

Decision of the Japan Anti-Doping Disciplinary Panel

Case 2018-002

Name of Athlete: X  
Sport: Wrestling

Pursuant to the decision of the Hearing Panel convened for this case, the Japan Anti-Doping Disciplinary Panel has made the following decision with respect to this case.

February 22, 2019  
Japan Anti-Doping Disciplinary Panel  
Vice Chair: Takahiro Yamauchi

---

Hearing Panel Decision

The Hearing Panel for this case, which is composed of the following members appointed by the Chair of the Japan Anti-Doping Disciplinary Panel pursuant to Article 8.3.2 of the Japan Anti-Doping Code (hereinafter, the “Code”), has made the following decision concerning this case pursuant to the results of the hearings held on October 18, 2018, December 15, 2018 and February 22, 2019 (hereinafter, the “Hearing”).

February 22, 2019  
Takahiro Yamauchi \_\_\_\_\_  
Katsumi Tsukagoshi \_\_\_\_\_  
Masahiro Murayama \_\_\_\_\_

Decision:

- A violation of Article 2.1 of the Code is found to have occurred.
- In accordance with Articles 9 and 10.8 of the Code, all of the individual results of the Athlete obtained from June 16, 2018, the date of sample collection, through August 16, 2018, the commencement date of the provisional suspension period (including, but not limited to, the competition results at THE MEIJI CUP FISCAL 2018 ALL JAPAN SELECTION WRESTLING CHAMPIONSHIPS) shall be disqualified, and all medals, points and prizes obtained during such period shall be forfeited.
- In accordance with Article 10.4 of the Code, the provisional suspension imposed upon the Athlete from August 16, 2018 till today shall be eliminated, and no ineligibility shall be imposed upon the Athlete.

Reasons:

- The substance “acetazolamide” that was detected from the Athlete in In-Competition testing conducted on June 16, 2018 is designated as a prohibited substance under “S5. Diuretics and Other Masking Agents” in The 2018 Prohibited List International Standard (hereinafter, the “Prohibited List”), and it constitutes a “Prohibited Substance” as prescribed in Article 2.1 of the Code. The Athlete subsequently requested an analysis of the B sample, and acetazolamide was similarly detected. The Athlete did not contest the abovementioned test result or the process and procedure that led to those results at the Hearing (including the provisional hearing).
- Accordingly, the Athlete can be found to have violated Article 2.1 of the Code (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample) in this case, and it is appropriate to consider that, in accordance with Articles 9 and 10.8 of the Code, all of the individual results of the Athlete obtained from June 16, 2018, the date of sample collection, through August 16, 2018, the commencement date of the provisional suspension period (including the competition results at THE MEIJI CUP FISCAL 2018 ALL JAPAN SELECTION WRESTLING CHAMPIONSHIPS; hereinafter, the “Competition”) shall be disqualified, and all medals, points and prizes obtained during such period (if any) shall be forfeited.
- Furthermore, the substance above that was detected in this case, while on the one hand constituting a “Prohibited Substance,” also is a “Specified Substance” under the Prohibited List. The Japan Anti-Doping Agency (hereinafter, “JADA”) does not assert that the Athlete in this case intentionally took the detected substance above, and the Hearing Panel also finds that the Athlete in this case cannot be found to have intentionally taken the detected substance above..
- Therefore, the issues are whether there existed Fault or Negligence on the part of the Athlete, as well as the degree thereof, in relation to a violation of Article 2.1 of the Code. Based upon the testimonies of the attorney representing JADA and the responsible person at JADA, the Athlete himself, the attorney representing the Athlete, and the coach and other related persons of the sport organization to which the Athlete belongs, the documents and evidence submitted by the Athlete, the documents submitted by JADA (the Doping Control Form, etc.) as well as the entire purport of the Hearing, the following facts can be found.
  - (1) The Athlete started wrestling when he was in the first grade at senior high school, and continued wrestling through university and after graduation, and has been wrestling for ten years. The Athlete has taken doping tests for five or six times in the past, and prohibited substances had never been detected. The Athlete has undergone anti-doping related education several times in the past.
  - (2) The Athlete stated at the hearing that he did not intentionally take the detected substance above, and also, since the Athlete was smoothly losing weight, there was no

need for him to ingest the detected substance above either as a diuretic or a masking agent.

