

**BETWEEN**                      **DRUG FREE SPORT NEW ZEALAND**

**Applicant**

**AND**                              **BATUHAN YAZICI**

**Respondent**

**AND**                              **GYMNASTICS NEW ZEALAND**

**Interested Party**

---

**DECISION OF SPORTS TRIBUNAL  
DATED 12 FEBRUARY 2020**

---

**Decision**                      At the request of the parties the decision was made on the papers

**Tribunal**                      Sir Bruce Robertson (Chairman)  
Rob Hart  
Georgina Earl

**Participants**                      Josie Beverwijk and Adam McDonald, counsel for Applicant  
Hayden Tapper, Drug Free Sport New Zealand  
Andrew McCormick, counsel for Respondent

**Registrar**                      Mike Selwyn

## Background

1. On 5 October 2019, a gymnast Batuhan Yazici was tested in competition at the 2019 New Zealand Gymnastics Championships held at The Trust's Arena, Henderson, Auckland. The test result confirmed the presence of methylphenidate metabolite Ritalinic acid, which is a specified substance prohibited in competition under class S6 Stimulants. On the doping control form, Mr Yazici listed that he had taken antihistamines within the last seven days.

## Proceedings

2. On 8 November 2019, Drug Free Sport New Zealand (DFSNZ) filed an Application for the Provisional Suspension of Mr Yazici. On 15 November 2019, a telephone conference was convened by the Tribunal Chairman and Mr Yazici advised that he did not oppose the application. Mr Yazici also advised that he wished to have his "B" sample analysed. Mr Yazici was provisionally suspended that day.
3. DFSNZ filed its Application for Anti-Doping Rule Violation Proceedings on 6 December 2019, following confirmation that Mr Yazici's "B" sample had also tested positive for the presence of the prohibited substance. The Application was accompanied by a statement from Hayden Tapper that explained how the doping test was conducted and his contact with Mr Yazici following confirmation of the prohibited substance.
4. On 20 December 2019, Mr Yazici filed his defence, where he admitted the violation but expressed the desire to participate in the proceeding by making submissions on any sanction to be imposed. That same day, he filed a written submission.
5. In his submission, Mr Yazici emphasised that he had taken one Ritalin pill to help him concentrate and complete an essay due for one of his university papers. He advised that he had been given the pill by a friend (not an athlete) and had been told by this friend that Ritalin would assist him in meeting the deadline for the essay.
6. Mr Yazici further advised that he had never received any education on doping matters, either from DFSNZ, his coaches; or other gymnasts. He said that he had never turned his mind to the effect that Ritalin could have on his performance at the gymnastics championship the next day, and that he was distraught that he could be banned from competing in any sport for any length of time (being of an age and ability that sport was integral to his life).

7. On 29 January 2020, Mr Tapper filed a written statement that outlined the education programmes that DFSNZ had provided to Gymnastics New Zealand over recent years.
8. On 10 February 2020, the parties filed a joint memorandum as to sanction that submitted that a period of two years of ineligibility was appropriate, backdated to the date of the test having regard to Mr Yazici's timely admission of the violation. A copy of that memorandum is annexed.
9. Under SADR 10.2 the sanction is a two year period of ineligibility for a first violation where the violation involves a Specified Substance and DFSNZ is unable to establish intent.
10. The Tribunal having considered all the available material is satisfied it is able to accept the proposed sanction and makes the orders proposed. The prohibited substance was not taken to enhance performance but in a misguided attempt to successfully complete an essay due the day before. The circumstances here are similar to those in previous cases determined by the Tribunal.

#### **Order**

11. Mr Yazici's suspension will be for a period of two years backdated to commence from 5 October 2019 (the date of the test). This means that Mr Yazici is ineligible to participate in competitive sport until 5 October 2021.

Dated: 12 February 2020



.....  
**Sir Bruce Robertson**  
**Chairman**



Sports Tribunal of New Zealand

**ST 09/19**

between

**DRUG FREE SPORT NEW ZEALAND**

Applicant

and

**BATUHAN YAZICI**

Respondent

---

**JOINT MEMORANDUM AS TO SANCTION**

**10** FEBRUARY 2020

**LeeSalmonLong**

Barristers and Solicitors

LEVEL 16 VERO CENTRE 48 SHORTLAND STREET

PO BOX 2026 SHORTLAND STREET AUCKLAND NEW ZEALAND

TELEPHONE 64 9 912 7100 FACSIMILE 64 9 912 7109

EMAIL: isaac.hikaka@lsl.co.nz SOLICITOR ON RECORD: ISAAC HIKAKA

EMAIL: adam.mcdonald@lsl.co.nz SOLICITOR ACTING: ADAM MCDONALD

---



## JOINT MEMORANDUM AS TO SANCTION

---

### MAY IT PLEASE THE TRIBUNAL

1. The parties have had the opportunity to confer and have reached an agreed position to present to the Tribunal.
2. Mr Yazici admits to breaching r 2.1 of the Sports Anti-Doping Rules 2019 (**SADR**) (*Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample*).
3. The parties have considered the statements and other materials filed in this matter and jointly submit that the appropriate sanction to be imposed on Mr Yazici for breach of r 2.1 is a period of two years' ineligibility, with credit for the time served under his provisional suspension.

