



Sport Ireland and the Athlete IS-5671

Reasoned Decision of Sport Ireland

The following is the reasoned decision of Sport Ireland pursuant to Article 7.6.4 of the Irish Anti-Doping Rules (the "**Rules**"). It concerns an anti-doping rule violation ("**ADRV**") committed by the Athlete IS-5671 ("the **Athlete**") and records the Consequences¹ to be applied.

I. INTRODUCTION AND BACKGROUND

1. The Athlete is a 38 year old Canadian living in the United States. She competed in the Dublin Marathon on 29 October 2017.
2. Sport Ireland is a statutory body established pursuant to the Sport Ireland Act 2015. The functions of Sport Ireland include taking such action as it considers appropriate, including testing, to combat doping in sport.
3. Following her completion of the Dublin Marathon, she was selected for In-Competition testing and provided a Sample. The Sample was analysed by the World Anti-Doping Agency ("WADA") accredited laboratory in Cologne, the Deutsche Sporthochschule Köln Institut für Biochemie (the "**Laboratory**").
4. The Laboratory notified Sport Ireland of an Adverse Analytical Finding on 27 November 2017 for both 1,3-dimethylbutylamine (DMBA) and higenamine, both Specified Substances. DMBA is prohibited In-Competition only, whereas higenamine is prohibited at all times.
5. As the Athlete is not a member of any Irish National Governing Body, Sport Ireland engaged in a consultation process with the IAAF regarding results management responsibility. There were further discussions involving Sport Ireland, the IAAF and WADA and ultimately on 13 April 2018 WADA confirmed that Sport Ireland would have results management responsibility in the matter.
6. Sport Ireland notified the Athlete of the alleged ADRV on 25 April 2018. No Provisional Suspension was imposed.
7. Via her lawyer, Paul J. Greene of Global Sports Advocates, she admitted the ADRV on 4 May 2018. Pursuant to Article 7.6.4 of the Rules, the Athlete's lawyers indicated a desire to resolve with the matter via a consultation process with Sport Ireland and without going to a hearing.
8. In that regard her lawyer made submissions on 1 June 2018. Those submissions sought to explain how the Prohibited Substances entered her body and argued that she bore No Significant Fault or Negligence.

¹ Capitalised terms used throughout this decision shall have the meaning given to them in the Rules.

II. NO SIGNIFICANT FAULT OR NEGLIGENCE

8. Article 10.4.1.1 of the Rules provides:

"Where the anti-doping rule violation involves a Specified Substance, and the Athlete or other Person can establish No Significant Fault or Negligence then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years' Ineligibility, depending on the Athlete's or other Person's degree of Fault. Except in the case of a Minor, in order to establish No Significant Fault or Negligence or any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system."

9. Both higenamine and DMBA are Specified Substances. Higenamine was not banned until 2017. DMBA was not explicitly mentioned on the Prohibited List until 2017, but was banned at the time of the Athlete's purchase of the supplement.
10. Sport Ireland was satisfied that the Athlete had established how the Prohibited Substance entered her system. She provided an invoice in respect of the purchase of a supplement called XMburn in 2014 (when higenamine was not banned). While she doesn't have the original packaging for the supplement, she has evidenced internet webpages demonstrating that the supplement contained higenamine and DMBA, although DMBA is listed by a synonym - '2-Amino-4-Methylpentane Citrate (Pouchong Tea)'.
11. XMburn contains vitamin B12. The Athlete provided evidence that she had been instructed by her medical advisor to take a vitamin B12 supplement. It was submitted on behalf of the Athlete that instead of taking her usual vitamin B12 supplement bottles with her to Dublin (which were quite large) she took a blister pack of XMburn which she believed were vitamin B12 supplements. She declared a vitamin B12 supplement on the Doping Control Form.
12. No Significant Fault or Negligence means:

"The Athlete or other Person's 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 relationship to the anti-doping rule violation. Except in the case of a Minor, in order to establish No Significant Fault or Negligence for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system."

13. Sport Ireland was satisfied that the Athlete had established that she bore No Significant Fault or Negligence.

III. DEGREE OF FAULT AND PERIOD OF INELIGIBILITY

14. As Sport Ireland was satisfied that Article 10.4.1.1 was applicable, the Period of Ineligibility is 0-24 months, depending on the Athlete's degree of Fault.
15. Fault means:

"Any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or

other Person 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 or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person'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 10.4.1 or 10.4.2."

16. In respect of sanction to be imposed, lawyers for the Athlete indicated that the appropriate guidance is found in the CAS decision in *Marin Cilic v. ITF*². The case refers to three ranges in the context of No Significant Fault or Negligence; light (0-8 months), normal (8-16 months) and considerable (16-24 months).
17. Ultimately, the level of research and checks carried out by the Athlete, in 2014 when she purchased it or at any time she took the supplement up to and including on the morning of the Dublin Marathon on 29 October 2017, were insufficient.
18. Sport Ireland noted the recent case of Kiefer Ravena³ who received an 18 month period of Ineligibility after testing positive for DMBA, higenamine and MHA (which is very similar to DMBA).
19. In the totality of the circumstances, Sport Ireland believes that a 14 month period of Ineligibility is appropriate and the Athlete has accepted this.
20. The Athlete has confirmed that she has not competed since the Dublin marathon on 29 October 2017 and promptly admitted the ADRV once notified of it. In the circumstances of the case, it is appropriate that the period of Ineligibility is deemed to commence from 29 October 2017 (the date of Sample collection).

IV. CONCLUSION

21. Sport Ireland issues this decision pursuant to Article 7.6.4 of the Rules.
22. For the reasons given above, Sport Ireland has issued this decision, which records that:
 - The Athlete has committed a violation of Article 2.1 of the Rules.
 - She is subject to a 14 month period of ineligibility which expires on 29 December 2018.
 - Pursuant to Article 9.1 of the Rules, her result in the Dublin Marathon on 29 October 2017 is automatically Disqualified.

Dated the 14 of August 2018

Siobhan Leonard
Sport Ireland

² CAS 2013/A/3327.

³<https://drive.google.com/viewerng/viewer?url=https://sa.kapamilya.com/absnews/abscbnnews/media/2018/tvpatrol/05/28/1527503515283797.pdf>