

Decision of the FIDE Doping Hearing Panel

The procedure

A written statement by doctor Jana Bellin came in that the player Bobby Miller from Bermuda on oktober 27th 2004 during the Chess Olympiad in Calvia, Mallorca had refused to submit to the doping control.

On oktober 30th 2004 there was a hearing of the FIDE Doping Hearing Panel. At the hearing were present the five members of the FIDE Doping Hearing Panel Arthur Schuering, Dewperkash Gajadin, Klaus Deventer, Jonathan Speelman and Sergey Dolmatov, and the player Bobby Miller, accompanied by his counsel Nigel Freeman.

The competence of the FIDE Doping Hearing Panel

The player Bobby Miller has been notified that according to article 5 of the FIDE Anti-Doping Regulations the members of the FIDE Doping Hearing Panel should be appointed by the FIDE Executive Board. The player Bobby Miller has been given the opportunity to discuss privately the composition of the Panel with his counsel. The player Bobby Miller accepted the composition of the FIDE Doping Hearing Panel. So the Panel is competent.

The statement of the player Bobby Miller

The statement of the player Bobby Miller was the following. He confessed that he refused to submit to the doping control. His teamcaptain Nick de Firmian has advised him to refuse. He did not know about the possible sanctions. Bermuda is a low team in the ranking. Bobby Miller is an amateur. He has no FIDE-rating . He played between the Olympiad in Bled in 2002 and the Olympiad in 2004 only one FIDE rated event, the Bermuda Open 2003. In that event he played only one game against a FIDE-rated player.

The judgment

The refusal to submit to the doping control is a violation of article 2.2.3 of the FIDE Anti-Doping Regulations. In the meeting of the teamcaptains on oktober 15th the Chief Arbiter has announced that there will be doping controls during the last week of the Olympiad. He repeated this information at the beginning of the first round. The new anti-dopingregulations are since a long time published on the website www.fide.com. Although it is the responsibility of FIDE to inform the federations and the players about the FIDE Anti-Doping Regulations, it is also a responsibility of the player to be informed about the applicable anti-dopingregulations when he is informed that doping controls will be held. Especially when he intends to refuse to submit to doping controls, he should try to get information about the possible sanctions. Also when the teamcaptain advises to refuse, the player keeps his own responsibility to decide if he submits to the doping control or refuses. The advise of the teamcaptain does not deprive the player from his own responsibility. There is no violation of procedure regulations and there is no circumstance that prevent sanctioning Bobby Miller.

The refusal of submitting a sample means that the player is considered to be positive tested. According to article 6.1 of the FIDE Anti-Doping Regulations the disqualification of individual results is the automatic consequence in each doping case. According to article 6.4.a juncto article 6.2 of the FIDE Anti-Doping Regulations exclusion from participating in events

organised by FIDE or national chess federations is further the normal sanction after a refusal.. However, the Panel has discovered that the FIDE Anti-Doping Regulations are not well known in a part of the federations in FIDE. Further, Bobby Miller is an amateur player who came on his own cost to the Olympiad. The FIDE Anti-Doping Regulations are in the first place meant for the professional players of whom there are many in chess. For these reasons a majority of three members of the Panel judges that next to the cancelling of the points gathered during the Olympiad, there is no place for an exclusion, but only a warning should be given. A minority of two members of the Panel judges that also this sanctioning is to severe and there should be no cancelling of points, but just a warning. The FIDE Doping Hearing Panel judges unanimously that in future cases the Panel will in all probability be forced to impose two years of ineligibility, even if an amateur is concerned. The decision will be given according to the judgment of the majority of the Panel.

At the moment that the decision was given orally, the player was informed that he had the possibility to appeal to the Court of Arbitration for Sport within 21 days.

The decision

The FIDE Doping Hearing Panel decides:

That the points gathered by Bobby Miller from Bermuda during the Olympiad in Calvia, Mallorca will be cancelled;

That Bobby Miller will get a warning for violating the FIDE Anti-Doping Regulations.

This decision is given by Arthur Schuering, Dewperkash Gajadin, Klaus Deventer, Jonathan Speelman and Sergey Dolmatov, and is orally communicated to Bobby Miller on october 30th 2004 and is sent to him in written form on november 4th 2004.