

Issued Decision

UK Anti-Doping and Adam Walker

Disciplinary Proceedings under the Anti-Doping Rules of the Rugby Football League

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the Rugby Football League's Anti-Doping Rules ('the ADR'). It concerns a violation of the ADR committed by Mr Adam Walker and records the applicable Consequences.

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

Background and Facts

1. The Rugby Football League ('RFL') is the governing body for the sport of rugby league in the UK. UKAD is the National Anti-Doping Organisation for the United Kingdom.
2. Mr Walker is a 27-year-old rugby league player (26-years-old as at the date of his Anti-Doping Rule Violation). He is a Scottish international rugby league player and has competed at the highest levels of rugby league, both domestically and internationally. At all material times Mr Walker was subject to the jurisdiction of the RFL and bound to comply with the ADR. Pursuant to the ADR, UKAD has results management responsibility in respect of all Athletes subject to the jurisdiction of the RFL.
3. On 14 July 2017, UKAD collected a urine Sample from Mr Walker In-Competition, following a match between Widnes Vikings and Wakefield Trinity. The Sample was separated into two bottles which were given reference numbers A1137493 ('the A Sample') and B1137493 ('the B Sample').
4. The Sample was submitted for analysis at the Drug Control Centre, King's College London, a World Anti-Doping Agency ('WADA') accredited laboratory ('the Laboratory'). The Laboratory analysed the A Sample in accordance with the procedures set out in WADA's International Standard for Laboratories.
5. This analysis returned an Adverse Analytical Finding for benzoylecgonine (a metabolite of cocaine).
6. Under section S6(a) of the WADA Prohibited List 2017, cocaine is classed as a non-Specified stimulant that is prohibited In-Competition only.

7. Mr Walker does not have a relevant Therapeutic Use Exemption.
8. On 4 August 2017 UKAD issued Mr Walker with a Notice of Charge ('the Charge') and provisionally suspended him from rugby league and other WADA Code-compliant sport. The Charge alleged the commission of an Anti-Doping Rule Violation ('ADRV') pursuant to ADR Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample).

Admission and Consequences

9. Mr Walker has admitted committing an ADRV in violation of ADR Article 2.1, which provides as follows:

The following constitute Anti-Doping Rule Violations:

- 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**

10. ADR Article 10.2 provides as follows:

- 10.2 Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of a Prohibited Substance and/or Prohibited Method**

The period of Ineligibility for an Anti-Doping Rule Violation under Article 2.1... that is the Athlete's...first anti-doping offence shall be as follows, subject to 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...can establish that the Anti-Doping Rule Violation was not intentional.*

...

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

11. The meaning of 'intentional' for these purposes is set out in ADR Article 10.2.3 as follows:

10.2.3 As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those Athletes...who cheat. The term, therefore, requires that the Athlete...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 sport performance.

(Emphasis added)

12. In admitting the ADRV, Mr Walker explained that his ingestion of cocaine was Out-of-Competition in a context unrelated to sporting performance. He stated that he consumed cocaine some three days prior to the relevant match.
13. UKAD instructed the Laboratory to review the account provided by Mr Walker of his consumption of cocaine. The Laboratory confirmed that the account provided is consistent with the concentration of cocaine metabolite present in Mr Walker's A Sample, and that it is reasonable to conclude that Mr Walker stopped using cocaine more than 12 hours before the match, i.e. Out-of-Competition.
14. UKAD therefore accepts the explanation provided by Mr Walker and accepts that Mr Walker has proven, on a balance of probabilities, that he did not act intentionally, as that term is defined in ADR Article 10.2.3. The period of Ineligibility to be applied in these circumstances is therefore reduced from four (4) to two (2) years.

No Fault or Negligence

15. Mr Walker accepts that his case does not warrant a finding under ADR Article 10.4 (No Fault or Negligence).

No Significant Fault or Negligence

16. Mr Walker has sought to reduce the period of Ineligibility further in this case on the basis of ADR Article 10.5.2 (No Significant Fault or Negligence).

10.5 Reduction of the period of Ineligibility based on No Significant Fault or Negligence

...

10.5.2 *Application of No Significant Fault or Negligence beyond the Application of Article 10.5.1:*¹

In an individual case where Article 10.5.1 is not applicable, if an Athlete...establishes that he/she bears No Significant Fault or Negligence, then (subject to further reduction or elimination as provided in Article 10.6) the otherwise applicable period of Ineligibility may be reduced based on the Athlete's...degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable...

17. The definitions of Fault and No Significant Fault or Negligence are:

Fault:

Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete[‘s] degree of Fault include, for example, the Athlete’s...experience, whether the Athlete...is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete’s...degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete’s...departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.5.1 or 10.5.2.

No Significant Fault or Negligence:

The Athlete...establishing that his or her Fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relation to the Anti-Doping Rule Violation. Except in the case of a Minor, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his/her system.

18. In the circumstances of this case, UKAD accepts that Mr Walker should have the benefit of the application of ADR Article 10.5.2 (No Significant Fault or Negligence).

19. As such, in accordance with ADR Article 10.5.2, a period of Ineligibility of between 12 and 24 months applies, depending upon an assessment of Mr Walker’s degree of Fault (as defined within the ADR).