### Background

4. By a letter dated 8 November 2019, Drug Free Sport New Zealand (**DFSNZ**) notified Mr Yazici of an Adverse Analytical Finding regarding his A Sample collected on 5 October 2019. DFSNZ had advised Mr Yazici this letter was forthcoming earlier that day by telephone. Mr Yazici admitted on the telephone that he had taken a Ritalin pill prior to the competition to aid with his university studies.
5. The Prohibited Substance identified in Mr Yazici's sample was Ritalinic Acid (metabolite of Methylphenidate), a Specified Substance prohibited in-competition, under the WADA Prohibited List 2019.
6. DFSNZ filed a provisional suspension application regarding Mr Yazici on 8 November 2019. He was provisionally suspended by consent on 15 November 2019. DFSNZ filed substantive Anti-Doping Rule Violation proceedings on 6 December 2019.
7. Mr Yazici requested that his B Sample be analysed. This was tested on 27 November 2019. The test result confirmed the results of his A Sample analysis.
8. On 11 December 2019 Mr Yazici filed a Form 2 formally admitting the violation and indicating his wish to participate in the proceeding by making submissions on any sanction or penalty which might be imposed.
9. On Friday 20 December 2019 Mr Yazici filed a statement setting out his explanation for the Ritalinic acid in his system. He stated that he took a Ritalin pill to assist concentration for writing a university essay. He stated further he did not take the Ritalin pill to enhance his sporting performance.
10. Under r 10.2 of the SADR the period of ineligibility for breach of r 2.1 is two years for a first violation where the violation involves a Specified Substance and DFSNZ cannot establish that the violation is intentional.

**Intention**

11. The parties agree and submit that, having regard to Mr Yazici's explanation for how the prohibited substance came to be in his system and the nature of the substance, it is properly available for the Tribunal to find that the violation was not intentional.

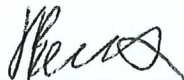
**No change to period of ineligibility**

12. In this case, the parties agree and submit that there is no evidence that warrants reducing the period of ineligibility under r 10.5 or r 10.6.

**Backdating**

13. The starting point under the SADR is that the period of ineligibility should start from the date of imposition of the sanction. Any period of provisional suspension shall be credited against the total period of ineligibility served.
14. Rule 10.11.2 allows the period of ineligibility to start earlier where the athlete admits the violation in a timely fashion after being confronted with the Anti-Doping Rule Violation by DFSNZ. As noted, Mr Yazici admitted that he had taken Ritalin immediately upon being notified of the Adverse Analytical Finding. The parties agree that the Tribunal could properly find that there was a timely admission by Mr Yazici in this case.
15. For these reasons, the parties respectfully submit that it would be open to, and appropriate for, the Tribunal to impose upon Mr Yazici a period of two years ineligibility backdated to the date of sample collection, being 5 October 2019, for his breach of SADR 2.1.

Dated: 10 February 2020



---

Adam McDonald / Josie Beverwijk  
Counsel for the Applicant

---

Andrew McCormick  
Counsel for the Respondent



11. The parties agree and submit that, having regard to Mr Yazici's explanation for how the prohibited substance came to be in his system and the nature of the substance, it is properly available for the Tribunal to find that the violation was not intentional.

No change to period of ineligibility

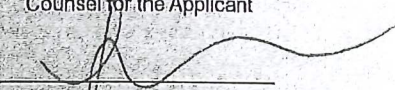
12. In this case, the parties agree and submit that there is no evidence that warrants reducing the period of ineligibility under r 10.5 or r 10.6.

Backdating

13. The starting point under the SADR is that the period of ineligibility should start from the date of imposition of the sanction. Any period of provisional suspension shall be credited against the total period of ineligibility served.
14. Rule 10.11.2 allows the period of ineligibility to start earlier where the athlete admits the violation in a timely fashion after being confronted with the Anti-Doping Rule Violation by DFSNZ. As noted, Mr Yazici admitted that he had taken Ritalin immediately upon being notified of the Adverse Analytical Finding. The parties agree that the Tribunal could properly find that there was a timely admission by Mr Yazici in this case.
15. For these reasons, the parties respectfully submit that it would be open to, and appropriate for, the Tribunal to impose upon Mr Yazici a period of two years ineligibility backdated to the date of sample collection, being 5 October 2019, for his breach of SADR 2.1.

Dated:

\_\_\_\_\_  
Adam McDonald / Josie Beverwijk  
Counsel for the Applicant

  
\_\_\_\_\_  
Andrew McCormick  
Counsel for the Respondent

  
\_\_\_\_\_  
Batuhan Yazici  
Respondent