



International Paralympic Committee  
Anti-Doping Committee

In the matter of:

INTERNATIONAL PARALYMPIC COMMITTEE  
(the *Applicant*)

Versus

Ms. Folashade Oluwafemiayo  
(the *Respondent*)

The case is heard in front of the Hearing Body comprised of:

Dr. Toni Pascual, Chairperson of the IPC Anti-Doping Committee; Ms. Nicki Vance, Mr. Joseph de Pencier and Ms. Kate Rogowiec; Members of the IPC Anti-Doping Committee (together with the Chairperson, the *Hearing Panel*)

Hearing conducted on 29 May 2013 at 14:00 CET via teleconference.



## Parties

1. The Applicant is the global governing body of the Paralympic Movement and, in particular, of the Paralympic Games. In addition, the IPC is the International Federation of several sports, including IPC Powerlifting. The IPC's registered offices are in Bonn, Germany.
2. The Respondent is a Nigerian athlete in the sport of IPC Powerlifting.

## Communication

3. In accordance with Article 14.1.1 of the IPC Anti-Doping Code 2011 (the *Code*), the Respondent (and other relevant persons) shall be notified of a Sample that is brought forward as an Adverse Analytical Finding by the IPC through the relevant National Paralympic Committee (*NPC*).

## Background

4. On the 26 February 2013, the Respondent competed at the 5th Fazaa International Powerlifting Competition event in Dubai, United Arab Emirates (the *Event*).
5. The Event was approved by IPC Powerlifting. The United Arab Emirates National Anti-Doping Committee (UAE NADO) had been identified as the authorized sample collection agency.
6. After the Respondent completed her competition on 26 February 2013, she was requested to provide a sample for doping control for an in-competition test.
7. The Respondent provided a sample (sample number 2756033) (the *Sample*) and disclosed the use of what is understood to be vitamin D and vitamin C, and Paracetamol as medications and/or supplements used in the last seven days before the doping control test.



8. The Respondent complied with the request, provided the Sample and signed the doping control form without adverse comment. By doing so, the Respondent indicated that she was satisfied with the sample collection procedures that had been followed in conducting the test. The Samples were sent for analysis to the WADA accredited laboratory in Bloemfontein, South Africa (Department of Pharmacology, hereafter the *Laboratory*).
9. On 10 April 2013, the Laboratory reported an Adverse Analytical Finding for Furosemide. This substance is classified under S5. Diuretics and Masking Agents on the World Anti-Doping Code (*WADC*) 2013 Prohibited List (the *Prohibited List*) and is prohibited both in-competition and out-of-competition. It is considered a “specified substance”.
10. The initial review by the IPC determined that the Respondent did not have an applicable Therapeutic Use Exemption (*TUE*) for this substance, and that there was no departure from the International Standard for Laboratories or International Standard for Testing that caused the Adverse Analytical Finding.
11. On 19 April 2013, the IPC notified the Respondent via the National Paralympic Committee of Nigeria of the Adverse Analytical Finding in accordance with Article 7.2 of the Code. The Respondent was advised that she was provisionally suspended from the date of notification (19 April 2013) and that unless Articles 10.4 or 10.5 of the Code applies, the standard sanctions for a first-time violation would normally be:
  - automatic disqualification of any competition results in connection with an in-competition test, including forfeiture of any medals, points and prizes obtained on the date of sample collection (26 February 2013);
  - disqualification of all competition results including forfeiture of any medals, points and prizes obtained subsequent to the sample collection date (26 February 2013);
  - an ineligibility period of two (2) years; and
  - a financial sanction of €1.500 (Article 10.11 and Chapter 1.2, Section 2, IPC Handbook (‘Rules on the imposition of financial sanctions for anti-doping rule violations’)).The Respondent was also advised of her rights, including the right to request a B sample analysis and the laboratory documentation package.



12. The notification included a form titled “Letter of Decision” for the Respondent to complete and return to the IPC by no later than 25 April 2013 at 17:00 hours CET.
13. The Respondent returned the signed Letter of Decision to the IPC in a timely fashion. In the Letter of Decision, the Respondent stated that she did not accept that she had committed an Anti-Doping Rule Violation and did not accept the consequences as set out in the Notification of an Adverse Analytical Finding and states that she has a valid Therapeutic Use Exemption (TUE).
14. In addition to the Letter of Decision the Respondent submitted a letter stating that she had been admitted to hospital in January as well as the prescription paper that her doctor had given her.
15. In an email communication with the IPC on 10 May 2013, the Respondent states: “no is my response to sample B. No TUE form. Please think of the possibility of the fidelity of the medical report from my doctor to restore the hope of my existence without me again being a victim of circumstances which once made me a disable from childhood”
16. Consequently, the Applicant concludes that the Respondent has no valid TUE for the substance found and waives her right to the B sample analysis.
17. On 24 May 2013 the IPC notified the Respondent that a Hearing (as defined in the Code) would be scheduled to address her Adverse Analytical Finding and possible Anti-Doping Rule Violation.

