



Ethics and Compliance

AGREED DECISION

In the Matter of:

ENGLAND AND WALES CRICKET BOARD LIMITED

And

ABDUR REHMAN

Disciplinary Proceedings under the ECB Anti-Doping Rules 2012

This is an Agreed Decision between the England Wales Cricket Board Limited ("ECB") and Mr. Abdur Rehman relating to an Anti-Doping Rule Violation arising from the ECB Anti-Doping Rules 2012 (the "Anti-Doping Rules").

Background

1. At all material times Mr. Rehman was a contracted professional cricketer with Somerset County Cricket Club ("Somerset"), and subject to the Anti-Doping Rules pursuant to his signed player undertaking, dated 27 June 2012.
2. On 8 August 2012, Mr. Rehman was playing in a LV= County Championship match for Somerset against Nottinghamshire CCC and was required to, and did, provide a urine sample ("the Sample") for analysis. This was provided pursuant to the Anti-Doping Rules.
3. The Sample was submitted for analysis to the Drug Control Centre at King's College, London. The analysis revealed the presence of cannabinoid (11-nor-delta-9-tetra-hydrocannabinol-9-carboxylic acid) at an average concentration of 19.6 ng/ml and accordingly constituted an Adverse Analytical Finding.
4. This substance (the "Prohibited Substance") is included in the World Anti-Doping Code Prohibited List (Section S8).
5. Anti-Doping Rule 2 provides as follows:

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Article 2: Anti-Doping Rule Violations

Doping is defined as the occurrence of one or more of the following anti-doping rule violations:

- 2.1 *The presence of a Prohibited Substance or its Metabolites or Markers in a Cricketer's Sample.*
6. Mr. Rehman did not possess a therapeutic use exemption in respect of the Prohibited Substance. Further, the ECB identified no apparent departures from either the International Standard for Testing or the International Standard for Laboratories in respect of the collection and analysis of the Sample.
7. In accordance with Anti-Doping Rule 7.1.2, the ECB is the Results Management Authority for this matter. On 14 September 2012, Mr. Rehman was charged by the ECB with having committed an Anti-Doping Rule Violation pursuant to Article 2.1 of the Anti-Doping Rules.
8. The charge explained, inter alia, the facts relied on in support of the allegation, the details of the charge, the consequences of an admission or proof of an Anti-Doping Rule Violation and the procedure for analysis of the B Sample.
9. Having requested the analysis of his B Sample, Mr. Rehman was notified in writing by the ECB by letter of 28 September 2012 that his B Sample confirmed the Adverse Analytical Finding in respect of his A Sample.
10. On 2 October 2012, Mr. Rehman admitted the charge in writing to the ECB and further explained the circumstances of the Adverse Analytical Finding by way of a written statement.

Consequences

11. Anti-Doping Rule 10.2 provides as follows:

10.2 Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of Prohibited Substances and Prohibited Methods

The period of Ineligibility imposed for a violation of Article 2.1 (presence of Prohibited Substance or its Metabolites or Markers in a Sample)... that is the Cricketer's first offence shall be two

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years, unless the conditions for eliminating or reducing the period of Ineligibility (as provided in Article 10.4 and Article 10.5) or the conditions for increasing the period of Ineligibility (as provided in Article 10.6) are met.

12. Where a Cricketer is found to have committed an Anti-Doping Violation under Anti-Doping Rule 2.1, and such offence is the Cricketer's first Anti-Doping Violation, a period of Ineligibility of two years must be imposed pursuant to Anti-Doping Rule 10.2 (the "Standard Sanction").
13. This is Mr. Rehman's first doping offence.
14. Mr. Rehman did not seek to rely in mitigation on Anti-Doping Rule 10.5.1 or 10.5.2. However Mr. Rehman has sought, through his written statement of 2 October 2012 and the supporting written statement of Mr. Irfan Waheed dated 29 September 2012, to mitigate the Standard Sanction by way of Anti-Doping Rule 10.4.
15. Anti-Doping Rule 10.4 states as follows:

10.4 Elimination or Reduction of the Period of Ineligibility for Specified Substances under Specified Circumstances

10.4.1 Where a Cricketer can establish how a Specified Substance entered his/her body or came into his/her Possession or a Cricketer Support personnel can establish how a Specified Substance came into his/her possession and, in each case, that such Specified Substance was not intended to enhance the Cricketer's sport performance or to mask the Use of a performance-enhancing substance, the period of Ineligibility established in Article 10.2 shall be replaced (assuming it is a first offence) with, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, a period of Ineligibility of two years.

