

WORLD RUGBY

IN THE MATTER OF THE REGULATIONS RELATING TO THE GAME

AND IN THE MATTER OF AN ALLEGED ANTI-DOPING RULE VIOLATIONS BY JOSHUA CHRISTIE (JAMAICA) CONTRARY TO REGULATION 21

BEFORE AN INDEPENDENT JUDICIAL OFFICER APPOINTED PURSUANT TO REGULATION 21.7.10.2

Judicial Officer:

Hon. Graeme Mew (Canada)

Representative of World Rugby:

Ben Rutherford (Counsel)

REASONS FOR DECISION

(Determination of an alleged anti-doping rule violation without a Hearing)

Overview

[1] Joshua Christie (the “Player”) was a member of the Jamaica Men’s Sevens Team and participated in the Hong Kong Sevens 2018 HSBC World Rugby Sevens Series Qualifier Tournament (“the Tournament”).

[2] On 4 April 2018 the Player provided an Out of Competition sample at a test arranged by World Rugby in Hong Kong.

[3] On 16 April 2018, the Player returned an Adverse Analytical Finding for Drostanolone and its metabolite 2a-methyl-5a-androstan-3a-ol-17-one as reported by the WADA-accredited laboratory in Lausanne, Switzerland.

[4] Drostanolone is listed in S.1.1A (Exogenous Anabolic Androgenic Steroids) of the Prohibited List 2018 set out in Schedule 2 to World Rugby Regulation 21 and in Section 11 of the Terms of Participation for the Tournament. It is not a Specified Substance and its use is prohibited at all times.

Procedural History

[5] A Preliminary Review was undertaken in accordance with Regulation 21.7.2, resulting in the conclusion that without any valid Therapeutic Use Exemption for use of this substance by the Player an Anti-Doping Rule Violation may have been committed.

[6] On 19 April 2018, the Anti-Doping Science and Results Manager of World Rugby wrote to the Player via the Jamaica Rugby Football Union (“the Union”), advising him of the Adverse Analytical Finding, that he was now Provisionally Suspended from rugby and that he had the opportunity to request his B Sample to be opened and analysed.

[7] On 13 May 2018, the Player wrote to World Rugby, stating:

I came across the testosterone supplements I had bought earlier that year and thought I would start using them to see if it would help repair me... I just simply made a really stupid decision under a bad mind set and it led me to something I regret and am deeply sorry for.”

[8] The time within which the Player was entitled to request testing of his B sample elapsed and on 14 May 2018 he was informed by World Rugby that he was deemed to have waived that right.

[9] In the same letter, World Ruby informed the Player he was entitled to have his case heard by a Judicial Committee (JC), to make submissions to the JC, and participate in the hearing. The letter continued:

Please confirm within 14 days if you wish to exercise that right.

If you do not request a hearing or you do not respond within 14 days, you shall be deemed:

- (a) To have waived your entitlement to a hearing to determine whether you have committed an anti-doping rule violation;
- (b) To have accepted that you have committed the anti-doping rule violation specified; and
- (c) To have seven days therefrom in which to make submissions in writing in relation to the sanctions to be applied. If you do not make submissions with respect to sanctions within seven days, you shall be subject to the prescribed sanction under Regulation 21.10 without reduction.

[10] After two follow-up communications had been sent by World Rugby to the Player via his Union, on 29 May 2018 the Union replied advising:

We have sent several messages, emails and have also spoken to Joshua Christie and would have expected him to respond by this time. We are going to do a follow up and inform you if he wishes to do the Oral hearing before the week ends.

[11] By a letter to the Union dated 11 June 2018, the Player was advised by World Rugby that, in the absence of any reply by him “he is now deemed to have waived his right to an oral hearing and that he has seven days in which to provide submissions in writing with respect to sanction.”

[12] No written submissions have been received from the Player.

[13] I was appointed by the chairman of the Judicial Panel of World Rugby, Christopher Quinlan QC, as a sole independent Judicial Officer to consider this matter. On 28 June 2018 I provided the following directions:

I understand that Mr. Christie is deemed by operation of Regulation 21 to have waived his right to a hearing in respect of the anti-doping rule violation that he is alleged to have committed.

