

IN THE SOUTH AFRICAN INSTITUTE FOR DRUG-FREE SPORT

ANTI-DOPING DISCIPLINARY COMMITTEE

HELD AT THE PREMIER HOTEL KING DAVID, EAST LONDON

In the matter of: Mr. Mhlali Qoma

RULING

Composition of the Panel

1. The Disciplinary 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 International Rugby Board (IRB) Anti-doping Rules Published by IRB 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 Mr. Mandla Tshabalala, Dr. Gerhard Coetze and Mr. Rishi Hansrajh.

The pro-forma prosecutor for SAIDS was **Mr Nick Kock.**

3. Mr Mhlali Qoma (the Player) assisted by Akhona Mgijima
4. Applicable Rule for the Hearing

The prosecutor presented to the panel and the Player that the rules to dispense with during the proceedings shall be those of International Rugby Board (IRB).

5. Charges

The charge against Mr. Qoma ("**the Player**") is contained in a letter dated **21 November 2012**, which letter was addressed to the Player. The charge reads as follows:

"You are formally charged with an anti-doping rule violation in terms of Article 21.2.1 of the International Rugby Board (IRB) Anti – Doping Regulation in that, on 15 September 2012 at 13h55, you provided a urine sample (2635477) during an in-competition test. Upon analysis, the South African Doping Control Laboratory reported the presence of prohibited substances in your urine sample. The substances identified in your sample were 19-norandrosterone and 19-noreticholanolone, metabolites and/or precursors of the Anabolic Agent, Nandrolone (the concentration of 19 Norandrosterone is above 15ng/ml which is above the World Anti-Doping Agency decision limit of 3.0ng/ml)."

The charge emanates from an analytical finding from the South African Doping Control Laboratory. The report of the finding was communicated to the Player in a letter sent to him on 17 October 2012.

6. Plea

The Player pleaded guilty to the charge.

7. Burden of Proof

- 7.1 The prosecution needed to discharge a burden of proof and in so doing relied on Regulation 21.3. Regulation 21.3.1 in particular states that:

"The Board and its Union shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the Board or its Union 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. Where these Regulations place the burden of proof upon the Player or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, standard of proof shall be by a balance of probability except as provided in Regulation 21.22.3 and 21.22.9 where the Player must satisfy a higher standard of proof. "

- 7.2 A Doping Control Form (Test Mission Code 149/12) from SAIDS for the in-competition testing was signed by the Player acknowledging that he has read the notice and consented to provide a sample as requested.
- 7.3 Further evidence was presented in a form of Report on A-Sample Analysis with Sample number 2635477, that was analysed at the University of the Free State, South African Doping Control Laboratory, Department of Pharmacology, which is a WADA accredited Laboratory ("the Laboratory").
- 7.4 The chain of custody form was also presented as evidence and same was explained in details to the Player.

The Player did not dispute any of the above presented evidence and that he waived his right to have a B-Sample Tested.

8. Argument in Mitigating Circumstances

During the argument in mitigation, the Player stated a number of challenges he has experienced since joining the Border under 19 Rugby Team. Some of the experiences are that he is constantly mocked by his teammates because he is the tiny Player in the whole team and the position he plays requires a bigger body. Further to this is that since he joined the team he has not played a single game and as a result he is often discouraged. As a result of these challenges, he embarked on a mission to get his body bigger to be like the other players. He stated that he approached a friend who is a body builder who recommended certain pills for him and he bought the pills from him for R150 He

consumed the pills with a hope that they will make him bigger. He further stated that he did not know the pills contained banned substances. He knew nothing about banned substances and only knew steroids and dagga as drugs which are not good for sports. He said he is from a poor background and that he made a mistake of trusting a friend whom he thought was assisting him to get bigger. He further stated that kids from the rural areas don't develop physically as a result of malnutrition. He also mentioned the lack of education about the banned substances that is unknown in the rural areas and that it will be difficult for players from the rural areas to understand anything about banned substances as no one has ever taught them about banned substances. The athlete made a plea with the panel that from now on he will become an ambassador of anti-doping, and that he will take it upon himself to educate others.

9. Arguments in Aggravating Circumstances

The prosecution conceded that the Player has little knowledge of anti-doping, however the athlete knew about steroids. He failed to find other methods to improve his body muscles. The prosecution further stated that the Player completed his matric and that he is currently enrolled in a FET College. The athlete should have raised an eyebrow when his friend gave him two types of pills instead of one. He failed to question his friend and he actually went out of his way to purchase the pills. The prosecution further stated that the Player failed to take reasonable care like anyone who has completed matric and enrolled at a FET College. In closing the prosecution stated that the strict liability of the rules must be adhered to and that the athlete was negligent in his dealing.

