

At the Headquarters of the Malta Sports Council,
Cottonera Sports Complex, Cospicua.

Decision of the National Anti-Doping Disciplinary Panel.

Case Ref: NADDP 02/2015

Anti-Doping Commission (Malta)

-vs-

**STEVE CAMILLERI (Athlete member of
the Malta Amateur Athletic Association
with Maltese Identity Card No 71392M)**

The National Anti-Doping Disciplinary Panel (hereinafter referred to as the 'Panel') consisting of Dr. Maria Azzopardi as Chairperson, and Notary Dr Sue Mercieca and Dr. Aaron Formosa as members.

Before the commencement of this proceeding, Notary Dr. Sue Mercieca and Dr. Aaron Formosa M.D. declared to the Chairperson that they are not subject to any circumstance or conflict that could negatively affect their impartiality in the case under review. The same declaration was made by the Chairperson to the 'Panel'.

1. Preliminaries

Considered the Request by the National Anti-Doping Commission (Ref. No. ITSTSTECAM-15/3 of the 9th of February, 2015 to the Chairperson of the Panel to schedule a sitting for the hearing of a case concerning the alleged breach by Steve Camilleri of the Anti-doping Regulations (Legal Notice 17 of of 2015, Sports Act, Chapter 455, Laws of Malta).

Took note and reviewed the following documents that were forwarded to the Panel at the initial stage by the Coordinator of the Anti-Doping Programme, namely:

- (i) The request to the Panel to schedule a hearing dated 9th February, 2015 (Doc ADC1);
- (ii) The request by NADO to the National Association/Federation of the alleged breach by Steve Camilleri dated 16th January, 2015 (Doc ADC2);
- (iii) Letter of Notification by NADO to Steve Camilleri of a possible violation of the Anti-Doping Rules (Doc ADC3);
- (iv) A copy of the Doping Control Officer Report Form filed by NADO doping officer Johann Pace following the attempted doping test on the 15th of January, 2015 at the Marsa Sports Complex (Doc ADC4);

Took note of the Notice issued by the Panel to Steve Camilleri to appear before the Panel on the 24th of February, 2015 at 2pm and answer to the accusation based on Article 3(2)(c) of L.N 17 of 2015 of the Laws of Malta: "*Evading sample collection, or without compelling justification, refusing or failing to submit to sample collection after notification as authorised in these regulations: Provided that, 'evading sample collection' shall also be achieved if it is established that an athlete was deliberately avoiding a doping control official to evade notification or testing;*" (Doc ADC5) which hearing was then adjourned on request by the defense counsel of Steve Camilleri to the 3rd of March, 2015. Copy of the Notice of hearing was also forwarded to the Anti-Doping Commission, the Malta Amateur Athletic Association and Malta Sports Council.

2. Merits:

2.1 Heard and took note of the evidence given under oath during the sittings held on the 3rd of March, 2015, 17th of March, 2015, 27th of March and 9th of April, 2015 during which:

(a) Defense counsel of Steve Camilleri presented a list dated 9th of March 2015 of the witnesses to be produced by the athlete and his reply to the alleged violation categorically whereby he denied the events of facts as explained in the Doping Control Officer Form and claims that on the day of the alleged case he was never notified to do the doping test and denied that he tried to evade the notification or in any manner evade to do the test. (Doc SCA);

(b) During their testimony Johann Pace, DCO, and Rodney Pisani, Chaperon, confirmed that on the 15th of January, 2015 they went to the Marsa Sports Complex to test Steve Camilleri and another athlete namely Luke Bezzina. They arrived at the Marsa Sports Complex around 5pm and at that time both athletes were not there. Johann Pace declared that around 5.45pm he phoned Ignatius Zammit, Coordinator of the Anti-Doping Programme to get instructions and they were told by Ignatius Zammit to wait till 7pm. Around 6.30pm Steve Camilleri arrived at the Marsa Sports Complex with a bag in hand and walked towards the other athletes and his coach, near the long jump pit. Rodney Pisani approached him and identified himself and informed him that he was being notified to submit to sample collection for the doping test. Rodney Pisani explained that both he and Johann Pace had the official tags on. Johann Pace testified that he saw Rodney Pisani speaking to Steve Camilleri but he was too far to hear their conversation but at some point in time he went up to them and got to know that Steve Camilleri was complaining as how he was chosen to do the doping test. At that point they called Ignatius Zammit to ask him how Steve Camilleri was chosen and that he (Camilleri) was reluctant to do the test and Ignatius Zammit confirmed to them that Steve Camilleri could not refuse to do the test. While Johann Pace and Rodney Pisani were communicating with Ignatius Zammit, Steve Camilleri was on his mobile phone and walked away and left the track. They tried to look for him but did not find him so at that point they spoke to Steve Camilleri's coach who was at the track and his coach Jivko Jeccev tried to call him several times but Steve did not answer his calls. Around 7pm Rodney Pisani and Johann Pace contacted Ignatius Zammit to inform him that the athlete left the track without doing the test.

