

Issued Decision

UK Anti-Doping and Owen Morgan

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 Anti-Doping Rules (the 'ADR'). It concerns an anti-doping rule violation committed by Mr Owen Morgan ('Mr Morgan') contrary to the ADR and records the Consequences to be applied in respect of that anti-doping rule violation.

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

Background and Facts

1. The Welsh Rugby Union ('WRU') is the governing body for the sport of rugby union in Wales. UKAD is the National Anti-Doping Organisation for the United Kingdom.
2. Mr Morgan is a 25 year-old rugby union player registered with Merthyr 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 is empowered to conduct Testing and results management in respect of all players subject to the jurisdiction of the WRU.
3. On 7 March 2015, UKAD collected an In-Competition Sample from the Athlete 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 accredited laboratory ('the Laboratory'). On 30 March 2015, the Laboratory reported to UKAD an Adverse Analytical Finding ('the Finding') for the following:
 - 4.1 Drostanolone and its metabolite 2 α -methyl,-5 α -androstan-3 α -ol-17-one; and
 - 4.2 Benzoyllecgonine (a Metabolite of Cocaine).
5. Drostanolone (including any Metabolites) is classified as an Exogenous Anabolic Androgenic Steroid under section S1.1(a) of the WADA 2015 Prohibited List. It is prohibited at all times. Cocaine (including any Metabolites) is classified under section S6a (Non-Specified Stimulants) of the WADA 2015 Prohibited List. It is prohibited In-Competition only.
6. Mr Morgan does not have, nor has he ever held, a Therapeutic Use Exemption in respect of either drostanolone or cocaine.
7. On 2 April 2015 UKAD issued Mr Morgan 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 Prohibited Substances 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 Morgan admitted that he had committed an anti-doping rule violation pursuant to ADR Article 2.1 and waived his right to have the B Sample analysed.
9. This decision records the Consequences to be applied in respect of that anti-doping rule violation.

Admission and Consequences

10. 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.

11. Mr Morgan has admitted committing an anti-doping rule violation pursuant to ADR Article 2.1.

12. ADR Article 7.7.4 provides:

7.7.4 In the event that ... 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 a 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.

13. 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) [...]

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

14. ADR Article 10.2.1(a) therefore provides that in relation to this matter (being a matter that concerns Non-Specified Substances) the period of Ineligibility to be imposed shall be four years, unless Mr Morgan can establish that the commission of the anti-doping rule violation was not intentional.

15. As regards the meaning of 'intentional', 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. An Anti-Doping Rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered "intentional" if the substance is not a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sports performance.

16. Mr Morgan provided an explanation for his anti-doping rule violation in an interview with UKAD on 24 June 2015. His explanation centres around his use of a substance called Mastoral, which he claims to have taken for the purpose of aiding his recovery from a hamstring injury sustained in December 2014. Mastoral contains the substance methyl-drostanolone, which is a Prohibited Substance on the WADA 2015 Prohibited List. Mr Morgan asserts that his use of Mastoral was for therapeutic reasons, albeit he did not seek any medical advice before taking it.
17. Mr Morgan asserts that he took Mastoral every day for a period of three weeks while he undertook rehabilitation training at the end of February and into the beginning of March 2015. He has admitted that he was aware that Mastoral was a steroid-based product and that it was prohibited for use in sport. Mr Morgan explained that he failed to undertake even the most rudimentary research regarding the product before taking it.
18. Mr Morgan asserts that he was not expecting to play on 7 March 2015, but was called into the match day squad on the day of the match to participate a substitute.
19. In accordance with ADR Article 10.2.1, the Period of Ineligibility to be applied in respect of the finding of drostanolone and its Metabolite is four years, unless Mr Morgan can establish that the anti-doping rule violation was not intentional. In that regard, Mr Morgan has admitted that, despite not undertaking any research as to the substance he was taking, he knew that he was taking a steroid and that it was prohibited. UKAD says that Mr Morgan has thereby admitted to acting intentionally, as that term is defined in ADR Article 10.2.3 - he knew there was a risk that taking the substance would result in him committing an anti-doping rule violation and he manifestly disregarded that risk. The mandatory period of Ineligibility to be applied in respect of the finding of drostanolone and its Metabolite is therefore four years.
20. In relation to the finding of benzoylecgonine, Mr Morgan explained that he ingested cocaine on a social night out with friends in the week before he provided a sample. He asserts that he had no expectation of being involved in competitive rugby at the time of this ingestion and, had this been in his contemplation, he would not have ingested cocaine.
21. In this regard, the final sentence of ADR Article 10.2.3 is engaged. Benzoylecgonine is a Metabolite of Cocaine, a Non-Specified substance prohibited only In-Competition. Mr Morgan states that his use of cocaine was Out-of-Competition, in a context unrelated to sports performance. UKAD accepts this. In accordance with ADR Article 10.2.3, the Presence of benzoylecgonine in Mr Morgan's sample shall therefore not be considered intentional as that term is defined in the ADR.