¹ ADR Article 10.5.1 relates to Specified Substances and Contaminated Products, so is not relevant to Mr Walker’s case.

20. In applying ADR Article 10.5.2, UKAD followed the approach used in the cases of *Cilic v ITF*² and *Johaug*³. This involves, firstly, an assessment of Mr Walker's objective Fault in order to place his case within one of three ranges. Low Fault means that a period of Ineligibility within the range of 12 to 16 months is appropriate; moderate Fault, 16 to 20 months; and high Fault, 20 to 24 months. Mr Walker's subjective Fault is then assessed to establish where in the range his case should be set.
21. Mr Walker accepts that he willingly and deliberately consumed cocaine three days before a match, and that he knew that cocaine was a Prohibited Substance. UKAD also finds that Mr Walker consumed the cocaine without turning his mind to how long it might remain in his system. As such, UKAD considers that Mr Walker's objective Fault is high and places him in the range of a period of Ineligibility of 20 to 24 months.
22. As for subjective Fault, Mr Walker has engaged with UKAD throughout proceedings. He made early admissions to the ADRV and provided an account of his background and relevant personal circumstances, which is not gainsaid by UKAD. He states that he had consumed cocaine because a difficult set of personal circumstances led him to make efforts to 'escape' his difficulties. Mr Walker also produced medical evidence from a psychiatrist to the effect that he was suffering from marked difficulties with anxiety and depression at the relevant time, and that his use of cocaine at the time can be understood in the context of him self-medicating these mental health problems whilst at the same time also having developed a psychological addiction to cocaine. UKAD is satisfied that the mental health difficulties that Mr Walker suffered at the time are specific and relevant to the assessment of his level of subjective Fault. This has the effect of reducing Mr Walker's period of Ineligibility within the 20 to 24-month range.
23. UKAD considers that the appropriate period of Ineligibility is twenty (20) months.
24. Pursuant to ADR Articles 10.2.2 and 10.5.2, a period of Ineligibility of twenty (20) months is therefore imposed.
25. UKAD issues this Decision pursuant to ADR Article 7.7.4, which states:

7.7.4 In the event that UKAD withdraws the Notice of Charge, or the Athlete...admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by UKAD (or is deemed

² CAS 2013/A/3327 & 3335 *Marin Cilic v International Tennis Federation*, see para 75 et seq.

³ CAS 2017/A/5015 *International Ski Federation (FIS) v. Therese Johaug & The Norwegian Olympic and Paralympic Committee and Confederation of Sports (NIF)*

to have done so in accordance with Article 7.7.1), neither B Sample analysis nor a hearing is required. Instead, UKAD 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...and to each Interested Party, and shall Publicly Disclose the decision in accordance with Article 8.4.

Commencement of Period of Ineligibility

26. ADR Article 10.11.1 provides as follows:

10.11.1 Delays not attributable to the Athlete...:

Where there have been substantial delays in the hearing process or other aspects of Doping Control that are not attributable to the Athlete...charged, the period of Ineligibility may be deemed to have started at an earlier date, commencing as far back as the date of Sample collection...

27. UKAD accepts that there were delays that affected Mr Walker's case preparation that were not his fault (nor the fault of UKAD). During the course of proceedings, Mr Walker sought the assistance of a medical expert, beginning his efforts to instruct one in November 2017. Mr Walker had difficulty finding an appropriate and available expert, to the extent that he was not able to provide medical evidence to UKAD until May 2018.
28. Therefore, by application of ADR Article 10.11.1, Mr Walker's period of Ineligibility will start on the date of his Sample collection. The period of Ineligibility to be imposed on Mr Walker shall be deemed to have started on 14 July 2017 and will expire at midnight on 13 March 2019. Mr Walker will be eligible to compete again on 14 March 2019.
29. During the period of Ineligibility, in accordance with ADR Article 10.12.1, Mr Walker 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 or authorised by:
- the RFL or any body that is a member of, or affiliated to, or licensed by the RFL;
 - any Signatory;
 - 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;
- or

- any elite or national-level sporting activity funded by a governmental agency.
30. Mr Walker may return to train with a team or use the facilities of a club (or other member organisation of the RFL) or a Signatory's member organisation during the last two months of his period of Ineligibility (i.e. from midnight on 13 January 2019) pursuant to ADR Article 10.12.4(b).
 31. Mr Walker, the RFL, the Rugby League International Federation and WADA each has a right of appeal against this decision or any part of it in accordance with ADR Article 13.4.
 32. The disposition of these proceedings on the terms set out above will be publicly announced via UKAD's website in accordance with ADR Article 8.4.

Commencement of Period of Ineligibility

33. For the reasons given above, UKAD has issued this Decision, which records that:
 - 33.1 Mr Walker has committed an ADRV pursuant to ADR Article 2.1;
 - 33.2 a period of Ineligibility of twenty (20) months is imposed pursuant to ADR Articles 10.2.2 and 10.5.2;
 - 33.3 the period of Ineligibility is deemed to have commenced from 14 July 2017 and will expire at midnight on 13 March 2019; and
 - 33.4 Mr Walker's status during the period of Ineligibility shall be as detailed in ADR Article 10.12.

1 August 2018