

**At the Headquarters of the Malta Sports Council,
Cottonera Sports Complex, Cospicua**

Decision of the National Anti-Doping Disciplinary Panel

Ref: 05/2012/NADDP

Anti- Doping Commission (Malta)

Vs

WALTER THEUMA (Snooker player with Identity Card Number 16779G)

The National Anti-Doping Disciplinary Panel (hereinafter the 'Panel') consisting of Dr Carmel Cascun as Chairman, and Notary Dr Sue Mercieca, and Ms Joanna Vella as members.

Before the commencement of this proceeding, Not Dr Sue Mercieca and Ms Joanna Vella declared to the Chairman they are not subject to any circumstance or conflict that could negatively affect their impartiality in the case under review. The same declaration was made by the Chairman of the 'Panel'.

Considered the Request by the National Anti Doping Commission (Ref no. ITSTWALTHE-12/3 of the 12th December 2012 (Dok ADC1) to the Chairman of the 'Panel' to schedule a sitting for the hearing of a case concerning the alleged breach by Snooker player Walter Theuma of the Anti-Doping Regulations, 2011 (Legal Notice 281/2011, Sports Act, Chapter 455, Laws of Malta).

Took note of and reviewed the following documents that were forwarded to the 'Panel' at the initial stage by the Coordinator of the Anti-Doping Programme, namely:

- Request to the 'Panel' to schedule a hearing dated 12th December 2012 (Dok ADC3)
- Request by NADO to the National Association/Federation following an indication of a possible violation by a member of their Association dated 5th December 2012 (Dok ADC4)
- Email from the President of the Malta Billiards & Snooker Association of the 12th December 2012 to the NADO Co-ordinator in order to set up a hearing (Dok ADC7)
- Letter of Notification by NADO to Walter Theuma of a possible violation of the Anti-Doping Rules (Dok ADC6).
- Supplementary report filed by official NADO chaperone Rodney Pisani following the attempted doping test on the 29th November 2012.(Dok ADC2)

Took note of the Notice issued by the 'Panel' to Walter Theuma on the 15th December 2012 for him to appear before the 'Panel' on the 27th December 2012 (Dok ADC1),

copy of which was also forwarded to the Anti-Doping Commission, the Malta Billiards and Snooker and the Malta Sports Council.

Heard and took note of the evidence given under oath during the sitting held on the 27th December 2012 at the Cottonera Sports Complex, Cospicua by:

- the snooker player Walter Theuma who defended himself,
- the NADO's doping officer Rodney Pisani,
- the NADO's Coordinator Ignatius Zammit,

There were no representatives from the Malta Billiards and Snooker Association.

Heard and took note of the submissions and comments made by Ms Maria Mifsud Bonnici, the Chairperson of the Anti-Doping Commission and by Dr Peter Fenech the advocate retained by the Anti-Doping Commission.

The parties agreed that the Panel's decision is to be written in English.

1. Preliminaries

- 1.1 In the case under review on the 29th November 2012 Walter Theuma, who is registered as a snooker player with the National Billiards and Snooker Association was scheduled to participate in a First Division snooker match against Pullu Grech at the La Vallette Band Club in Valletta at about 6pm. A game which was in fact played till the end. The snooker match was won by Walter Theuma with a score of 3-2.
- 1.2 Prior to the snooker match Mr Ignatius Zammit, The NADO Coordinator, requested the event organiser Mr Frans Mintoff , to provide a room as they intended to carry out an anti-doping control test after the match. Mr Mintoff did provide a room, at which point Mr Mintoff asked whom of the two players was to be submitted for the anti-doping test. Mr Zammit did not disclose any name.
- 1.3 Immediately after the end of the match, the Doping Control Officer (DCO) Rodney Pisani proceeded to approach the winner Walter Theuma, in order to notify him that he was required to undergo a doping test. However Mr Pisani was unable to communicate his instructions to Mr Theuma because as soon as the match ended the athlete in question left the games room and the premises suddenly without saying a word whilst also leaving his own billiard cue or bag behind. At that point the DCO tried to follow Mr Theuma outside the Club in Republic Street, Valletta, but soon after the DCO lost track of him.
- 1.4 The NADO Coordinator Mr Ignatius Zammit, who was accompanying the DCO, also asked the female person who was present during the match, and who was seen picking up Mr Theuma's effects, to contact the Mr Theuma. The Coordinator even tried to follow the person who picked up Mr Theuma's effects and when he again asked her to contact Mr Theuma , she replied that she did not have Mr Theuma's details and when pressed further since she was carrying Mr



Theuma's belongings, this person alleged that the NADO personnel were harassing her.