10.4.2 To qualify for any elimination or reduction under this Article, the Cricketer or Cricketer Support Personnel must produce corroborating evidence in addition to his/her word that establishes, to the comfortable satisfaction of the Anti-Doping Tribunal, the absence of an intent to enhance the Cricketer's sport performance or to mask the Use of a performance-enhancing substance.

10.4.3 Where the Conditions set out in Articles 10.4.1 and 10.4.2 are satisfied, the degree of fault of the Cricketer or Cricketer Support Personnel shall be the criterion considered in

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assessing any reduction of the period of Ineligibility.

16. Cannabinoids are defined as being a "Specified Substance" in the WADA Prohibited List.
17. Given that this is Mr. Rehman's first doping offence and the Prohibited Substance in issue is a "Specified Substance":
 - a) if Mr. Rehman can establish how the Prohibited Substance entered his system; and
 - b) that his use of it was not intended to enhance performance or mask other prohibited substance use, then
 - c) there is discretion to impose a sanction ranging from a reprimand and no period of Ineligibility to a period of Ineligibility of up to a maximum of two years.

Mr. Rehman's explanation

18. Mr. Rehman has admitted ingesting cannabis and has provided a written statement to the ECB as to the circumstances of such ingestion, which statement has been corroborated by the written statement from Mr. Waheed referred to above.
19. Mr. Rehman has asserted that in late July 2012, about a week before he flew to England to play for Somerset, he attended a party in Lahore with Mr. Waheed at which he inadvertently smoked part of a roll-up cigarette which he had wrongly assumed to be a tobacco cigarette.
20. Mr. Rehman's admission and his explanation of how the Prohibited Substance entered his system are accepted by the ECB.

No Intent to Enhance Performance

21. Mr. Rehman asserts that he did not ingest cannabis with a view to enhancing his performance.
22. Anti-Doping Rule 10.4.2 requires that the Cricketer "*must produce corroborating evidence in addition to his/her word that establishes, to the comfortable satisfaction of the Anti-Doping Tribunal, the absence of an intent to enhance sport performance*".

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23. The Commentary to Article 10.4 in the World Anti-Doping Code states that there are “*objective circumstances which in combination might lead a hearing panel to be comfortably satisfied of no performance-enhancing intent*”, and that these include “*the fact that the nature of the Specified Substance or the timing of its ingestion would not have been beneficial to the Athlete*”.
24. The ECB accepts both Mr. Rehman’s explanation as to the timing of his use of the Prohibited Substance and the fact that the Prohibited Substance is not performance-enhancing for the sport of cricket. Furthermore, the ECB does not believe that cannabis can be used to mask the use of a performance-enhancing substance, cannabis not being known as a masking agent. This satisfies the requirements of Anti-Doping Rule 10.4.2.

Sanction

25. Pursuant to Anti-Doping Rule 10.4.1, the Standard Sanction may be replaced with a period of Ineligibility that reflects, pursuant to Anti-Doping Rule 10.4.3, the Cricketer’s degree of fault. In the present case, Mr. Rehman has stated that his smoking of part of a roll-up cigarette containing cannabis was inadvertent due to his impaired judgment on account of alcohol and the smokiness of the room in which the party in question was being held. Mr. Rehman further asserts that he immediately stopped smoking the cigarette as soon as he realised it was not a tobacco cigarette.
26. Mr. Rehman is a senior cricketer with considerable international cricket experience for Pakistan. He has acknowledged that he knew cannabis was a Prohibited Substance from the anti-doping education that he has received in his capacity as a professional cricketer. Mr. Rehman’s conduct was lower than the expected standard of behaviour. However, he quickly admitted the violation when confronted, he has shown significant remorse and has co-operated promptly with the ECB.
27. Having carefully considered the precedents for cannabis anti-doping violations in cricket and other sports and consulted both the International Cricket Council and UK Anti-Doping, the ECB has specified that the Consequences in respect of Mr. Rehman’s anti-doping rule violation should be a period of Ineligibility of twelve weeks. Mr. Rehman has accepted this sanction.

