

**IN THE MATTER OF 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**

**-and-**

**ARFON KENDRICK**

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**DECISION OF THE DISCIPLINARY PANEL**

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Panel: Matthew Lohn

Tom Rees

Siobhan Walsh

**Decision**

1. The Panel has imposed a two year period of ineligibility on Arfon Kendrick commencing on 19 June 2014. The period expires at midnight on 18 June 2016. The Player's status during the period of ineligibility is as provided by International Rugby Board ("IRB") Regulation 21.22.13. This is the unanimous decision of the Panel.

**Factual background**

2. Arfon Kendrick is a registered player at Paviers RFC, and has played for the club's various sides since 2010.
3. On 20 September 2013, UK Anti-Doping ("UKAD") received a seizure document from the UK Border Force ("UKBF"), informing them that a package from Hong Kong labelled Jintropin (Somatropin) had been intercepted and seized. The package was addressed to Mr Kendrick.

4. Jintropin is a brand name for Human Growth Hormone ("hGH"), which is listed as a Non Specified Substance under Section S2 of The 2013 Prohibited List of the World Anti-Doping Code.
5. The Rugby Football Union ("RFU") was contacted by UKAD on 24 October 2013, and asked to confirm whether Mr Kendrick was a registered player.
6. On 15 January 2014, the seized package was delivered to the Drug Control Centre at King's College London for analysis. The laboratory confirmed on 27 March 2014 that no hGH had been detected in the package's contents.
7. On 17 June 2014, the RFU was briefed by UKAD on the details of the investigation, and was informed that Mr Kendrick was likely to face a charge for an Anti-Doping Rule Violation. On the same day, an RFU investigation was commenced into Mr Kendrick's potential Anti-Doping Rule Violation, and he was provisionally suspended under IRB Regulation 21.19.1.
8. On 18 June 2014, Mr Kendrick was informed of the alleged violation by Graeme Simpson, UKAD's lead investigator. At an interview on the same day, Mr Kendrick admitted to attempting to purchase hGH.
9. On 9 July 2014, Stacey Shevill, a solicitor from UKAD informed Stephen Watkins of the RFU that Mr Kendrick had a case to answer.
10. On 10 July 2014, Mr Kendrick was charged under IRB Regulation 21.2.2:

***21.2.2 Use or Attempted Use by a Player of a Prohibited Substance or a Prohibited Method***

- (a) *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 a Prohibited Method.*

(b) *The success or failure of the Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed.*

11. Attempt is defined in IRB Regulation 21 as:

*Purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an anti-doping rule violation. Provided, however, there shall be no anti-doping rule violation based solely on an Attempt to commit a violation if the Person renounces the attempt prior to it being discovered by a third party not involved in the Attempt.*

12. Mr Kendrick was provisionally suspended from 19 June 2014 pending the outcome of the investigation into his case, and was requested to respond by 28 July 2014 as to whether he accepted or denied the charge.

13. On 23 July 2014, Mr Kendrick responded to the charge by letter, stating:

*"...I would like to inform you that I will not be contesting this ban as I have accepted fault on my part and cooperated fully from the outset..."*

14. Mr Kendrick subsequently indicated that he would not be seeking a hearing.

15. This Panel was instructed by Rebecca Morgan, the Judicial Secretary of the RFU, to consider the case. The Panel were provided with :-

- 15.1 Registration documents of Arfon Kendrick
- 15.2 E-mail chain between Michael Waplington and Stephen Watkins of the RFU and Phil Molyneux of Paviers RFC dated 29 June 2014 to 25 July 2014
- 15.3 World Anti-Doping Agency: The World Anti-Doping Code - The 2013 Prohibited List - International Standard
- 15.4 E-mail chain between Stephen Watkins of the RFU and Jason Torrance of UKAD dated 17 June 2014

- 15.5 Letter from the RFU to Arfon Kendrick dated 17 June 2014, informing him of his provisional suspension
- 15.6 UKAD transcript of interview with Arfon Kendrick dated 18 June 2014
- 15.7 National Anti-Doping Policy (Version 1.0, 14 December 2009)
- 15.8 Notification of Case to Answer from Stacey Shevill of UKAD to Stephen Watkins of the RFU dated 9 July 2014
- 15.9 Letter of response from Arfon Kendrick dated 23 July 2014
- 15.10 Medical notes of Arfon Kendrick
- 15.11 Judgment of CAS 2008/A/1664: Appeal by IRB v Mr Luke Troy and the ARU

The Panel determined in light of the above evidence that Mr Kendrick was guilty of a doping offence.

### **The Regulatory Regime**

16. The relevant list of prohibited substances which applies to this case is The 2013 Prohibited List of the World Anti-Doping Code.
17. IRB Regulation 21.22 deals with Sanctions and 21.22.1 deals with the Imposition of Ineligibility for an offence of this nature, namely an Attempted Use of a Prohibited Substance. That period is to be, for a first violation, two years unless the conditions for eliminating or reducing it as provided in IRB Regulation 21.22.4 (No Fault or Negligence) or 21.22.5 (No Significant Fault or Negligence) are met:

#### ***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 Metabolites or Markers), the Player must also establish how the Prohibited Substance entered his system in order to have the period of Ineligibility eliminated. In the event this Regulation 21.22.4 is applied and the period of Ineligibility otherwise applicable is eliminated, the anti-doping rule violation shall not be considered a violation for the*

*limited purpose of determining the period of Ineligibility for multiple violations under Regulation 21.22.10.*

#### **21.22.5 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 may be reduced, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this section may be no less than eight years. 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 Metabolites or Markers), the Player must also establish how the Prohibited Substance entered his system in order to have the period of Ineligibility reduced.*

18. Mr Kendrick has not made any representations in order to demonstrate his suitability for a reduction in the period of ineligibility pursuant to IRB Regulation 21.22.4 and 21.22.5, and the Panel has determined there is no potential for reduction in the circumstances of this case.

19. The Panel has also considered the question of aggravating factors for the purposes of IRB Regulation 21.22.9.

#### **21.22.9 Aggravating Circumstances Which May Increase the Period of Ineligibility**

*If the Judicial Committee (or the judicial body of the Unions or Tournament Organisers) establishes in an individual case involving an anti-doping rule violation other than violations under Regulation 21.2.7 (Trafficking or Attempted Trafficking) and 21.2.8 (Administration or Attempted Administration) that aggravating circumstances are present which justify the imposition of a period of Ineligibility greater than the standard sanction, then the period of Ineligibility otherwise applicable shall be increased up to a maximum of four years unless the Player or other Person can prove to the comfortable satisfaction of the Judicial Committee that he did not knowingly commit the anti-doping rule violation.*

*A Player or other Person can avoid the application of this Regulation by admitting the anti-doping rule violation as asserted promptly after being confronted with the anti-doping rule violation by an Anti-Doping Organisation.*

The Panel has not identified any aggravating factors in this case.

20. The Panel has therefore determined that the period of ineligibility in this case should be two years commencing on the date of provisional suspension, 19 June 2014. The Player has a right of an appeal as provided by RFU Regulation 20.12. No order for costs was sought or made.

Matthew Lohn

Tom Rees

Siobhan Walsh

01st October 2014