

UWW ANTI-DOPING PANEL

DECISION

Case

United World Wrestling (UWW)

v.

Mr Husham Majeed Ali AL THAALEBI (Athlete - GR wrestling - member of the Iraqi 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 Al Thaalebi 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. It is based in Corsier-sur-Vevey, Switzerland.
3. Mr Al Thaalebi (hereinafter the “Athlete”) is a Greco-Roman wrestler (87 kg), member of the Iraqi national wrestling team and member of the Iraqi Wrestling Federation. According to the UWW database, the athlete took part in four major championships in his career, i.e. the 2007 World Championship and the 2011 Asian Championship, the 2012 Olympic Qualification tournament. He took part in the 2018 Asian Championship after a break in international events of six years.
4. As a UWW licensed athlete, he was subject to the jurisdiction of UWW and bound to comply with the Rules. Pursuant to the Rules, UWW was empowered to conduct Doping Controls, as those terms are used in the Rules, in respect of all Wrestlers subject to the jurisdiction of UWW.

II. Facts

5. On 27 February 2018, a *Doping Control Officer* (“DCO”) collected a urine *Sample* from the athlete. Assisted by the DCO, the athlete split the *Sample* into two separate bottles, which were given reference numbers 4078097.
6. It is also noted that a partial sample was provided by the athlete 2 hours before the provision of sample 4078097. This partial sample was deemed so due to the low volume of urine provided by the athlete.
7. Both Samples (A & B 4078097) were transported to the World Anti-Doping Agency (“WADA”)-accredited Laboratory in Doha (Qatar) (the “Laboratory”). The Laboratory analyzed the A Sample in accordance with

the procedures set out in WADA's International Standard for Laboratories. The IRMS analysis of the A *Sample* returned an *Adverse Analytical Finding* ("AAF") for Testosterone, an endogenous anabolic steroid. The IRMS analysis results are consistent with the exogenous origin of Testosterone.

8. Testosterone is an endogenous Anabolic Androgenic Steroid under class S1.1B of the 2018 Prohibited List. Its exogenous origin was determined by IRMS analysis. This substance is prohibited at all times (in and out-of-competition).
9. This substance is a non-specified substance.
10. No apparent departure from the International Standard for Testing & Investigation or International Standard for Laboratories caused the Adverse Analytical Finding.
11. The athlete was not granted any Therapeutic Use Exemption ("TUE") to justify the Presence of Testosterone in his system.
12. On 23 July 2018, the athlete was formally charged with the commission of an anti-doping rule violation (herein after 'ADRV') for the Presence of Testosterone (administered exogenously) in a *Sample* provided on 27 February 2018 numbered A 4078097, in violation of Article 2.1 of the [ADR](#). The possibility for the opening and analysis of the B sample was offered within a deadline of 5 days, until 28 July 2018.
13. On 24 July 2018, the reception of the notification was confirmed by the Iraq Wrestling Federation by email. In that same email, the federation confirmed that the notification was forwarded to the athlete.
14. On 3 August 2018, as no answer was received with regards to the B sample, UWW wrote to the Iraq Wrestling Federation and asked for a decision in this regard. On the same day, the federation wrote. "*We sent your mail to him but he did'n answer. You have the right to take any action against the athlete as required by the rule*".
15. On 14 August 2018, the federation forwarded a statement and a medical document to UWW (attached).
16. On 2 November 2018, UWW requested further explanations from the athlete (letter attached) to ascertain that the documents were official documents. The athlete was also asked the following questions: have you ever been trained on anti-doping questions? Did you attend any training on anti-doping during your sporting career? Are you aware of Therapeutic Use Exemption? Why didn't you mention the use of testosterone on the Doping control Form? Please provide more details about the testosterone treatment (route of administration, frequency, etc.).
17. On 17 November 2018, the federation sent the athlete's answer to the additional questions (document attached). He asked for the B sample analysis.
18. On 22 November 2018, UWW informed the athlete that the B sample opportunity was offered to him on 23 July 2018 and he did not take the opportunity at that time. In any case, the samples were discarded by the laboratory.

