

Proceedings

1. The Tribunal conducted a hearing on Tuesday 27 February 2018 in New Plymouth. A decision on the penalty was issued on 28 February 2018, and it advised that the reasons would be provided as soon as possible. These are the reasons.
2. In March 2017 Nohorua Parata was coach of the Coastal Cobras Rugby League team based in Opunake, Taranaki.
3. On 18 March 2017 the Coastal Cobras played a pre-season game at Okato, Taranaki against the Victoria University Hunters from Wellington. One of the players who turned out for the Coastal Cobras team was Travell Ngatoko, who had been suspended from involvement with rugby league for a period of six months from 3 November 2016 for an anti-doping rule violation (see ST 17/16).
4. Drug Free Sport New Zealand (DFSNZ) alleged that Mr Parata committed a violation of Rule 2.9 of the Sports Anti-Doping Rules 2017 (SADR) in that he encouraged and assisted Mr Ngatoko to play in the game on 18 March 2017 in violation of the prohibition of participation (SADR 10.12.1).
5. On 22 November 2017 DFSNZ filed an Application for the Provisional Suspension of Mr Parata and he was provisionally suspended without opposition on 29 November 2017.
6. On 15 January 2018 Mr Parata filed his Form 2 indicating he admitted the violation but wished to be heard as to any sanction that might be imposed. He attached letters of support from Wayne Capper, Operations Manager of Taranaki Rugby League and from former Kiwis player and Life Member of Taranaki Rugby League Howie Tamati MBE.
7. Both writers emphasised the good work carried out by Mr Parata in the Taranaki rugby league community that would be hindered if he was to be suspended. Mr Tamati felt that Mr Parata was a key person in driving participation in the sport in the Opunake region and voluntarily provided valuable leadership, direction and support to young men in the area.
8. On 1 February 2018 DFSNZ filed its submissions outlining the applicable sanction for the admitted breach.

Relevant SADR Provisions

9. The relevant anti-doping violation is that contained in SADR 2.9, which states:

Complicity

Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation, *Attempted* anti-doping rule violation, or violation of Rule 10.12.1 by another *Person*.

10. SADR 10.12.1 prohibits participation in a sporting activity during a period of ineligibility.

11. A breach of SADR 2.9 is subject to the sanctions contained in SADR 10. SADR 10.3.4 states:

For violations of Rule 2.9, the period of *Ineligibility* imposed shall be a minimum of two years, up to four years, depending on the seriousness of the violation.

Issues

12. The issues before the Tribunal are therefore:

- (a) What period of ineligibility is appropriate having regard to Mr Parata's degree of fault in encouraging and facilitating Mr Ngatoko to play a game of rugby league on 18 March 2017, while subject to a period of ineligibility imposed following an earlier anti-doping rule violation?
- (b) What should be the start date of any period of ineligibility?

Degree of Fault

13. DFSNZ alleged that Mr Parata, as coach, had "played" Mr Ngatoko in a rugby league game knowing Mr Ngatoko was suspended from all involvement in the sport of rugby league. This was in violation of the prohibition against participation to which Mr Ngatoko was subject (SADR 10.12.1). It was alleged that at all material times Mr Parata knew that Mr Ngatoko was subject to a period of ineligibility imposed by the Tribunal.
14. Mr Parata acknowledged that he had included Mr Ngatoko in the team for the game, knowing he was suspended as he was short of players and he had entered Mr Ngatoko on the team card under the name of another player. His explanation for this latter act, as conveyed to Ms Lisa Grace who interviewed him on behalf of DFSNZ on 28 July 2017, was because he previously had problems with the Marist Club for using their players. While initially denying to Ms Grace that he had known at the time that Mr

Ngatoko was banned, later in the interview he admitted that he had known of that fact and “played him anyway”. According to Ms Grace, he said that “the team was short of guys that day and he was trying to save the game”. He added that it had been “stupid and foolish and that once it came out he was more worried for Travell [Ngatoko] than himself”. He also confirmed that he had told Mr Ngatoko that it would be alright to play. Ms Grace’s evidence as to her interview with Mr Parata was not challenged.

15. The Tribunal has a discretion as to what period of disqualification between the minimum of two years and the maximum of four years it imposes. It may be thought by some that, at least in this case where the period of the ban (six months) being served Mr Ngatoko was relatively modest, there is an uncomfortable discrepancy between the six months maximum period that can be imposed on Mr Ngatoko, for playing in violation of his current ban, and the two years minimum period that must be imposed on Mr Parata for assisting or encouraging Mr Ngatoko to play. However, that is the legal framework within which we must make a decision. Others may think that a coach or administrator who encourages a banned athlete to compete should in every circumstance be subject to a higher penalty than the athlete.
16. Mr Parata was in breach of the high obligation placed on all sports participants and officials not in any way to encourage or facilitate the breaching of a period of ineligibility by taking part in competitive sport. Athletes naturally look to coaches and officials for guidance and we do not condone Mr Parata’s conduct in the present case. We acknowledge the difficulty he was facing in fielding a full team against a visiting team that had travelled from Wellington but he should undoubtedly have exercised more care, not only in his own team’s interests but also, as he fairly acknowledged to Ms Grace, in Mr Ngatoko’s interests.
17. We were impressed with Mr Parata’s frankness at the hearing before us and, after his initial denial in the interview with Ms Grace, with his cooperation with DFSNZ. Without attributing blame to anyone, we are also mindful of the fact that it is almost one year from the date when the game was played (18 March 2017) and the date of this hearing (27 February 2018).

Commencement Date

18. Under Rule 10.11.2, the Tribunal has a discretion to backdate the commencement of the period of ineligibility to as early as the date of the game for a timely admission, subject to the requirement that the athlete serve at least one-half of the period of ineligibility going forward from (in this case) the date that the sanction is imposed

(being 28 February 2018). Under Rule 10.11.3.1 the Tribunal must also give credit for any period of provisional suspension that has been served. In the present case, that is three months.

19. The Tribunal has concluded that in all the circumstances it should adopt the mandatory minimum period of two years under Rule 10.3.4 commencing 28 February 2018 but reduce that period under rules 10.11.2 by 12 months for timely admission.

Conclusion

20. The Tribunal decided that Mr Parata will be ineligible for a period of 12 months commencing 28 February 2018 (subject to the issue of provisional suspension below).
21. Mr Parata is also entitled to be credited for the period of provisional suspension that he has already served. This results in his period of suspension going forward from today becoming nine months. That is, he is declared ineligible until 30 November 2018.
22. Until the expiry of the suspension, Mr Parata may not take part in any way in any event or activity, organised, sanctioned or authorised by the New Zealand Rugby League or by any other sporting organisation which is a signatory to SADR.
23. The Tribunal's decision without reasons was announced on 28 February 2018 so that the period of ineligibility commenced on that day.

Dated: 16 March 2018



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Dr James Farmer QC
Deputy Chairperson