I believe that I am in possession of the complete evidentiary record relied upon by World Rugby (if I am wrong about that please advise). It would be of assistance to me to have any written submission World Rugby wishes to make by Monday 9 July 2018. Unless requested, there will be no need for oral submissions to be made.

I would ask that a copy of this email is provided to the Union (for onward transmission to the Player) and that a copy of any submission that World Rugby delivers is also provided to the Player via his Union.

[14] Written submissions were received from Mr. Rutherford on behalf of World Rugby in accordance with this direction. No further communications have been received from or on behalf of the Player.

Anti-Doping Rule Violation Established

[15] By virtue of Regulation 21.7.10.2, the Player, having failed to dispute the assertion that he committed an anti-doping rule violation within fourteen days of the notice sent by World Rugby, is deemed to have admitted the violation and to have waived his right to an oral hearing.

Additional Facts and Discussion

[16] The Player having failed, within seven days of the date that he was notified that he was deemed to have admitted the anti-doping rule violation, to make any submissions in writing in relation to the sanctions to be applied, my consideration of his case has proceeded on the basis of the written record provided by World Rugby and the submissions of counsel for World Rugby.

[17] The Player's written communication dated 13 May 2018 leaves no room for doubt that he acted intentionally. In addition to the previously excerpted sentences, he wrote:

Up until mid last year I was a paying member at a non commercial local gym close to my home which later closed down late June ...

Just before the gym closed down they had been selling all their supplements and remaining stock I was approached by an ex employee of the club who mentioned to me he had some really good Testosterone boosters which a lot of athletes he knew were using as it was legal and had been approved (also known as AGF1) he mentioned to me that it was AGF1s brother and that it was perfectly fine to use.

... I bought 3 tubs from him. They had been sitting in my bedroom for about 6 months after that untouched as I've always been a non believer in using supplements as I strongly believe the right food can give you your rewards and hadn't even used a protein supplement up until then.

I went on to play for Jamaica in Mexico in November after not playing rugby for about 3 months where I dislocated my shoulder in the first 30 seconds of my first game. This was the fourth time dislocating and being an athlete that's failed at every hurdle just before a high in my career due to injury I said I was packing in the rugby and would never play again as I've given so much and my body just cannot handle it.

I knew the HK 7s was only 5 months away and questions were being raised about if I would be fit in time and deep down I knew my shoulder was finished. I stopped attending training sessions for Jamaica, and was depressed about knowing this was it for me. I accepted not playing rugby again and just focused on getting myself fit again without having an operation on my shoulder. Around that time is when I came across the testosterone supplements I had bought earlier that year and thought I would start using them to see if it would help repair me.

I did not even notice a difference in strength increasing nor fitness, so I bought a protein powder from optimum nutrition to maybe help me gain some strength back.

As I hadn't been attending training for Jamaica and now only being a month and a bit away from HK 7s as you can imagine I was getting the urge to try and make myself fit for this opportunity to play at such a big tournament and of course an amazing opportunity - especially having travelled and not taken part last year and having to watch the team play as a 13th man.

I got in touch with the coach after not responding to messages and found myself training with the boys again. I genuinely did not think I would ever get selected as we had so many new faces down at training and fitter boys who could play my position but I continued to train and found myself more determined to make myself an option for the coach to choose me.

I stopped using the supplement at the beginning of March when I was training and started to get myself back into my natural routine after just coming out of a rough patch.

The team was only selected fairly late before we left for HK and as far as I was aware I was 100 percent not going but I enjoyed supporting the other boys in the lead up.

I managed to make the team and fly out to Hong Kong, I knew in the back of my head I was not fit still but was utterly surprised that I managed to do enough in training to get selected. I did not think once about the supplement I used in the lead up as I thought it was nothing which was stupid of me and irresponsible. I could not even tell you what the name of this product or brand was ...

My intentions were not to try and be at an advantage to my opponents in any way shape or form or be a super star....

I really don't want to be banned from the sport, i still want to be allowed play in social events with my friends.

[18] There is no evidence that the Player used any other substances that might explain the adverse analytical finding. The only plausible conclusion is that the supplement he described in his correspondence caused his positive finding. There is no evidence either that he made any effort to find out what he was consuming and whether it contained a prohibited substance. And his statement that his “intentions were not to try and be at an advantage” is nonsense. He took the supplement to “see if it would help repair” him. In other words to increase his competitiveness.

