

DISCIPLINARY HEARING

Before

THE JAMAICA ANTI-DOPING DISCIPLINARY PANEL

held on 30th January 2013 AT THE JAMAICA CONFERENCE CENTRE

between

JAMAICA ANTI-DOPING COMMISSION

Complainant

and

RICARDO CUNNINGHAM

Respondent

Mr. Lackston Robinson and Mrs. Cara-Ann Bennett-Sudeene for the Complainant and Mr. Paul Francis for the Respondent.

1. The hearing in respect of the Respondent, Ricardo Cunningham for an anti-doping violation under Article 2.1.1 of the Anti-Doping Rules was conducted by the Jamaica Anti-Doping Disciplinary Panel on 30th January 2013.
2. A prohibited substance, pseudoephedrine, which is a stimulant on the WADA list of prohibited substances, was found in a urine sample provided by the Respondent at the National Senior Championship at the National Stadium, Kingston Jamaica on 30th June, 2012.
3. The Respondent, who is an 800 metres athlete, competed at the National Senior Championship at the National Stadium, Kingston Jamaica on 30th June 2012. A urine sample was taken from the Respondent at 10:53 p.m. that same day.
4. The sample was taken under conditions necessary for fairness and the proper chain of custody was established for the submission of the sample to the *laboratoire decontrole du dopage*, in Canada.
5. The sample of the Respondent's urine was analyzed and an adverse analytical finding reported for the substance pseudoephedrine measured at 174 micrograms per millilitre with the decision limit of 170 micrograms per millilitre.
6. On the Doping Control Form for the declaration of medicine taken, the Respondent declared that he had taken, *inter alia*, Panadol, Cetamol Cold and Flu and DPH Cough and Cold.

7. The Respondent readily waived his right to a hearing thereby asserting the anti-doping rule violation on 29th August 2012.
8. At preliminary hearings before this Disciplinary Panel, the Respondent maintained his position that he was not contesting the adverse analytical findings, but would wish to explain how the prohibited substance came to be in his urine sample.
9. By letter dated October 2, 2012 the Respondent withdrew the waiver of the hearing and sought to give an explanation.
10. It is for this reason that the hearing was thereby conducted and the Respondent afforded the opportunity to provide an explanation as to how a specified substance entered his body as allowed by Article 10.4 of the Anti-Doping Rules.
11. At the hearing, Mr. Lackston Robinson for the Complainant, the Jamaica Anti-Doping Commission tendered several Exhibits as to the collection; chain of custody, analysis, and the results of the analysis.
12. The Respondent gave evidence on his own behalf and called Dr. Mohamed Bashir, a medical practitioner, and Dr. Eugenie Brown-Myrie, a Clinical Pharmacist, in support of his evidence.
13. The Respondent's evidence was to the effect that coming up to the National finals for the 2012 Olympics he was having symptoms of cold, congestion, and cough and running nose, and so he took some over-the-counter medication such as Cetamol, Panadol and DPH.
14. He contended that he was trying to get ready for the Olympic trials and had no intention of cheating.
15. It is to be noted that when the Respondent was asked whether he was aware of a Therapeutic Use Exemption (TUE), he said he was aware and believed its use was associated with athletes who suffered from asthma.
16. The Respondent added that even after the trials he realized that the flu was not going away, and he went to the Medical Centre at the University of Technology, Jamaica to consult with Dr. Bashir.
17. Dr. Mohamed Bashir examined the Respondent on 2nd July 2012 and found that the Respondent was having a productive cough and complaining of sore throat and pain at swallowing, and he had some degree of shortness of breath.
18. Dr. Bashir also observed that his tonsils were enlarged and inflamed.

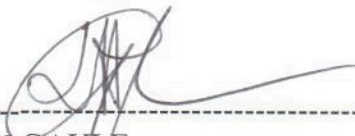
19. Dr. Eugenie Brown-Myrie interviewed the Respondent on 9th November 2012 and gave evidence that Cetamol Cold and Flu and the DPH Cough and Cold both had among their active ingredients pseudoephedrine in varying concentrations.
20. Dr. Brown-Myrie gave evidence that based on the interview; the Respondent would have taken 120 milligrams of pseudoephedrine on the Friday and on the Saturday morning 124 milligrams of the said substance.
21. Dr. Brown-Myrie observed that pseudoephedrine has a half life of 5 to 8 hours for elimination from the body and that it would take about five half-lives to eliminate it totally from the body.
22. She referred to research done by Chester, Mottram Reilly, and Powell on Elimination of ephedrines in urine following multiple dosing; and concluded that the levels of pseudoephedrine found in the Respondent's urine was within the expected range identified in the research.
23. Dr. Brown-Myrie opined that several variables could account for the levels detected.
24. The Jamaica Anti-Doping Disciplinary Panel unanimously found that the Respondent, in addition to his words, produced corroborating evidence which established to its comfortable satisfaction that the Respondent did not intend to enhance his sport performance or mask the use of a performance enhancing substance.
25. The Respondent having established how the specified substance entered his body by virtue of Article 10.4 of the JADCO Anti-Doping Rules, the Jamaica Anti-Doping Disciplinary Panel considered that in the circumstances of this violation and the fact that it was a first violation that the appropriate sanction should be a reprimand and no period of Ineligibility from future events.
26. The Panel is of the view that educational opportunities should be provided to ensure that athletes are properly informed of the Anti-Doping Rules, and in particular, the use of the Therapeutic Use Exemption (TUE) facility, in situations where medication may be required for illnesses.

DATED THIS 18TH day of February 2013

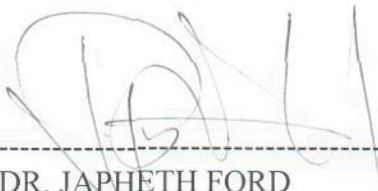
JAMAICA ANTI-DOPING DISCIPLINARY PANEL



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CHAIRMAN



LENOX GAYLE
VICE CHAIRMAN



DR. JAPHETH FORD
MEMBER



JULIET CUTHBERT
MEMBER