

UWW ANTI-DOPING PANEL

DECISION

Case

United World Wrestling (UWW)

v.

Mr Rodolfo Enrique Waithe Marin (Freestyle wrestler - member of the Panama national team)

Panel:

- Dr Daniel Wozniak
- Dr Milica Vukasinovic-Vesic
- Ms Carla Morais

- Prosecutor: UWW

I. Introduction

1. This is the final Decision of the UWW Anti-doping panel as between UWW and Mr Waithe Marin relating to an Anti-Doping Rule Violation (“ADRV”) arising from the UWW Anti-Doping Rules (“the Rules”).
2. United World Wrestling (UWW) is the governing body for the sport of Wrestling in all its styles. It is based in Corsier-sur-Vevey, Switzerland.
3. Mr Waithe Marin (herein after the “athlete” or alternatively the “wrestler”) is a Freestyle wrestler from Panama. He participated in the Central American & Caribbean Games 2018 in Managua (Nicaragua) in December 2017. As an athlete who participated in these Games and as a UWW licensed wrestler, he was subject to the jurisdiction, respectively of the Organizacion Deportiva Centroamericana (ORDECA) and UWW and was bound to comply with the Rules. According to the Rules and considering his UWW license, the athlete is considered as an international level athlete.

II. Facts

4. On 5 December 2017, a *Doping Control Officer* (“DCO”) collected a urine *Sample* from the Wrestler. Assisted by the DCO, he split the *Sample* into two separate bottles, which were given reference numbers 4193367.
5. Both *Samples* were transported to the World Anti-Doping Agency (“WADA”)-accredited Laboratory in La Habana (CUB) (the “Laboratory”). The Laboratory analyzed the A *Sample* in accordance with the procedures set out in WADA’s International Standard for Laboratories. The Analysis of the A *Sample* returned an *Adverse Analytical Finding* (“AAF”) for the following: Triamterene.
6. Triamterene is classified under class S5 (Diuretics & Masking Agent) of the 2017 *Prohibited List* and is prohibited at all times (in and out-of-competition).

7. According to UWW's records, no Therapeutic Use Exemption ("TUE") was delivered by UWW to justify the Presence of these Stimulants in the athlete's system.
8. No apparent departure from the International Standard for Testing & Investigation or International Standard for Laboratories caused the Adverse Analytical Finding.
9. The ORDECA Disciplinary Commission notified the athlete on 8 February 2018 as well as the Wrestling Federation and the Olympic Committee of Panama. In its notification, it offered the athlete to have the B sample analyzed and informed the athlete of the consequence with regards to the results of the Games should the result of the B sample confirm the A sample or should the athlete waive this right and accept the A sample result.
10. On 16 July 2018, after reception of the above information from ORDECA, UWW notified the athlete through his national federation.
11. The opportunity of having the B sample opened and analyzed was also offered to the wrestler. The athlete was also offered the possibility to request the laboratory documentation package. The possibility to accept a voluntary provisional suspension was also offered.
12. On 18 July 2018, the athlete's federation confirmed reception of the notification and informed UWW that it was forwarded to the athlete.
13. No answer or any further comment was received from the athlete nor his national federation from that date.
14. On 1 November 2018, UWW informed the athlete that as no answer was received, the case would be decided based on the existing elements. An additional 10 days deadline was granted to the athlete to provide any comment.
15. No comment was made since that date.

III. Relevant rules

16. These proceedings are conducted in application of the Rules.
17. Art. 2.1 of the Rules provides as follows:

2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample

2.1.1 It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, Fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.

2.1.2 Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analysed; or, where the Athlete's B Sample is analysed and the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample; or, where the Athlete's B Sample is split into two bottles and the analysis of the second bottle confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the first bottle.

18. Art. 10.2 of the Rules provides as follows :

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 Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6:

10.2.1 The period of Ineligibility shall be four years where:

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

10.2.1.2 The anti-doping rule violation involves a Specified Substance and United World Wrestling can establish that the anti-doping rule violation was intentional.

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

IV. Discussion

19. The substance found ("Triamterene") is a specified substance, classified as a Diuretic and a Masking Agent in the 2017 Prohibited List.
20. There was no Therapeutic Use Exemption delivered by UWW or any other Anti-doping Organization which justified the Presence of these Stimulants in the athlete's system. No apparent departure from the International Standard for Testing & Investigation or International Standard for Laboratories caused the Adverse Analytical Finding.
21. In the case at hand and in view of the existing elements, UWW is not able to establish that the anti-doping rule violation was intentional. The default sanction should be two (2) years.
22. There is not any element that would justify any reduction of the suspension for No Fault or Negligence or No Significant Fault or Negligence.

V. Decision

Considering the above, pursuant to the Rules, the UWW Anti-doping panel decides that the wrestler, Mr Waithe Marin:

- I. Is found to have committed an anti-doping rules violation, namely article 2.1 of the Rules;
- II. Is imposed a period of ineligibility of two (2) years from the date the decision until 21 November 2020 included.

VI. Status during ineligibility

In order to understand the athlete's rights during this period of ineligibility, please refer to article 10.12 of the United World Wrestling Anti-doping rules.

During the period of Ineligibility, the athlete shall not be permitted to participate in any capacity in a Competition or other activity (other than authorized anti-doping education or rehabilitation programs) organized, convened or authorized by:

- United World Wrestling or by any body that is a member of, or affiliated to, or licensed by United World Wrestling;
- any Signatory (as that term is defined in the ADR);
- any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a signatory's member organization; or
- any professional league or any international-or national-level Event organization.

VII. Right to Appeal

Pursuant to article 13.2.1 of the United World Wrestling Anti-doping rules, this decision may be appealed to the Court of Arbitration for Sport within 21 days after reception of the decision (please refer to the procedural rule R47 and the following of the CAS Code).

This decision must be notified to the Athlete.

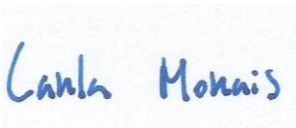
Corsier-sur-Vevey, 22 November 2018



Dr. iur. Daniel Wozniak



Dr. Milica Vukašinović-Vesić, PhD



Ms Carla Morais