

**IN THE MATTER OF THE RUGBY FOOTBALL UNION DISCIPLINARY
PROCEEDINGS CONCERNING REGULATION 20 OF THE RUGBY
FOOTBALL UNION AND REGULATION 21 OF THE INTERNATIONAL
RUGBY BOARD**

B E T W E E N:

THE RUGBY FOOTBALL UNION

The Regulator

- and -

WILLIAM ROBINSON

The Player

**DECISION OF THE
INDEPENDENT PANEL**

Part A: Introduction

1. This is the decision of the Independent Panel appointed under Regulation 20.11.4 to deal with a charge against William Robinson (“the Player”). This case has been dealt with without a hearing in person with the consent of the Player. The Player is registered to play for Rotherham Titans and his date of birth is 11th September 1990. He was selected, on 16th July 2013, for a doping control test during pre-season training, which was an out of competition test.

He provided a sample in the usual way and the A Sample was tested at an accredited test facility on the 8th August 2013.

2. UK Anti-Doping made certain findings in respect of his A Sample, and the Player was notified of these by telephone on 12th August 2013 by Stephen Watkins, Rugby Football Union (“RFU”) Anti-Doping & Illicit Drugs Programme Manager. These findings were that a Prohibited Substance, namely Clomiphene, had been found in his A Sample. Clomiphene is classified under the heading of “Hormone and Metabolic Modulators (S4)” in the 2013 Prohibited List of the World Anti-Doping Code.

3. That telephone notification was confirmed in a letter, also of 12th August 2013, from Karena Vleck, the Legal and Governance Director of the RFU. The Player was, in that same letter, charged with the following breach of Regulation:

***“IRB Regulation 21.2.1:-
The presence of a Prohibited Substance or its Metabolites or Markers
in a Player’s Sample.”***

He was also notified of his right to have the B Sample tested, and was also provisionally suspended with effect from 13th August 2013.

4. Subsequently, the Player provided a witness statement dated 10th September 2013 in which he admitted the Anti-Doping violation and explained the circumstances. He did not require his B Sample to be tested. The Player was represented by Morgan Sports Law LLP, who confirmed on his behalf on 24th September 2013 that he did not require a hearing in person, provided that the

circumstances in which the Prohibited Substance came to be in his system (as explained in his witness statement) were accepted by the RFU. This being the case, no hearing in person has been conducted and we have considered this matter on the basis of the papers only. In addition to the witness statement of the Player we have received written submissions from the RFU and the primary documentation from UK Anti-Doping relating to the provenance and testing of the A Sample.

The Regulations

5. Regulation 20.1 sets out the RFU Position on Doping as follows:

“RFU Position on Doping

The RFU condemns doping. It is harmful to the health of players, totally contrary to the spirit of rugby and the RFU is committed to protecting all Players’ fundamental right to participate in doping free rugby.”

6. Regulation 20.5.1 expressly incorporates IRB Regulation 21 in its entirety into the RFU Anti-Doping Regulations, with additional Regulations set out in Section 3 of those RFU Regulations. IRB Regulation 21 is set out in part in paragraph 4 above of this Decision. That Regulation continues:

“It is each Player’s personal duty to ensure that no Prohibited Substance enters his body. Players 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 Player’s part be demonstrated in order to establish an anti-doping rule violation under Regulation 21.2.1”

7. IRB Regulation 21.22 deals with Sanctions, and 21.22.1 deals with the Imposition of Ineligibility for an offence of this nature, namely a Prohibited Substance. That period is to be, for a First Violation, a minimum of two years ineligibility unless the conditions for reducing or eliminating the period apply.

8. Those conditions are set out below:

Regulation 21.22.4:

“No fault or negligence

If a Player or other Person establishes in an individual case that he bears No Fault or Negligence, the otherwise-applicable period of Ineligibility shall be eliminated. When a Prohibited Substance or its Markers or Metabolites is detected in a Player’s Sample in violation of Regulation 21.2.1 (presence of a Prohibited Substance or its Markers or Metabolites), the Player must also establish how the Prohibited Substance entered his system in order to have the period of Ineligibility eliminated.....”