III. Applicable rules

19. These proceedings are conducted in application of the Rules.
20. 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.

21. Art. 9 of the Rules provides as follows:

An anti-doping rule violation in Individual Sports in connection with an In-Competition test automatically leads to Disqualification of the result obtained in that Competition with all resulting Consequences, including forfeiture of any medals, points and prizes.

22. 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.

23. Art. 10.4 provides as follows:

10.4 Elimination of the Period of Ineligibility where there is No Fault or Negligence

If an Athlete or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated.

24. Appendix I (Definitions) of the Rules provides as follows:

No Fault or Negligence: The Athlete or other Person's establishing that he or she did not know or suspect and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. 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 or her system.

25. Art. 12.3 of the Rules reads as follows :

12.3 If an anti-doping rule violation is committed by an Athlete during an official competition on the UNITED WORLD WRESTLING calendar, a 20.000 Swiss Francs fine will be imposed on the Athlete's National Federation.

IV. Discussion

26. All documents and submissions were carefully reviewed by the panel and the following considerations were made.
27. Considering the analysis result of the sample collected from the athlete and the fact that he did not formally request the B sample analysis neither within the deadline set in the notice of 23 July 2018 nor in his first answer forwarded to UWW on 14 August together with some medical documents, this panel is comfortably satisfied with the fact that the result of the A sample was accepted and with the establishment of the anti-doping rules violation, namely the presence of a prohibited substance in an athlete's sample.
28. The Athlete explained that he was treated for infertility with testosterone. To support this allegation, he presented two documents: a document from a "clinical lab" and an undated "medical report" with header and footer in Arabic.
29. The validity of these documents was deemed questionable. For this reason, additional information was requested to the athlete on 2 November 2018. In this request, the athlete was asked to provide more elements such as official documents and credible testimonies proving that the documents were official. More detailed information was requested with regard to the treatment followed by the athlete, i.e. dosage, route and duration of treatment.
30. In the athlete's answer of 17 November 2018, no supporting evidence was provided to confirm that the documents had been officially issued by the athlete's doctor; no credible testimonies were provided; on the treatment, neither the specific name or brand of the medicine used to treat his condition was provided nor any other detail as to the treatment procedure.
31. The laboratory of Doha was solicited about the concentrations in the sample to verify the athlete's allegations about a treatment. The following response was received: "*The testosterone concentration is consistent with the testosterone intake (exogenous). The treatment for infertility purposes can be very variable with concentration even higher than the one found in the sample. It's depending on the dose and treatment pursuit. Some infertility studies showed that the doses can be between 20 mg to 400 mg per day*". Based on this comment and considering the variability of such treatment, it is no possible to ascertain the allegation of treatment for infertility made by the athlete by considering the concentration.
32. Despite the request to provide more documented and substantial evidence to support his statement, no additional elements were provided by the athlete.
33. In conclusion the the panel considered that the Athlete failed to demonstrate, on a balance of probability, how the prohibited substance entered his system. On this ground, it is not necessary to examine the degree of fault or negligence by the Athlete.
34. As there are no other grounds for a reduction of the period of ineligibility, the wrestler must be sanctioned with a four (4) year period of ineligibility.

V. Decision

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

- 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 four (4) years, starting from 28 July 2018 until 27 July 2022 included.
- III. The results obtained in the 2018 Asian Championship Senior are disqualified.

IV. The Iraq Wrestling Federation is imposed a fine of 20'000 Swiss Francs.

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 is to be notified to the Athlete c/o his National Federation.



Dr. iur. Daniel Wozniak



Dr. Milica Vukašinović-Vesić, PhD



Ms Carla Morais

Corsier-sur-Vevey, 28 January 2019