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Disqualification of Results

28. Anti-Doping Rule 9 provides as follows:

Article 9: Automatic Disqualification of Individual Results

An anti-doping rule violation in connection with or arising out of an In-Competition test automatically leads to Disqualification of the individual results obtained by the Cricketer's individual performance in the Match in question, with the following consequences: (a) forfeiture of any individual medals or other prizes awarded; and (b) forfeiture of any official ranking points achieved.

29. Anti-Doping Rule 10.8 provides as follows:

Article 10.8: Disqualification of Individual Results Obtained in Matches Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation

In addition to the automatic Disqualification, pursuant to Article 9, of the Cricketer's individual results obtained by the Cricketer's individual performance in the Match which produced the Adverse Analytical Finding, all other individual results obtained from the date that the Sample in question was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through to the commencement of any Provisional Suspension or Ineligibility period, shall (unless the Anti-Doping Tribunal determines that fairness requires otherwise) be Disqualified with the following consequences: (a) forfeiture of any individual medals or other prizes awarded; and (b) forfeiture of any official ranking points. The lack of any evidence that the Cricketer's performance was enhanced during subsequent Matches shall not of itself be sufficient to trigger the Anti-Doping Tribunal's discretion under Article 10.8.

30. Mr. Rehman has neither been awarded any individual medals or other prizes by the ECB nor has he achieved any official ECB ranking points in respect of either the Somerset v Nottinghamshire LV= County Championship match of 7-10 August 2012 or any other ECB match since the date of the Sample collection. Accordingly Articles 9 and 10.8 do not apply.

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Period of Ineligibility

31. Anti-Doping Rule 10.9.3 provides as follows:

Any period of Provisional Suspension served by the Cricketer or Cricketer Support Personnel (whether imposed in accordance with Article 7.6 or voluntarily accepted by the Cricketer or Cricketer Support Personnel) shall be credited against the total period of Ineligibility to be served. To get credit for any period of voluntary Provisional Suspension, however, the Cricketer or Cricketer Support Personnel must have given written notice at the beginning of such period to the National Cricket Federation.

32. Mr. Rehman voluntarily provisionally suspended himself in writing to the ECB on 29 September 2012. In accordance with Anti-Doping Rule 10.9.3, Mr. Rehman's period of Ineligibility therefore is deemed to have commenced on 29 September 2012 and expires at midnight on 21 December 2012.
33. During the period of Ineligibility, in accordance with Anti-Doping Rule 10.10.1.2, Mr. Rehman may not play, coach or otherwise participate or be involved in any capacity in: (a) any cricket match organised or authorised by the ECB or any other function, event or activity (other than authorised anti-doping education or rehabilitation programs) authorised, organised, sanctioned, recognised or supported in any way by the ECB or by any body that is a member of, or affiliated to, or licensed by the ECB; or (b) any cricket match or any other function, event or activity authorised or organised by any professional league or any international or national level tournament/event organiser (whether or not the party authorising or organising the match or event in question is a signatory to the World Anti-Doping Code). Furthermore and without prejudice to the generality of the foregoing, Mr. Rehman shall not, during any period of Ineligibility, be given accreditation for, or otherwise granted access to, any cricket match, function, event or activity of the type referred to in this Article.
34. The ECB anticipates that this decision and specifically the prohibition against participation which is imposed on Mr. Rehman during his period of Ineligibility shall be recognised by the ICC and other ICC members in accordance with their respective anti-doping rules.
35. The appeal rights detailed in Anti-Doping Rule 13 shall subsist in the relevant parties in accordance with and subject to the terms of that Anti-Doping Rule.

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Summary

36. Accordingly, for the reasons given above, the ECB and Mr. Rehman agree that:
- a) an Anti-Doping Rule Violation contrary to Anti-Doping Rule 2.1 has been established;
 - b) a period of Ineligibility of twelve weeks is imposed on Mr. Rehman pursuant to Anti-Doping Rule 10.4;
 - c) the period of Ineligibility is deemed to have commenced as from 29 September 2012 and will expire at midnight on 21 December 2012; and
 - d) Mr. Rehman's status during the period of Ineligibility shall be as detailed in Anti-Doping Rule 10.10.

Sent electronically to Abdur Rehman and Ian Smith.

Dated 4 October 2012

cc: Kerwin Clarke, WADA
Iain Higgins, ICC
Graham Arthur, UKAD

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