(c) Ignatius Zammit, NAD Programme Coordinator gave evidence confirming that he received a call from Johann Pace at 5.45pm whereby he informed him that the athletes were not at the track and Ignatius Zammit told him to wait till 7pm. Then he received another call from Johann Pace whereby he told him that Steve Camilleri was refusing to do the test because he was not on the ADAMS programme and Ignatius Zammit replied that he could not refuse to do the test. Then at 7pm he received a third call in which he was informed that the athlete left the track. He confirmed that he always spoke to Johann Pace on the phone and that during previous testing on Steve Camilleri there were never any issues.

(d) Jivko Jeccev, Steve Camilleri's coach confirmed that the two officials came to the Marsa Sports Complex and Steve Camilleri was not there yet and then when Steve came he spoke to him and to the other athletes present at the track and then he saw Steve Camilleri speaking to the officials. He explains that the officials asked him for Luke Bezzina and Steve Camilleri only after Steve Camilleri left the track. Camilleri wasn't supposed to be training on that day. The officials told the coach that if Camilleri didn't turn up he would face serious consequences and he tried to call him twice but he didn't answer.

(e) Steve Camilleri giving evidence stated that on the 15th of January, 2015 he wasn't supposed to train. He went to the Marsa Sports Complex around 6.20pm to return the training kit and bag to his friend Daniel Saliba's. He entered from the main entrance near the bar and walked across the track and went near the long jump pit where his friends and coach were about to start training. Then Rodney Pisani went up to him and asked him for his whereabouts and for Luke

Bezzina and then Rodney walked away and went near another person. Then he went again near him and asked him for Luke Bezzina. Rodney went again to speak to someone and at that time Steve said Hello to the coach and left the track from the main gate. This was around 6.45pm. Steve claims that he didn't know who Rodney Pisani was but he knew Ignatius Zammit. He went to the car park and drove off to pick up his girlfriend and drove to Mellieha to pick up the match tickets because he was going abroad to watch a Juventus game. Steve claims that until Sunday he was unaware that he had to do the doping test. On Sunday when he was abroad, friends Nick Wirth and Daniel Zammit informed him that there were rumours among athletes and on Facebook that he had failed a doping test and at that point he contacted the President of the MAAA to do the doping test but the reply was that he couldn't. He also asked the MAAA President to save the recordings on the CCTV. Steve Camilleri during his testimony always claimed that on the 15th of January, 2015 at the Marsa Sports Complex no one had informed him that he had to submit himself to a sample collection for the doping test. Steve Camilleri presented a set of documents containing the conversation on Facebook and SMSs, hotel booking and emails for the match tickets exhibited and marked as Doc SC1 to SC21. Steve Camilleri during his cross-examination dated 27th of March, 2015 explained that his coach did call him but he didn't answer the calls. He noticed the missed calls from his coach when he charged his mobile around 10.15/10.30pm and at he didn't feel the need to return his call and then the next day he went abroad. He confirmed that he is aware of the doping procedure but that he didn't know Rodney Pisani. The NADO showed Steve Camilleri two of his tests (marked as Doc X and Doc Y), one on the 27th June, 2012 and the other on the 27th of February, 2014 in which circumstances Rodney Pisani was the DCO but Steve Camilleri reaffirmed that he did not know Rodney Pisani but remembered Ignatius Zammit being present during a doping test. Steve Camilleri insisted that Rodney Pisani and Johann Pace asked him for his whereabouts and for Luke Bezzina.

(f) Edwin Attard, President of the MAAA gave evidence and confirmed that there are CCTV cameras at the Marsa Sports Complex but when he verified whether he could get such recording he was informed that the cameras were taken for repairs and he couldn't confirm whether such recordings could be recovered. He explained that both Luke Bezzina and Steve Camilleri are members of the MAAA and that on the 15th of January, 2015 he (Attard) wasn't at the Complex but two members of the MAAA Committee Maurice Spiteri and Antonella Chouchal, an athlete herself and wife of sprinter Rachid Chouchal were present. Around 5.30/6pm he was informed over the phone by Antonella Chouchal that an athlete was asked to submit to the doping test but left the track. He explained that he got to know about the testing when contacted by the handyman of the Complex in the late afternoon. Then when the MAAA received the official charge against Steve Camilleri, a provisional suspension was handed to the athlete and an inquiry took place. About 2 days after the 15th of January, 2015 Steve Camilleri had contacted him to do the test to prove his innocence but Edwin Attard explained that he couldn't. Mr Attard also claimed that he spoke to Steve Camilleri's coach who told him that he didn't want to coach Steve Camilleri anymore. The parties agreed that Mr. Attard had to provide the documents in relation to the CCTV Cameras and lights at the Marsa Sports Complex by email, which he did and such information was forwarded to all parties by the Panel (Doc EA1. Upon a mutual agreement by all parties other considerations, information or documentation provided by Mr Attard were discarded.