22. The period of Ineligibility to be applied for the anti-doping rule violation is therefore four years. The period of Ineligibility can be reduced pursuant to ADR 10.6.3, which provides:

10.6.3 Prompt Admission of an Anti-Doping Rule Violation after being Confronted with a Violation Sanctionable under Article 10.2.1 or Article 10.3.1:

An Athlete or other Person potentially subject to a four-year sanction under Article 10.2.1 or 10.3.1 (for evading or refusing Sample Collection or Tampering with Sample Collection), may receive a reduction in the period of Ineligibility down to a minimum of two years, depending on the seriousness of the violation and the Athlete's or other Person's degree of Fault by promptly admitting the asserted Anti-Doping Rule Violation after being confronted with it, upon the approval and at the discretion of WADA and UKAD.

23. The Charge drew Mr Morgan's attention to this provision. Mr Morgan asserts that he promptly admitted the anti-doping rule violation and has requested a reduction in sanction pursuant to ADR Article 10.6.3.
24. UKAD accepts that Mr Morgan has promptly admitted his anti-doping rule violation. UKAD is not, however, able to properly assess Fault. Mr Morgan has explained that the Finding of drostanolone and its Metabolite in his Sample is through his use of Mastoral. UKAD has procured expert opinion in relation to this explanation which confirms that Mastoral does not contain drostanolone. It also confirms that the substance Mastoral does contain (methyl-drostanolone) is not metabolised by the body in such a way that would explain the presence of drostanolone or the metabolite of drostanolone in Mr Morgan's sample. Mr Morgan's explanation therefore does not explain the Finding or the ADRV.
25. UKAD accepts that it is plausible that the Mastoral ingested by Mr Morgan could have been contaminated with drostanolone. But in the absence of any evidence to this effect, UKAD cannot accept that Mr Morgan's ingestion of Mastoral was the cause of the Finding. Without an adequate explanation as to how the Finding came about, UKAD cannot properly assess Fault.
26. In any event, UKAD considers this violation to be serious. The Athlete has returned an AAF for drostanolone, a powerful anabolic androgenic steroid, which has the effect of promoting an increase in strength and power whilst maintaining or reducing body fat.
27. In the circumstances, UKAD has not exercised its discretion to reduce the period of Ineligibility pursuant to Article 10.6.3. The period of Ineligibility to be imposed is therefore four years, pursuant to ADR Article 10.2.1(a).

Disqualification of Results and Ineligibility

28. Mr Morgan 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.

29. The period of Ineligibility is therefore deemed to have commenced on 2 April 2015 and will expire at midnight on 1 April 2019.
30. During the period of Ineligibility, in accordance with ADR Article 10.12.1, Mr Morgan 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

In addition, some or all financial support or benefits (if any) that the WRU might have otherwise provided to the Athlete shall be withheld.

31. Mr Morgan may return to train with a team or to use the facilities of a club or other member organisation of the NGB or a Signatory's member organisation during the last two months of Mr Morgan's period of Ineligibility (i.e. from midnight on 1 April 2019 pursuant to ADR Article 10.12.4(b).
32. Mr Morgan, 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.
33. The disposition of these proceedings on the terms set out above will be publicly announced via UKAD's website after any appeal period has expired and no appeal has been filed, or any appeal has been finalised.

Summary

34. For the reasons given above, UKAD has issued this decision, which records that:
- Mr Morgan has committed an anti-doping rule violation pursuant to ADR Article 2.1
 - a period of Ineligibility of four years shall be the Consequences imposed pursuant to ADR Article 10.2.1(a)
 - the Athlete is not entitled to any reduction for prompt admission pursuant to ADR Article 10.6.3
 - the period of Ineligibility is deemed to have commenced on 2 April 2015 and will end at midnight on 1 April 2019
 - the Athlete's status during the period of Ineligibility shall be as detailed in ADR Article 10.12

Dated this 23rd day of October 2015.