

Decision of the Japan Anti-Doping Disciplinary Panel

Name of Athlete: X
Sport: Wrestling

Pursuant to the decision of the Hearing Panel convened for Case 2011-006, the Japan Anti-Doping Disciplinary Panel has made the following decision with respect to this case.

February 7, 2012
Japan Anti-Doping Disciplinary Panel
Chairman: Toshio Asami

Case 2011-006: Hearing Panel Decision

The Hearing Panel for Case 2011-006, which is composed of the following members appointed by the Chairperson of the Japan Anti-Doping Disciplinary Panel pursuant to Article 8.3.2 of the Anti-Doping Code (the "Code"), has made the following decision concerning this case pursuant to the results of the hearing held on January 23, 2012 and February 6, 2012.

February 6, 2012
Yoshihisa Hayakawa _____
Katsumi Tsukagoshi _____
Masahiro Murayama _____

Decision:

- A violation of Article 2.1 of the Code is found to have occurred.
- In accordance with Article 9 and Article 10.1.1 of the Code, each of the competition results for the competition (December 21, 2011: The Emperor's Cup 2011 All-Japan Wrestling Championship) shall be disqualified.
- In accordance with Article 10.2 and Article 10.9.2 of the Code, ineligibility shall be imposed for a period of two years starting from January 12, 2012.

Reasons:

- The substance “tamoxifen” that was detected in in-competition testing as a metabolite in urine is designated as a prohibited substance under “S4. Hormone Antagonists and Modulators” in The 2011 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 hearing.
- Accordingly, the athlete can be found to have violated Article 2.1 of the Code in this case, and in accordance with Articles 9 and 10.1.1 of the Code, each of the individual competition results for the competition (December 21, 2011: The Emperor’s Cup 2011 All-Japan Wrestling Championship) shall be disqualified.
- Furthermore, the tamoxifen that was found in this case, while on the one hand constituting a “prohibited substance,” also is a “specified substance” under the Prohibited List. Based on the testimony and the evidence (the athlete’s written statement, related materials, etc.) submitted by JADA, the athlete himself, persons affiliated with the competition (substitute executive director, secretariat staff, medical science committee member), two witnesses (A and B)), as well as the documents submitted by JADA (Doping Control Form, etc.), the following facts can be found in this case.
 - (1) The tamoxifen that was found in this case being a specified substance, Article 10.4, which provides for the elimination or reduction of the period of ineligibility, requires that it be proven (i) how the specified substance entered the athlete’s body, or how it came into his or her possession, and (ii) that the use was not for the purpose of enhancing the athlete’s sport performance or masking the use of a performance-enhancing substance.
 - (2) On this point, with regard to (i), the athlete claimed that the route by which the substance entered his body was (a) he suspects that A, with whom he was living, might be suffering from a serious illness for which tamoxifen has certain medicinal effects, and (b) the athlete mistook for calcium and took (c) the oral medicine that principally consists of tamoxifen, which was acquired and possessed for the treatment of that illness.

However, so long as that illness is serious, the oddness of items (a) and (c) alleged above cannot be denied since, notwithstanding the seriousness of the illness, no diagnosis whatsoever was obtained from a doctor (moreover, none has been obtained even now), and the relevant oral medicine was obtained

without a doctor's prescription (it was personally imported via B).

Furthermore, with regard to (b), the athlete asserts as the reasons for his having mistakenly taken the medicine, *inter alia*, the fact that the athlete and A shared between them a pill case, the fact that A placed several of the relevant oral medications in the relevant pill case with the wrapping having been entirely torn, and the fact that when the athlete asked A about the relevant oral medicine, A answered dishonestly that it is calcium, all worked together and led to the athlete mistakenly taking the relevant substance. However, in addition to each such act being undeniably odd on its own, it is difficult to believe that said unnatural acts reached the stage where they even coincidentally could have occurred one on top of another.

In the present case, A, who lives with the athlete, and B, who helped with the personal import of the relevant oral medicine, gave testimony as witnesses, but even their testimony did not make an impression sufficient to overturn the suspicions concerning the oddness of said assertions. Specifically, it must be said that the athlete was not able to prove (i).

- (3) Accordingly, without considering (ii) that a purpose such as enhancing the athlete's sport performance as involved, in this case it is not possible to apply Article 10.4, which provides for the elimination or reduction of the period of ineligibility.
- (4) On the other hand, since sufficient proof was not provided with regard to the above-noted assertion about the route by which the substance entered the body, and since outside of that there are no other assertions calling for exceptional treatment in this case, Article 10.5 of the Code does not apply in connection with the elimination or reduction of the period of ineligibility as provided in that article either.

- Taking into consideration the above circumstances as well as the fact that the present violation was a first violation, it has been decided that, as a first violation, it is proper to impose a two-year period of ineligibility pursuant to Article 10.2 of the Code.
- In this case, a provisional suspension pursuant to Article 7.6.1 of the Code has been imposed on the athlete from the January 12, 2012 notice date until the time of the present decision (a provisional hearing was held on January 23, 2012 concerning the relevant provisional suspension). Accordingly, in accordance with Article 10.2 and Article 10.9.2 of the Code, the two-year period of ineligibility shall begin from

January 12, 2012.

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

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