10. Findings

- 10.1 The charge against the Player constitutes a breach of **Article 21.2.1** of the International Rugby Board Regulations, which rule states that "The presence of a prohibited substance or its Metabolites or Makers in the Player's sample." Sub-Article (a) specifically states that

"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 Makers 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 **Regulation 21.2.1**"

10.2 **Regulation 21.2.2** which is headed: **use or attempted use by the Player of a prohibited Substance or a prohibited Method**. In particular Sub-Regulation (a) states that:

"It is each *Player's* personal duty to ensure that no *Prohibited Substance* enters his body. 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 for Use of a Prohibited Substance or prohibited Method."

The Laboratory Report on the Player's "A" sample reveals the presence of Norandrosterone, a metabolite of Nandrolone and/or its precursors in a concentration of 15ng/ml, which exceeds the WADA threshold of 3ng/ml. Nandrolone is a prohibited substance under the SAIDS Rules and is listed as a prohibited substance (S1. ANABOLIC AGENTS) according to the World Anti-Doping Code.

The Player waived his right to have his B sample analysed.

The Player also admitted that he bought the Substance from a friend who promised him that by taking the Substances he will get big and that he consumed them as a result of the advice. There is overwhelming evidence from the analytical report received from the Doping Control Laboratory which confirmed the presence of a Metabolite as it appears on the charge in the Player's urine. The presence of the aforesaid metabolite constitutes a violation of the IRB Regulations.

The Player managed to research the Substance after receiving the Analytical report. A person of his position i.e. he finished his school and he is a FET student, should have acted like a reasonable scholar would have done and research the product or enquiring about it before consuming it, alternatively he should

have found other means to solve his challenge. If he did not know he should have enquired from his coaches or teammate. The Player never attempted any of these possible alternatives. His failure to take reasonable steps amounts to negligence under these circumstances. The prosecution has proved to the comfortable satisfaction of the panel that the Player has in fact violated Article 21.2.1 of the Rules.

The Player has also admitted to consuming the Prohibited Substance. The Player requested an elimination or reduction of the Period of Ineligibility; however he failed to justify any elimination or such reduction. He also failed to produce any corroborating evidence in addition to his words. In the circumstances, the Prosecution has established a violation of the IRB Anti-Doping Regulation to the comfortable satisfaction of the panel. Therefore the Athlete is found guilty as charged.

11. **SANCTIONS**

In imposing the sanction, the panel was guided by IRB Regulation 21.22 which is headed "**Imposing of Ineligibility for prohibited Substances and Prohibited Methods.**" specifically Regulation 21.22.1 states that:

"the period of ineligibility imposed for the violation of Regulation 21.2.1 (Presence of Prohibited Substance or its Metabolites or Markers) Regulation 21.22.1 (Use or Attempted Use of the Prohibited Substance or Prohibited Method) and Regulation 21.2.5 (Possession of Prohibited Substances and Method) shall be as follows, unless the conditions for eliminating or reducing the period of Ineligibility, as provided for in Regulations 21.22.3, 21.22.4, 21.22.4, 21.22.5, 21.22.6, 21.22.7 and/or 21.22.8 or the conditions for increasing the period of ineligibility, as provided for is Regulation 21.22.9, are met: First violation: two years."

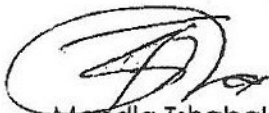
The panel having heard and duly weighed and considered the contents of the Charge Sheet submitted in support of the commission of the doping offence, the evidence placed before the panel, the admissions of the Player, as well as all supporting documentation, and having heard all parties, the panel thoroughly deliberated at length the possible sanction.

The panel unanimously could not find any condition raised by the Player for elimination or reduction of the period of ineligibility.

We do hereby make and publish the following Sanction:

That the Player is hereby suspended for a period of two (2) years from the date of the notification or from the date of receiving the analytical report/result from the South African Doping Control Laboratory i.e. 17 October 2012.

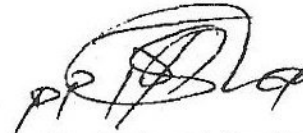
Date: 10 December 2012



Mandla Tshabalala



Rishi Hansrajh



Dr. Gerhard Coetzer