committee finally granted a TUE. A satisfactory explanation for this long delay has not been received.”

It is necessary to refer to a letter written by Dr. Holthauzen to the Chairperson, TUE Committee of SAIDS. The letter reads as follows:

NEW THERAPEUTIC USE EXEMPTION: RJANA ROSSOUW

Ms. Rossouw has had a long history of failed TUE applications and subsequent suspensions, known to SAIDS.

It became clear that sub-optimal medical diagnosis and management, together with poor communication with SAIDS were prominent contributing factors to an unsatisfactory outcome for the patient/athlete.

The patient was reviewed by specialist physicians and nephrologists at the School of Medicine, University of the Free State. This report revokes all previous diagnoses, treatments and TUE applications. The supporting specialist report is in Afrikaans, with a certified English translation.

After careful consideration of the history and previous investigations, as well as re-examination and investigation, a diagnosis of idiopathic oedema was made. This unsatisfactory diagnosis is made to describe a well-known clinical symptom complex with a number of sets of diagnostic criteria, of which the pathogenesis is still unclear.

The progression of management in a systematic approach was

- 1. Discontinuation of diuretic use (for diagnostic and therapeutic purposes). This resulted in 6 kg weight gain in 6 weeks, with a 1.5kg diurnal swing, both as expected in idiopathic oedema.*
- 2. A low-sodium diet was prescribed.*
- 3. Commencement of an ACE-inhibitor for suppression of secondary hyperaldosteronism - enalapril 2.5 mg per day was used for four weeks and the outcome monitored.*
- 4. After four weeks on this treatment, no improvement was evident and spironolactone 12.5 mg per day was commenced. The condition has improved on spironolactone and enalapril, but has not stabilised yet.*

At this stage of the management of this patient it is evident that the best clinical results are obtained with the inclusion of spironolactone, a banned substance, as most effective modifier of the renin-angiotensin-aldosterone axis in this patient.

Application is therefore made for therapeutic use exemption for spironolactone in this patient with a complex medical problem.

Supporting literature is attached.

I trust that this application will resolve the long process to which this patient was subjected.

Sincerely,

Dr Louis Holtzhausen

MBCChB; M Phil (Sports Med), FAFP (SA)

[4] The TUE that was granted was not for the diuretics initially prescribed for the athlete and for which an adverse analytical finding was returned (as explained in Dr Holzhausen's letter above).

[5] On the evidence before the panel we find as follows:

5.1 the athlete suffers from a genuine illness that has now been diagnosed as **idiopathic oedema**;

5.2 she was uneducated in relation to the fact that the diuretics she was taking were banned;

5.3 there was no intention to enhance performance.

5.4 her medical condition was difficult to diagnose and to treat with correct medication.

5.5 She was not in the Registered Testing Pool or the National Testing Pool and therefore she could apply for a Retroactive TUE for the use of diuretics in terms of section 4.4.2.1 of SAIDS Anti-Doping Rules 2009.

5.6 The fact that the TUE was granted for different diuretics than she tested positive for does not automatically result in a finding that the athlete is guilty of an anti-doping rule violation. We are unanimously of the view that on the facts in this matter the granting of the TUE allows us to find that in this case there was no anti-doping rule violation.

[6] The athlete has not participated in netball since the first anti-doping rule violation in 2010 and she has no intention to play again. She was granted permission by SAIDS to coach netball at school level and to umpire. She is a provincial umpire.

[7] Conclusion

As a result of the granting of a retroactive TUE no anti-doping rule violation occurred.

We want to express our thanks to Dr. Holthauzen who assisted the athlete in a professional manner.

[8] Recommendation

We strongly recommend that SAIDS should consider reviewing the first Anti-Doping Rule Violation and the resulting Sanction. It is regrettable that the athlete was not given the opportunity in 2010 to submit a proper TUE application.

Adv J Lubbe SC

Dr. G van Dugteren

Prof E Terblanche