

Issued Decision

UK Anti-Doping and Greg Roberts

Disciplinary Proceedings Under the Anti-Doping Rules of the Welsh Rugby Union

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the Welsh Rugby Union ('WRU') Anti-Doping Rules (the 'ADR'). It concerns an anti-doping rule violation committed by Mr Greg Roberts ('Mr Roberts') contrary to the ADR.

Capitalised terms used in this Decision shall have the meaning given to them in the ADR unless otherwise indicated.

Background and Facts

1. The WRU is the governing body for the sport of rugby union in Wales. UKAD is the National Anti-Doping Organisation ('NADO') for the United Kingdom.
2. Mr Roberts is a 28 year-old rugby union player who plays for Glynneath RFC. At all material times he was subject to the jurisdiction of the WRU and bound to comply with the ADR. Pursuant to the ADR, UKAD was empowered to conduct Doping Control and Results Management, as those terms are used in the ADR, in respect of all athletes subject to the jurisdiction of the WRU.
3. On 14 February 2015, UKAD collected an In-Competition Sample from Mr Roberts pursuant to the ADR ('the Sample').
4. The Sample was submitted for analysis to the Drug Control Centre, King's College London, a World Anti-Doping Agency ('WADA') accredited laboratory ('the Laboratory'). On 2 March 2015, the Laboratory reported to UKAD an Adverse Analytical Finding ('the Finding') for tamoxifen.
5. Tamoxifen is classified in section 4 of the WADA 2015 Prohibited List (Hormone and Metabolic Modulators). It is a Prohibited Substance, classified as a Specified Substance and is prohibited at all times (both In-Competition and Out-of-Competition).
6. At the relevant time, Mr Roberts did not have, nor had he ever held, a Therapeutic Use Exemption in respect of tamoxifen.
7. On 11 March 2015 UKAD issued Mr Roberts with a Notice of Charge ('the Charge'). The Charge related to the commission of an anti-doping rule violation pursuant to ADR Article 2.1 (the Presence of a Prohibited Substance in the Sample). The Charge explained the facts relied on in support of the allegation, the details of the Charge, the procedure for analysis of the B Sample and the Consequences of an admission or proof of the anti-doping rule violation.
8. Following receipt of the Charge, Mr Roberts admitted that he had committed an anti-doping rule violation in respect of the Presence of tamoxifen in the Sample.

Admission and Consequences

9. ADR Article 2 provides that:

The following constitutes an Anti-Doping Rule Violation:

2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample, unless the Athlete establishes that the presence is consistent with a TUE granted in accordance with Article 4.

10. Mr Roberts has admitted committing an anti-doping rule violation in violation of ADR 2.1.

11. ADR Article 10.2 provides:

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

The period of Ineligibility for an Anti-Doping Rule Violation under Article 2.1, 2.2 or 2.6 that is the Athlete's or other Person's first anti-doping offence shall be as follows, subject to the potential reduction or suspension pursuant to Article 10.4, 10.5 or 10.6:

10.2.1 The period of Ineligibility shall be four years where:

- (a) The Anti-Doping Rule Violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the Anti-Doping rule Violation was not intentional.
- (b) The Anti-Doping Rule Violation involves a Specified Substance and UKAD can establish that the Anti-Doping Rule Violation was intentional.

10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two years.

12. ADR Article 10.2.1 therefore provides that in relation to this matter (being a matter that concerns tamoxifen, a Specified Substance) the period of Ineligibility to be imposed shall be four years if UKAD can establish that the anti-doping rule violation was committed intentionally. If UKAD is not able to establish that the anti-doping rule violation was committed intentionally, then pursuant to ADR Article 10.2.2 a period of Ineligibility of two years shall be imposed.

13. As regards the meaning of 'intentionally', ADR Article 10.2.3 states:

10.2.3 As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those Athletes or other Persons who cheat. The term, therefore, requires that the Athlete or other Person engaged in conduct which he or she knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and manifestly disregarded that risk. An Anti-Doping Rule Violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition.