[19] The applicable Regulations relating to sanctions are as follows:

21.10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method

The period of Ineligibility for a violation of Regulations 21.2.1 (Presence), 21.2.2 (Use or Attempted Use) or 21.2.6 (Possession) shall be as follows, subject to potential reduction or suspension pursuant to Regulations 21.10.4, 21.10.5 or 21.10.6:

21.10.2.1 The period of Ineligibility shall be four years where:

21.10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Player or other Person can establish that the anti-doping rule violation was not intentional.

21.10.2.1.2 The anti-doping rule violation involves a Specified Substance and World Rugby (or the Association, Union or Tournament Organiser handling the case as applicable) can establish that the anti-doping rule violation was intentional.

21.10.2.2 If Regulation 21.10.2.1 does not apply, the period of Ineligibility shall be two years.

[20] Because the Player’s anti-doping rule violation does not involve a Specified Substance and the Player cannot on the evidence establish that the violation was not intentional, the presumptively applicable sanction is four years Ineligibility.

[21] None of the Regulations which might be engaged by a player to obtain a reduced sanction - Regulation 21.10.4 (No Fault or Negligence), Regulation 21.10.5 (No Significant Fault or Negligence), including Contaminated Products, Regulation 21.10.6 (Substantial Assistance) or Regulation 21.10.7 (Admission in the Absence of Other Evidence) - can apply in the circumstances of this case.

[22] The Player attempts to diminish his responsibilities by pleading ignorance of what he was taking or stating that he had not expected to play. That is not how anti-doping rules work, however. The Player is strictly liable for what is in his system. The Prohibited Substance found in his system means that he is a cheat. It is important that he understands his actions in that context.

[23] There is no place in rugby for players who cheat.

Findings and Conclusions

[24] The Player committed an anti-doping rule violation as a result of the presence in the sample which he provided of Drostanolone and its metabolite 2a-methyl-5a-androstan-3a-ol-17-one, a Prohibited Substance.

[25] The evidence does not support a conclusion that the Player's anti-doping rule violation was not intentional.

[26] As a result, the applicable sanction is a period of Ineligibility of four years, commencing on 19 April 2018 and ending at midnight on 18 April 2022.

[27] The Player's attention is drawn to Regulation 21.10.12 which provides, inter alia, that:

21.10.12.1 Prohibition Against Participation During Ineligibility

No Player or other Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a Competition or activity (other than authorized anti-doping education or rehabilitation programmes) authorised or organised by World Rugby or any Member Union, Association or a Club, Rugby Body or other member organisation of World Rugby or any Association or Member Union, or in Competitions authorised or organised by any professional league or any international- or national-level Event organisation or any elite or national-level sporting activity funded by a governmental agency".

...

A Player or other Person subject to a period of Ineligibility shall remain subject to Testing.

21.10.12.2 Return to Training

As an exception to Regulation 21.10.12.1, a Player may return to train with a team or to use the facilities of a Union, Club, Rugby Body or other member organisation of World Rugby, an Association or a Union during the shorter of: (1) the last two months of the Player's period of Ineligibility, or (2) the last one-quarter of the period of Ineligibility imposed".

[28] The full text of Regulation 21.10.12 and the related commentaries should be consulted. In the case of the Player, he would be able to return to training at the start of month 47 of the four year period of Ineligibility, so on 19 February 2022.

Right of Appeal

[29] This decision is final, subject to referral to a Post Hearing Review Body (Regulation 21.13.8) or an appeal, where the circumstances permit, to the Court of Arbitration for Sport (Regulation 21.13.2). The regulation sets out the timelines within which any referral or appeal must be commenced.

Costs

[30] Should World Rugby wish us to exercise our discretion in relation to costs under Regulation 21.8.2.10 or 21.8.2.11, written submissions should be provided to the JC via Mr. Ho within 10 business days of the receipt by World Rugby of this decision. The Player will then have 10 business days to respond.

25 July 2018

A handwritten signature in black ink, appearing to read 'Graeme Mew'. The signature is stylized with a large 'G' and a long horizontal stroke.

Graeme Mew
(Judicial Officer)