- (3) The Athlete prepared and submitted a list describing his acts and foods taken from approximately two weeks prior to the Competition. The document did not contain any description suggesting the possibility that the Athlete ingested the detected substance above.
- (4) The Athlete asserts that, while there is only one type of medicine containing the detected substance above in Japan, he has never been prescribed such medicine in the past, and neither has he ever taken such medicine.
- (5) Considering that the detected substance above likely entered his body two to three days prior to June 16, 2018, the date of sample collection, the Athlete investigated the possibility that medicine and supplements, etc. taken during that time period contained the detected substance above, through methods such as confirmation of package inserts of medicine and indications of ingredients, inquiries to the physician prescribing medicine, and an analysis of the ingredients requested to an inspection agency.
- (6) Before third Hearing held on February 22, 2019, The Athlete subsequently submitted an investigation result by the inspection agency that the detected substance above was detected from a sample of a digestive of a type identical to a digestive which is medicine for medical use taken precisely on June 16, 2018, the date of sample collection (hereinafter, the "Digestive").
- (7) There is no description on the package inserts of the Digestive that it contains the detected substance above.
- (8) According to the statements (including the statements of the written statements, etc.) of the attorney representing the Athlete, the coach of the team to which the Athlete belongs, and the physician accompanying the team, it can be found that (i) the accompanying physician prescribed the Digestive for players who desired prescription since previously, in order to reduce the burden on the digestive organs which would occur if a player losing weight due to factors such as food restriction by the date of the match suddenly ate after measuring weight, (ii) the accompanying physician also gave the Digestive to multiple players including the Athlete on June 16, 2018, the date of sample collection, and the Athlete took it, (iii) at the meeting reviewing this case held at the office of the attorney representing the Athlete after the notification of suspension of provisional suspension to the Athlete, the coach belonging to the team to which the Athlete belonged brought the package of the Digestive (containing multiple Digestives) lent by the accompanying physician, and the attorney representing the Athlete preserved two packets of the Digestive taken from the said package at his law firm office, and the sample of the Digestive sent to the inspection agency to be

analyzed was one of the two packets preserved at the law firm.

- (9) The investigation result by the inspection agency contains a description that the inspection target was a “sealed packet of 1g powder.” An investigation report regarding a separate medicine analyzed by the same inspection agency contains the description that the inspection target was a “sealed packet of two capsules (one side partially opened)”.
  - (10) The Athlete and the attorney representing the Athlete brought to the Hearing the remaining packet not used in the inspection, from among the samples of the Digestive, and the package of the Digestive which the coach brought to the review meeting, and so far as the panel committee members made a visual confirmation, there were no traces that they had been opened.
- Taking into consideration the evidence above, the detected substance above is found to be derived from the Digestive ingested by the Athlete on the date of sample collection. Taking into account the sequence of events of the selection of the Digestive which was inspected, the lack of traces of the inspected sample being opened, and the lack of traces of the Digestive and the package brought to the Hearing being opened, neither the Athlete nor the persons related to the Athlete can be found to have been involved in the fact that the Digestive contained the detected substances which were inspected.
  - Therefore, as an exceptional circumstance, the Athlete is not found to have had any Fault or Negligence for the violation of Article 2.1 of the Code. Accordingly, pursuant to Article 10.4 of the Code, the provisional suspension imposed upon the Athlete from August 16, 2018 till today shall be eliminated, and no ineligibility shall be imposed upon the Athlete. Article 10.5.1.2 provides that, in cases where the detected Prohibited Substance derives from a Contaminated Product and the Athlete can establish “No Significant Fault or Negligence”, the period of ineligibility shall be, at a minimum, a reprimand and no period of ineligibility, and at a maximum, two years ineligibility, depending upon the Athlete’s degree of Fault; however, since the Digestive is a medicine involving a physician and the Athlete cannot be found to have had any Fault or Negligence, Article 10.5.1.2 is construed to be inapplicable.

Based on the foregoing, we have made our decision as stated above.

###