14. Mr Roberts has provided an explanation (by way of his legal representatives) in respect of his use of tamoxifen. His explanation centres on the use of a supplement called 'Anti Esto', which he claims was used to ameliorate the symptoms of gynaecomastia. The active ingredient of Anti Esto is 1,2-diphenyl-1-butene, a compound which is chemically similar to tamoxifen. Mr Roberts asserts that he purchased and used the supplement without undertaking any research into the supplement's ingredients.
15. Mr Roberts asserts that he used tamoxifen for therapeutic reasons, albeit without any medical advice being sought. He has since sought expert medical advice in relation to his condition and is being treated accordingly.
16. UKAD is not in a position to advance a positive case that Mr Roberts committed the anti-doping rule violation intentionally. Accordingly, as per ADR Article 10.2.2 the mandatory period of Ineligibility in respect of the anti-doping rule violation is two years.
17. The period of Ineligibility can be reduced if Mr Roberts can establish that he acted with No Significant Fault or Negligence. This is provided for in ADR Article 10.5.1(a).
18. ADR Article 10.5.1(a) provides:
10.5.1(a) Specified Substances

Where the Anti-Doping Rule Violation involves a Specified Substance, and the Athlete or other Person can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two years of Ineligibility, depending on the Athlete's or other Person's degree of Fault.
19. Fault is defined in the ADR as follows:

Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or other Person is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.5.1 or 10.5.2.
20. Mr Roberts admitted that he did not undertake any enquiries of any qualified person to satisfy himself that his use of Anti Esto was either medically suitable or consistent with his responsibilities as a rugby player subject to the ADR. He also admitted that he failed to conduct any rudimentary internet research into the supplement's ingredients.
21. UKAD has reviewed the Mr Roberts' evidence. UKAD's position as regards Article 10.5.1(a) is that, even if it were accepted, the evidence shows that Mr Roberts was significantly at Fault, using the definition referred to above. Mr Roberts accepts this and agrees that ADR Article 10.5.1(a) is not capable of application.
22. ADR Article 7.7.4 provides:

- 7.7.4 In the event that UKAD withdraws the Notice of Charge, or the Athlete or other Person admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by UKAD (or is deemed to have done so in accordance with Article 7.7.1), neither B Sample analysis nor a hearing is required. Instead, the NADO shall promptly issue reasoned decision confirming the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences, shall send notice of the decision to the Athlete or other Person and to each Interested Party, and shall publish the decision in accordance with Article 8.4.
23. In the circumstances, pursuant to ADR Article 10.2, UKAD has therefore specified the Consequences in respect of the anti-doping rule violation committed by the Athlete to be as provided in ADR 10.2.3.
24. Mr Roberts accepts the Consequences specified by UKAD. A period of Ineligibility of two years is hereby imposed and this Decision issued pursuant to ADR Article 7.7.4.

Disqualification of Results and Ineligibility

25. Mr Roberts has been subject to a Provisional Suspension since the date of the Charge. ADR Article 10.11.3 provides:
- 10.11.3 Credit for Provisional Suspension of period of Ineligibility served:
- (a) Any period of Provisional Suspension (whether imposed or voluntarily accepted) that has been respected by the Athlete or other Person shall be credited against the total period of Ineligibility to be served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Athlete or other Person shall receive credit for such period of ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal. To get credit for any period of voluntary Provisional Suspension, however, the Athlete or other Person must have given written notice at the beginning of such period to UKAD (and UKAD shall copy that notice to each Interested Party). No credit under this Article shall be given for any time period before the effective date of the Provisional Suspension.
26. The period of Ineligibility is therefore deemed to have commenced on 11 March 2015 and will expire at midnight on 10 March 2017.
27. During the period of Ineligibility, in accordance with ADR Article 10.12.1, Mr Roberts shall not be permitted to participate in any capacity in a Competition, Event or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened, authorised or recognised by:
- the WRU or by any body that is a member of, or affiliated to, or licensed by the WRU
 - any Signatory (as that term is defined in the ADR)
 - any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory's member organisation
 - any professional league or any international- or national-level Event organisation
 - any elite or national-level sporting activity funded by a government agency
28. Mr Roberts may return to train with a team or to use the facilities of a club or other member organisation of the WRU or a Signatory's member organisation during the last two months of the Athlete's period of Ineligibility (i.e. from midnight on 10 January 2017) pursuant to ADR Article 10.12.4(b).

29. Mr Roberts, the WRU, World Rugby and WADA have a right of appeal against this decision or any part of it in accordance with ADR Article 13.4.
30. The disposition of these proceedings on the terms set out above will be publicly announced via UKAD's website media release after any appeal period has expired and no appeal has been filed, or any appeal has been finalised.

Summary

31. For the reasons given above, UKAD has issued this decision, which records that:
 - Mr Roberts has committed an anti-doping rule violation pursuant to ADR Article 2.1
 - a period of Ineligibility of two (2) years shall be the Consequences imposed pursuant to ADR Article 10.2.2
 - the period of Ineligibility is deemed to have commenced from 11 March 2015 and will end at midnight on 10 March 2017
 - Mr Roberts' status during the period of Ineligibility shall be as detailed in ADR Article 10.12

Dated this 23rd day of October 2015.