

Decision of the Japan Anti-Doping Disciplinary Panel

Case 2015-005

Name of Athlete: X
Sport: Athletics

Pursuant to the decision of the Hearing Panel convened for this case, the Japan Anti-Doping Disciplinary Panel has made the following decision with respect to this case.

November 17, 2015
Japan Anti-Doping Disciplinary Panel
Chair: Yoshihisa Hayakawa

Hearing Panel Decision

The Hearing Panel for this case, which is composed of the following members appointed by the Chair of the Japan Anti-Doping Disciplinary Panel pursuant to Article 8.3.2 of the Japan Anti-Doping Code (hereinafter, the “Code”), has made the following decision concerning this case pursuant to the results of the hearing (the “Hearing”) held on November 17, 2015.

November 17, 2015
Yoshihisa Hayakawa _____
Katsumi Tsukagoshi _____
Noboru Mesaki _____

Decision:

- A violation of Article 2.1 of the Code is found to have occurred.
- In accordance with Articles 9 and 10.8 of the Code, all of the individual results of the Athlete obtained from the date of sample collection through the commencement date of the provisional suspension period (including the competition results at the 2015 Hokkaido Marathon) shall be disqualified, and all medals, points and prizes obtained during such period shall be forfeited.
- In accordance with Articles 10.2.1.2, 10.2.2, 10.5.1.1 and 10.11.3.1 of the Code, the period of ineligibility shall be imposed for a period of eight months starting from October 6, 2015.

Reasons:

- The substance “methylephedrine” that was detected from the Athlete in In-Competition testing conducted on August 30, 2015 is designated as a prohibited substance under “S6. Stimulants” in The 2015 Prohibited List International Standard (the “Prohibited List”), and it constitutes a “Prohibited Substance” as prescribed in Article 2.1 of the Code. In response to this, the Athlete neither requested an analysis of the B Sample, nor contested the test results or the process and procedure that led to those results at the provisional hearing or the hearing.
- Accordingly, the Athlete can be found to have violated Article 2.1 of the Code (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample) in this case, and it is appropriate to consider that, in accordance with Articles 9 and 10.8 of the Code, all of the individual results of the Athlete obtained from the date of sample collection through the commencement date of the provisional suspension period (including the competition results at the 2015 Hokkaido Marathon; hereinafter, the “Competition”) shall be disqualified, and all medals, points and prizes obtained during such period (if any) shall be forfeited.
- The substance above that was detected in this case, while on the one hand constituting a “Prohibited Substance,” also is a “Specified Substance” under the Prohibited List. The Japan Anti-Doping Agency (“JADA”) did not assert or prove that the violation in this case was intentional. Therefore, in accordance with Articles 10.2.1.2 and 10.2.2 of the Code, the period of ineligibility shall be for two years as a general rule.
- In addition, in considering whether the ineligibility period would exceptionally be eliminated or reduced in accordance with the provisions of Articles 10.4 or 10.5.1.1 of the Code, with respect to the specific route through which the Prohibited Substance above entered the Athlete’s body, it can be reasonably presumed from the testimony and statements of the Athlete himself as well as the purchase records of the multi-ingredient cold medication that the Athlete, having become ill (runny nose, nasal congestion) during the training camp period prior to the Competition, purchased it at a drugstore for treatment on August 20, 2015, and the Prohibited Substance above was contained in such commercially available multi-ingredient cold medication taken till August 22, 2015 (eight days before the Competition).
- In addition, the Athlete asserts the sequence of events was that such medication was recommended notwithstanding the Athlete’s statement to the “drug counselor” of such drug store that he was an athletics athlete and that he desired a doping-free cold medication to be selected. However, even if such circumstances existed, such medication had the description in Japanese that it contained “methylephedrine”, and if the Athlete had carelessly taken such medication without noticing the description, it would be unavoidable to find a certain degree of negligence. This cannot be absolutely denied notwithstanding the facts specific to this case that the Athlete was of foreign nationality and his understanding of Japanese language was limited (as it is possible to confirm the description of the components of such medication with other related persons with understanding of Japanese language).

- Therefore, it cannot be found that there was absolutely no fault or negligence. However, the degree of negligence was not significant, and Article 10.5.1.1 applies to this case.
- Taking into consideration the above circumstances and the fact that this was a first violation, it is appropriate to impose an eight-month period of ineligibility pursuant to Articles 10.2.1.2 and 10.2.2 of the Code, as well as Article 10.5.1.1 of the Code.
- In this case, the Athlete has been under a provisional suspension pursuant to Article 7.9.2 of the Code from the date of the notice of October 6, 2015 by the responsible person at JADA until the time of the present decision (a provisional hearing was held on November 17, 2015 concerning the relevant provisional suspension). Accordingly, pursuant to Article 10.11.3.1 of the Code, the commencement date for the period of ineligibility shall be October 6, 2015.

Based on the foregoing, we have made our decision as stated above.

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