

IN THE SOUTH AFRICAN INSTITUTE FOR DRUG-FREE SPORT

ANTI-DOPING DISCIPLINARY COMMITTEE

HELD AT HOLIDAY INN ROSEBANK

In the matter of: Mr. Andries van Straaten

RULING

Composition of the Panel

1. This 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 Denver Hendricks.

The pro-forma prosecutor for SAIDS was Mr Kallis.

3. The athlete was in absentia and the hearing was conducted through Teleconference call.

CHARGE

The charge against Mr. Van Straaten ("**the athlete**") is contained in a letter dated 14 June 2012, which letter was addressed to the athlete and a follow-up letter dated 9 August 2012.

RIGHT TO HAVE THE "B" SAMPLE TESTED

Article 2.1.2 of the Rules points out the implication of a positive "**A**" sample where the opportunity for a "**B**" sample is waived. Article 2.1.2 of the Rules reads as follows:

"Sufficient proof of an anti-doping rule violation under Article 2.1 is established by either of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analyzed; or, where the Athlete's B Sample is analyzed and the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample."

The athlete waived the right to have the "**B**" sample tests.

PLEA TO THE CHARGE

Mr. Van Straaten pleaded guilty to the charge.

MITIGATING CIRCUMSTANCES

Mr. Van Straaten was offered an opportunity to mitigate the circumstances of his situation in lieu of sanctions. In doing so he had an opportunity to call witnesses in mitigation. However the fact that the hearing was conducted through teleconferencing, there were no witnesses in mitigation available.

In his mitigation, he testified that he only participates in sport recreationally and that he had no knowledge and in fact it was the first he heard about doping or banned substances. He further stated that he took the supplements as advised by his training partner and purchased the items over the counter at Dis-Chem after enquiring from a salesman. He said he took the supplements for the purpose of improving his energy levels and, hence, his performance. However, he further stated that he occasionally took the supplements and in particular he consumed 32 Gi tm Accelerate Rasberry prior to cycling.

AGGRAVATING CIRCUMSTANCES

The prosecution in its aggravating stated that the athlete consumed a number of supplements as evidence by the letter he sent to SAIDS which contained a number of medication and supplements he consumed. Moreover, he failed to disclose all the medication/supplements he had been taken on the form before being tested. However, the prosecution conceded the fact that the athlete only participates recreationally and as a result proposed a sanction of three (3) months against the athlete from the date of receipt of results

APPLICABLE ARTICLES

What is of relevance at this stage and in the letter is a portion relating to the charge, which reads as follows:

"Please be informed that the analytical report received from the South Africa Doping Control Laboratory confirmed the presence of the stimulant Methylhexanamine in your urine sample (sample number 2633793) provided during an in-competition test at 15:34 after your event at the South African Masters Athletics Championships on the 19 May 2012."

This constitutes a breach of Article 2.1 of the South African Institute for Drug-Free Sports (SAIDS) which states that *"The presence of the prohibited substance or its metabolites or markers in the athlete's samples."*

In particular Article 2.1.1 which states that:

"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 or Markers 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"

In order to secure a guilty verdict from the Committee, the pro forma prosecutor, Mr Kallis, needed to discharge the burden of proof as contemplated in Article 3.1 of the Rules which states that:

Rule 3.1 Burdens and Standards of Proof

"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.

FINDINGS

"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 or Markers 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". 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.

The athlete did not have any intentions of wasting anybody's time and as a result pleaded guilty to the charge. It is evident from the charges 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 the stimulant, Methylhexaneamine in the athlete's urine. The presence of the aforesaid stimulant 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. Since the athlete pleaded guilty to the charge it became unnecessary to canvas any further evidence thereof. Therefore the athlete is found guilty as pleaded.

SANCTIONS

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

That the athlete is hereby suspended for a period of six(6) months from the date of receiving the analytical report/result from the South African Doping Control Laboratory.

REASONS

The athlete failed to address the panel in mitigation, especially omitted to argue Article 10.4 and 10.5, which articles deal with "*elimination or reduction of the period of ineligibility.*" Further that the athlete admitted to consume the substances for the sole purpose of enhancing his performance, though same was not for this particular

event but the athlete admitted to have used/consumed the substance on regular basis. We also considered the fact that the athlete only participates recreationally and imposing a maximum sanction will defeat the purpose of encouraging effective life-style, hence we thought that a six months sanction will assist in driving the message and we are also certain that the athlete will start educating other recreational or professional athletes with regard to Doping issues.

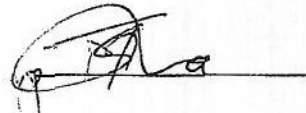
Date: 06 September 2012



Mandla Tshabalala



Dr. Ephraim Nematswerani



Prof. Denver Hendricks