

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES
OF SCOTTISH RUGBY UNION (“SRU”)**

Before:

Rod McKenzie (Arbitrator)

B E T W E E N:

UK ANTI-DOPING

Applicant

and

MR SEAN GOODFELLOW

Respondent

FINAL DECISION OF THE ARBITRAL TRIBUNAL (“the Tribunal”)

Introduction

- 1 This is the decision of the Tribunal, comprising of a sole arbitrator (“the Arbitrator”), appointed by the President of the National Anti-Doping Panel, convened pursuant

to Article 5.1 of the National Anti-Doping Panel Procedural Rules 2015 ("the Rules") to determine a Charge brought against Mr Sean Goodfellow ("the Respondent") for having on 02 August 2018 committed an alleged violation of World Rugby Regulation 21.2.3 which provides that the following is an Anti-Doping Rule Violation ('ADRV'):

"Evading Sample collection, or without compelling justification refusing or failing to submit to Sample collection after notification as authorized in these Anti-Doping Rules or other applicable anti-doping rules."

- 2 The SRU is the National Governing body for the sport of rugby union in Scotland. As a member union of World Rugby ('WR') (The International Federation for the sport of rugby union), the SRU has adopted World Rugby Regulation 21 ('WRR 21') as its own ADR by virtue of Scottish Rugby Union Domestic Regulation 21. These are supplemented by certain parts of the UK Anti-Doping Rules ('UK ADR'). The ADR confers jurisdiction on the National Anti-Doping Panel ("NADP") to determine Charges arising under the ADR.
- 3 The Charge was notified to the Respondent by the Applicant by a letter dated 02 January 2019 which was delivered to the Respondent by courier on that date. The matter of the Charge was remitted to the NADP for determination.
- 4 On 02 August 2018 a Doping Control Officer from UKAD called at the home of the Respondent at around 0630 for the purpose of carrying out Sample Collection (taking a Sample of the Respondent's urine in controlled conditions in order that it be later analysed in laboratory conditions to identify the presence of any Prohibited Substance(s)). The Respondent was present but declined to take part in Sample Collection on the stated bases that he was not registered with the SRU to play rugby in Season 2019/2020 and that he had to get to his work and had insufficient time to take part in Sample Collection. Later checking with the SRU identified that, in fact, the Respondent was registered at the SRU as a player with his club in Scotland, that there was no break in his registration status and that his registration rendered him subject to the ADR, as described above. This included being bound to submit, including on 02 August 2018, amongst other requirements, to Out of Competition, Sample Collection as and when required to do so by UKAD.

5 The Respondent was Provisionally Suspended with effect from 02 January 2019 and the request for an arbitration was delivered by UKAD to the NADP Secretariat, which reported on the position to the President of the NADP. The President, Charles Flint QC, appointed Mr Rod McKenzie to be the Chairman of the Arbitral Tribunal which would determine the alleged Anti-Doping Rule Violation ("ADRV") brought against the Respondent.

Hearing on Directions

6 At a hearing on directions which took place by conference call on 06 March 2019, UKAD was represented by Ms Cross, solicitor and the Athlete was represented by Mr Willoughby, barrister.

7 Parties agreed that the relevant Procedural Rules for the Arbitration were the current NADP Rules, that the relevant Anti-Doping Rules were the World Rugby Anti-Doping Rules comprising Regulation 21 of the Regulations of World Rugby as adopted by the Scottish Rugby Union ("SRU") as its Anti-Doping Rules ("ADR") and that the relevant edition of the WADA Code was the 1 January 2015 Code.

8 Parties also agreed:

8.1 that the SRU had jurisdiction in anti-doping matters relating to the Respondent since the Respondent was a Player registered with the SRU at the date of the alleged ADRV;

8.2 that UKAD had responsibility for results management and is the Results Management Authority in relation to the SRU its Players and Competitions pursuant to SRU Domestic Regulations, SDR21 paragraph 8 and that UK Anti-Doping Rules Version 1, dated 1 January 2015, published by UKAD are adopted for certain limited purposes by SRU pursuant to SDR21 paragraph 7;

8.3 that the NADP had jurisdiction to determine the Charge made against the Athlete, as set out below; and

- 8.4 that there is no objection to the appointment of the Arbitrator to the NADP Arbitral Tribunal which would determine the Charge brought against the Athlete, to the Arbitrator conducting the hearing on directions and making directions for the purpose of the Arbitration.
- 9 Mr Willoughby, on behalf of the Athlete, acknowledged that the Athlete had committed the Anti-Doping Rule Violation set out in paragraphs 3.1 and 3.3 of the letter from UKAD to the Athlete of 02 January 2019 and in paragraph 1 of this Decision, *viz.* having, on 02 August 2018, evaded Sample collection, or without compelling justification, refused or failed to submit to Sample collection after notification as authorised under WRR 21. Mr Willoughby went on to advise that at the Hearing the Athlete would not seek to argue that on 02 August 2018 he had compelling justification in refusing or failing to submit to Sample collection.
- 10 Mr Willoughby further advised that the Athlete intended at the Hearing to argue for a reduction of the otherwise mandatory Period of Ineligibility based on No Significant Fault or Negligence and that the issue of whether the Athlete intended to commit the Admitted ADRV would also be argued.
- 11 The Hearing was assigned, by agreement with those representing the parties, to take place on 03 April 2019 within Murrayfield Stadium, Edinburgh commencing at noon. Dates for the lodging of documents, witness statements, skeleton arguments were assigned and, after agreed extensions, were complied with.
- 12 During the period prior to the Hearing the President of the NADP appointed the Arbitrator to be the sole Arbitrator in this arbitration. This was not objected to by either of the Parties.

The Hearing

- 13 The Hearing convened as directed. Present were the Arbitrator, Anna Thomas NADP Secretariat, Phillip Law UKAD, James Laing UKAD, Richard McGhee SRU, the Respondent and Adam Willoughby, counsel for the Respondent. Mr Law and Mr

Willoughby immediately advised that they were discussing certain matters and requested a brief adjournment of the hearing which was granted.

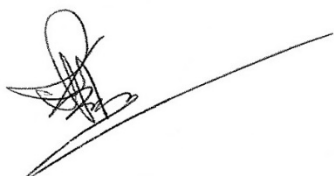
- 14 On reconvening each of Mr Law and Mr Willoughby advised that it had been agreed by Parties that the Respondent, this being his first admitted or established ADRV and having already admitted the ADRV, also now admitted that the ADRV was committed intentionally, that it was not now argued that the Respondent bore No Significant Fault or Negligence for the commission of the ADRV and that the period of Ineligibility should be four (4) years from the date of Provisional Suspension. Parties then invited the Arbitrator to make a disposal in accordance with that agreement. This was then confirmed directly with the Respondent who agreed that such was his position.

Disposal

- 15 The provisional suspension of the Respondent was effective from 02 January 2019. Accordingly, his period of Ineligibility for having committed the admitted ADRV extends from 02 January 2019 until midnight on 01 January 2023 (inclusive).

Appeal

- 16 In accordance with the Article 13 of the Rules, the Respondent, UKAD, the SRU, WADA or WR may file a Notice of Appeal against this decision with the Secretariat of the National Anti-Doping Panel within 21 days of receipt of this decision.

A handwritten signature in black ink, appearing to read 'Rod McKenzie', with a long horizontal line extending to the right.

Rod McKenzie (Arbitrator)

26 April 2019



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