- 1.5 The Athlete during the hearing stated that he did in fact leave the premises but he added that he returned about 20 minutes later. No explanation or justification was forthcoming from the Athlete for his sudden departure from the premises.
- 1.6 Mr Pisani and Mr Zammit returned to the premises and wrote the Supplementary Report (No.009440) in which the Doping Officer reported what happened and how and why the notification was not and could not physically be given to the Athlete.
- 1.7 During the hearing Mr Theuma made a statement to the effect that he smoked marijuana, and also added that marijuana could be traced in the blood for six months after use. Furthermore he said that he was made aware by the official organising the event that he might be submitted to a doping test.

2. Considerations

- 2.1 The principal question to be asked here is whether Mr Theuma's hasty departure from the venue immediately after the snooker match, without giving any opportunity to the Doping Control Officer to formally communicate his request to Mr Theuma to submit to an anti-doping control test, can be regarded as a breach of Art 3(8) of the Anti-Doping Regulations, 2011 (LN281/2011).
- 2.2 The Panel is satisfied by Mr Theuma's own admission that prior to the conclusion of the match he was aware that he might be asked to submit to an anti-doping test. And in fact during the hearing he said that he had been notified about this by the official organising the event.
- 2.3 Mr Theuma apart from admitting that he was a marijuana smoker, also he was aware that marijuana could be traced in the body up to six months after use.
- 2.4 On the basis of the following:
 - a. the absence of an explanation or a compelling justification backing his very hasty departure without even picking up his cue and belongings,
 - b. accompanied by his knowledge that he was likely to be requested to submit to an anti-doping control test,
 - c. And taking into account the dynamics of the circumstances as recounted by the DCO and the Coordinator when giving evidence under oath,the Panel taking all this together, concludes that Mr Theuma's departure from the site of the match was done in order to evade sample collection. This conduct is itself prohibited conduct whether such violation of refusing or failing to submit to sample collection results from intentional conduct of the athlete or negligent conduct of the athlete as per Art 3(8) of the Anti-Doping Regulations, 2011 (LN 281/2011). This same sub-article also states that "In case of evasion by the athlete to submitting himself to sample collection shall be deemed to be intentional conduct by the athlete".

2.5 The Panel regards an athlete's refusal to submit (without compelling justification) to a doping control test, or to evade a sample collection or not to collaborate with doping control officials as a very serious violation of the anti-doping regulations,. And therefore in such instances an athlete (as in the case under review) should not benefit from any reduction from the period of ineligibility.

3. The Decision

Therefore on the basis of the foregoing, the National Anti-Doping Disciplinary Panel decides this anti-doping case brought by the National Anti-Doping Commission against the athlete Mr Walter Theuma by finding:

- That Mr Walter Theuma has breached the Anti-Doping Regulations, 2011 (Art 3(8) and the WADA Code (Art 2.3) by evading sample collection 'in-competition' on the 29th November 2012, following the Snooker First Division Match between Walter Theuma and Pullu Grech;
- And therefore the National Anti-Doping Disciplinary Panel as provided by the Anti-Doping Regulations, 2011 (Art 11(3)(a) and the WADA Code (Art 10.3.1) is imposing on the athlete Walter Theuma a suspension of ineligibility from any sports activities for a period of two (2) years commencing from the date of his provisional suspension if there was one. Otherwise the period of ineligibility is to start running from the date this decision.
- In addition Walter Theuma is to forfeit all the points which have accrued in his favour during the snooker match of the 29th November 2012.
- A copy of this decision is to be forwarded to the Malta Billiards & Snooker Association.

Dr Carmel Cascun

Dr Sue Mercieca

Ms Joanna Vella

This 20th day of March 2013

at Cospicua, Malta