(g) Luke Bezzina, an athlete testified that on the 15th of January, 2015 he was at home studying. He also said that he was tested (antidoping) a week later. He claimed to have been added to the ADAMS programme this March. He also confirmed that he did not regularly train on Thursdays. Neither did he know of a person called Angela Aghata.

(h) The Panel requested a confrontation between Rodney Pisani and Steve Camilleri. The Panel read the declaration of Steve Camilleri to Rodney Pisani and the latter said that that was part of the conversation and it was not all that had been said between them. Rodney Pisani confirmed that he informed Steve Camilleri that he was tasked to assist him during the doping test and Steve Camilleri replied he had no problem but also asked why was he chosen and so (Pisani) called Ignatius Zammit to check. Rodney Pisani also confirmed that he did ask Steve Camilleri for Luke Bezzina and that he had previously tested Steve Camilleri twice and therefore he also assumed that Camilleri did recognize him as well.

Steve Camilleri confirmed that he did not recognise Rodney Pisani but he remembers Ignatius.

Rodney Pisani made reference to an incident that occurred in a previous test with Steve Camilleri, in which Steve Camilleri took a selfie while doing the doping test. Rodney explained that in that case he got a reprimand because any athlete doing a test cannot use the mobile in the doping test room. He explained that he did not know Antonella Chouhal.

Ignatius Zammit gave evidence again and confirmed that he was present during the previous testing to Steve Camilleri as coordinator of the testing but was not present on the 15th of January, 2015.

(i) Daniel Zammit, a sprinter, whose coach is Jivko Jeccev, explained that he was at the Marsa Sports Complex around 5.45/6pm and Steve Camilleri came over at around 6/6.15pm and brought him his training kit and bag which he had left behind during a training session. He declared that he was near the long jump pit together with his coach and other two athletes and Steve Camilleri wasn't there to train but to bring him his things. He explained that he went to do the warming up and Steve was still there near the long jump pit but only just for 10/15mins. Daniel Zammit recalled that before going to do the warming up, Steve told him good-bye and wished him *bon voyage*. After the warming up, about 20/30mins later, he returned near the long jump and Steve Camilleri had already left. He said that at that point he saw the anti-doping officials. Zammit declared that he left the track at 8pm and the lights at that time were still on apart from part of it were there is the 300m mark. The lights at the parking area near the netball court were on.

(j) Richard Vella, a boxer and friend of Steve Camilleri referred to his conversation with Angela Agata on Facebook who had told him that Steve Camilleri failed a doping test. This was the first time he heard about the doping test of Steve and it was the first time he spoke to Angela Agata.

2.2 Dr. Franco Galea presented an email from Edwin Attard dated 29th January, 2015 marked as Doc FG1 and declared Steve Camilleri has no further evidence to produce.

2.3 The Panel took note of the evidence produced and the final oral submissions of the parties' legal representatives.

3. Considerations:

3.1 There is an agreement between all parties that Steve Camilleri did arrive at the track of the Marsa Sports Complex and he did speak to the Doping Control Officers and after some time he left the track. The ball of contention between the parties is whether the Doping Control Officers served the notification to Steve Camilleri which notified him that he ought to submit to a sample collection for a doping test – as any athlete is bound to give – irrespective whether the athlete is on the ADAMS system or not.

3.2 The perm of this case is based on proof and therefore the Panel deemed it appropriate to delve into the issue of the Burden of Proof which requires that the National Anti-Doping Organization has to establish "*to the comfortable satisfaction of the hearing body, bearing in mind the seriousness of the allegation which is made.*" (Article 3.1 of the WADC) an anti-doping rule violation. On the basis of the above statement, the comfortable satisfaction standard is always higher than a balance of probabilities but less than proof beyond a reasonable doubt and the degree of comfort may vary according to the seriousness of the allegations.

3.3 The Panel is of the opinion that in order to find the athlete guilty of the alleged violation it must be convinced of the occurrence of the alleged fact being in this case "*Evading sample collection, or without compelling justification, refusing or failing to submit to sample collection after notification as authorised in these regulations: Provided that, 'evading sample collection' shall also be achieved if it is established that an athlete was deliberately avoiding a doping control official to evade notification or testing;*" whereby the regulation does not only punish the act of refusing to

submit to a doping test when notified to do so but also *deliberately avoiding* the notification from the doping control officers.