### **The Hearing**

18. The Hearing took place on 29 May 2013 via conference call, in accordance with Article 8.1.6 of the Code.
19. The IPC was represented in the case by:
  - Dr. Peter Van de Vliet, IPC Medical & Scientific Director
  - Ms. Vanessa Webb, IPC Anti-Doping Senior Manager
  - Ms. Emilia Gullberg, IPC Anti-Doping Coordinator



20. Attending the Hearing on behalf of the Respondent were:
  - Ms. Folashade Oluwafemiayo – the Respondent
  - Dr. Wale Muse – the Respondent’s representative
  - Dr. Frank Thorpe – NPC representative
  
21. Mr. Jon Amos, Chairperson, Sport Technical Committee IPC Powerlifting, attended as the representative of IPC Powerlifting and as an observer.
  
22. Ms. Emilie Jones, IPC’s legal advisor, attended the Hearing.
  
23. The following outline of the facts and parties’ positions is illustrative only and may not comprise every piece of information or submission made by the parties. The Hearing Body has carefully considered all the evidence and submissions provided by the parties, even if there is no specific reference in this recommendation.
  
24. The Hearing Panel asked the Respondent about the duration of the treatment that was prescribed to her on 22 January 2013. She indicated that the duration was for a 2 week period and that she immediately started the treatment. She sometimes forgot to take the pills and indicated that two days before her competition, for health reasons she took the medication. She did not declare the medication on her doping control form.
  
25. The Respondent’s bodyweight at the Event was 78.80 kg and she was competing in the “up to 79.00 kg” weight class.
  
26. The Respondent indicated that she knew the Prohibited List existed but did not know what substances were on the list. She also indicated that there was no medical staff traveling with her at the Event.
  
27. The Respondent is an International level athlete. She has been competing for 2 years and was previously drug tested at the London 2012 Paralympics and out of competition at a training camp in Korea.



28. The NPC representative indicated that there is a Nigerian Anti-Doping Committee and they are responsible for educating athletes.

### **Analysis**

29. The medication was prescribed to the Respondent for a medical condition. However, the prescription paper provided does not qualify as a valid Therapeutic Use Exemption.
30. The substance found in her sample is a diuretic which eliminates water and consequently lowers a person's weight. The Respondent competes in a weight class sport and her weigh-in body weight prior to the competition was just below the weight category that she competes in.
31. The Hearing Panel considers that there is no evidence to the comfortable satisfaction of the Hearing Panel which shows the absence of intent to enhance sport performance to consider elimination or reduction of period of ineligibility for specified substances under specific circumstances in accordance with Article 10.4 of the Code. The Respondent did not follow the specific dose schedule prescribed by the doctor and continued to use the prohibited substance right up until the time of the competition. The Hearing Panel is not, therefore, satisfied that there was no intent on the Respondent's behalf to titrate her body weight to ensure that she would be able to compete in a lower category weight.
32. Furthermore, the Hearing Panel does not consider that Article 10.5 applies as the Respondent has failed to provide evidence that the circumstances in her case were truly exceptional. In particular, the Hearing Panel concluded that the Respondent, as an international level athlete, was aware that she was taking a medication with the specific purpose of reducing her body weight, and she continued her use of the prohibited substance up until the time of the competition.
33. The Hearing Panel would also like to note that the National Paralympic Committee of Nigeria should work closer with their athletes to ensure that all Paralympic athletes are aware of all anti-doping rules and regulations. Particularly, the importance of submitting Therapeutic Use Exemptions and understanding the Prohibited List and the consequences that are involved with anti-doping rule violations.



## **Recommendation to the IPC Governing Board**

34. The IPC Anti-Doping Committee recommends the following to the IPC Governing Board:
- a. pursuant to Article 9 of the Code, disqualification of the results obtained in the Competition on 26 February 2013 with all resulting consequences, including forfeiture of any medals, points and prizes;
  - b. pursuant to Article 10.1 of the Code, disqualification of all of the Respondent's individual results obtained in that Event (from 23-27 February 2013) with all Consequences, including forfeiture of all medals, points and prizes;
  - c. pursuant to Article 10.2 of the Code, a two (2) year period of ineligibility should be imposed on the Respondent;
  - d. pursuant to Article 10.9.3 of the Code, the Respondent shall receive credit for the period of provisional suspension and should therefore be declared ineligible from 19 April 2013 (date of notification) until 18 April 2015; and
  - e. pursuant to Article 10.11 of the Code and the IPC Handbook, Section 2, Chapter 1.2 ('Rules on the imposition of financial sanctions for anti-doping rule violations'), a financial sanction of €1.500,- should be imposed on the Respondent.

## **Appeal**

35. The Respondent is reminded of the appeal procedures set out in Article 13 of the IPC Anti-Doping Code.

Submitted to the IPC Governing Board on 07 June 2013 as a recommendation from the IPC Anti-Doping Committee in accordance with Article 8.5.2 of the IPC Anti-Doping Code 2011.



On 08 June 2013 the IPC Governing Board reviewed the above document and accepted the recommendation of the IPC Anti-Doping Committee.

A handwritten signature in black ink, appearing to be 'Xavier Gonzalez', is positioned above the printed name.

Mr. Xavier Gonzalez  
Chief Executive Officer  
International Paralympic Committee

- cc. Toni Pascual, Chairperson IPC Anti-Doping Committee  
Jon Amos, Chairperson, IPC Powerlifting – Sport Technical Committee  
Peter Van de Vliet, IPC Medical & Scientific Director  
WADA Results Management