9. Regulation 21.22.5 states:

“No Significant Fault or Negligence

*If a Player or other Person establishes in an individual case that he bears No Significant Fault or Negligence, the otherwise-applicable period of Ineligibility shall be reduced, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable.....
When a Prohibited Substance or its Markers or Metabolites is detected in a Player’s Sample in violation of Regulation 21.2.1 (presence of Prohibited Substance or its Markers or Metabolites), the Player must also establish how the Prohibited Substance entered his system in order to have the period of Ineligibility reduced.”*

The Factual Circumstances

10. It is his accepted account that following intimacy issues in his relationship, he ingested Klomen tablets.

“I convinced myself that taking a product which could boost my levels of testosterone would help me resolve my problems. I avoided testosterone as I knew testosterone was a banned product.....”

11. It is therefore clear to us that the Player was concerned with obtaining some outside assistance in increasing his levels of testosterone. Although the purpose was not to increase his playing performance, it is nevertheless necessary for all players to ensure that no Prohibited Substances enter their bodies. Indeed, IRB Regulation 21.2.1 makes it clear that it is a personal duty incumbent upon each player.

12. The Player's witness statement continues:

"After doing further internet research, I came across a product called "Klomen" which I understood would help stimulate my body's own production of testosterone. I was sure this would help increase my sex drive. I did not realise that Klomen would be a problem since I was not taking any synthetic testosterone but simply helping my body produce its own testosterone. I understand now the mistake I made."

He explained that he purchased one packet of the product Klomen over the internet (which he believes contained 20 tablets) in April 2013 and took the pills during May 2013. After taking the tablets his relationship difficulties resolved and he stopped taking the Klomen tablets.

The Findings

13. Although it is not expressly contended for in the Player's witness statement that he bears no Fault or Negligence, or no Significant Fault or Negligence, regarding how the Prohibited Substance entered his system, we have expressly considered the matter as it is necessary to do so under the Regulations.
14. We have concluded that neither Regulation 21.22.4 nor 21.22.5 is available to the Player. He accepts that he knew that testosterone was a Prohibited Substance, and also that he wanted (for whatever reason) to increase his own levels of testosterone. He sought to do this by artificial means, namely taking tablets, which he had sourced personally and bought over the internet. This is an incredibly reckless act, or series of acts, inevitably fraught with the considerable risk of ingesting a Prohibited Substance. Had he specifically considered the matter or researched that which he was ingesting – as we believe he had a personal duty to do - he would inevitably have concluded that,

were any Prohibited Substance to enter his system as a result, he would be at fault for this.

15. The fault lies squarely with the Player. There is no evidence that he even checked the list of ingredients of the product he bought, or sought advice from any professionals. A moment's research on the internet simply for the name Klomen leads to multiple pages that describe it as a "post cycle steroid" with the active ingredient of Clomiphene Citrate. Item 3 in S4 in the World Anti-Doping Code Prohibited List 2013 expressly names Clomiphene. Whilst we do not suggest that such research would in any case be sufficient for any player to satisfy themselves about the contents of such products, the ease with which it can be identified that an item in the Prohibited List is present in Klomen demonstrates the lack of care taken by this Player.
16. Neither of the exceptions "no Fault or Negligence", or "no Significant Fault or Negligence", could in our view be said to apply to these circumstances or to this Player.
17. The Player made an early admission and has provided a comprehensive witness statement, the full contents of which we take into account. This is his First Violation. Accordingly, the period of Ineligibility identified in IRB Regulation 21.22.1 applies and that is the period that we impose.
18. Accordingly, we impose a period of Ineligibility upon the Player of two years, that period commencing upon the date on which his suspension commenced,

namely 13th August 2013. For avoidance of doubt, the period of Ineligibility expires on the 13th August 2015 and the player is free to play again on the 14th August 2015.

2 October 2013

Daniel White, Chairman

Peter Fraser QC

Dr Julian Morris