3.4 Having considered all the evidence produced but in particular that of Rodney Pisani, Johann Pace, Steve Camilleri and Ignatius Zammit, the Panel is unanimously convinced and is comfortably satisfied that on the 15th of January, 2015 Steve Camilleri was duly notified by the doping control officers that he had to submit to sample collection for a doping test. Moreover, the Panel is satisfied that the regulations for notification established under The World Anti-Doping Code International Standard For Testing and in particular Chapter 5 "Notification of Athletes" as per paragraph 5.2 were duly followed by the officers.

3.5 The Panel is of the opinion that Steve Camilleri's declaration is remarkably unrealistic that when he was approached by the doping official or officials he was not told that they were there to test him, when this was their task and they had been waiting at the Marsa Sports Complex specifically to carry out a doping test on him and on Luke Bezzina for quite some time. The version of events given by the DCO and Chaperon is supported by the evidence given by Ignatius Zammit, the NAD Programme Coordinator who testified that the doping officers had called him because Steve Camilleri was refusing to do the test because he was not on the ADAMS programme and demanded explanations why and how he had been chosen. Moreover, it is also very unlikely that having done two tests in the presence of Rodney Pisani, Steve Camilleri could not recognise him and that after receiving several calls from his coach, he did not even think to SMS his Coach or contact him in any way when he had the opportunity to do so. On the other hand, the Panel is comfortably satisfied with the version of events explained by Johann Pace, Rodney Pisani and Ignatius Zammit and has no doubt about the fact that on the 15th of January, 2015 at the Marsa Sports Complex, Steve Camilleri was served with a valid notification to submit to a sample collection but failed to do so when he left the Marsa Sports Complex. This conduct amounts to evading sample collection on the basis that Steve Camilleri actions amount to an *intentional* conduct to evade sample collection.

3.6 The Panel makes reference to the claim advanced by Steve Camilleri based on the argument that according to LN 17 of 2015 under Art 4(1) this case had to be dealt by the National Association Tribunal established under the MAAA to which Steve Camilleri is affiliated. The Panel finds itself in disagreement with this interpretation on the basis that the law stipulates that "*The ADC and, or, the national association shall have the burden of establishing whether an anti-doping rule violation has occurred.*" This gives power to the ADC to proceed with its investigation without the need to have any direction and it cannot be otherwise since the ADC is a higher body than the National Association. Moreover, the same article stipulates that "*The ADC shall have its own disciplinary tribunal for the determination of such violation, which national associations may avail themselves of...*" and therefore the ADC's own disciplinary tribunal is recognized to proceed to determine any violation and the national association 'may' refer the case to the said ADC own disciplinary tribunal and this has been established in cases where the national association conducts testing on its own members with their own resources and therefore may eventually refer the results to the ADC own disciplinary tribunal to take action. In this case the testing was conducted directly by the ADC and therefore it has the power to prosecute before this Panel.

4. Decision

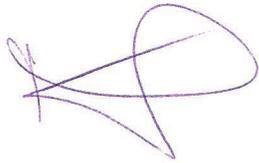
Therefore on the basis of the above considerations, the National Anti-Doping Disciplinary Panel rules that:

4.1 Steve Camilleri has breached the Anti-Doping Regulations, 2015 [Art. 3(2)(c)] and WADA Code (Art. 2.3) by evading sample collection "out of competition" on the 15th of January, 2015, at the Marsa Sports Complex.

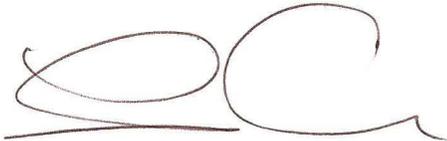
4.2 And therefore the National Anti-Doping Disciplinary Panel as provided under Art 11 (3) (a) of the Anti Doping Regulations, 2015 and Art. 10.3.1 of the WADA Code is imposing on the athlete Steve Camilleri a suspension of ineligibility from any sports activities for a period of four (4) years commencing from the date of this decision.

4.3 A copy of this decision is to be forwarded to the Malta Amateur Athletic Association.

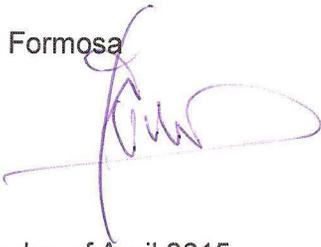
Dr. Maria Azzopardi
Chairperson



Dr. Sue Mercieca
Member



Dr. Aaron Formosa
Member



This 29th day of April 2015

At Cospicua, Malta