
Decision of the National Anti-Doping Disciplinary Panel.

Case Ref: 1/2019

Anti-Doping Commission (Malta)

-vs-

**Kurt Butters (ID No. 223798M) -
member of the Malta Judo
Federation**

Ref: 1TSTKURBUT-18

The National Anti-Doping Disciplinary Panel (hereinafter referred to as the 'Panel') consisting of Dr. Maria Azzopardi LL.D. as Chairperson,, Prof Janet Mifsud (Clinical Pharmacology and Therapeutics) and Mr. Mark L. Zammit (Clinical Pharmacology and Therapeutics)) as members.

Before the commencement of this proceeding, the Chairperson and members of the Panel declared that they are not subject to any circumstance or conflict that could negatively affect their impartiality in the case under review.

The athlete was present at the hearing and admitted the alleged anti-doping rule violation.

1. Preliminaries:

Considered the Request by the National Anti-Doping Commission dated the 1st February 2019 to the Chairperson of the Panel to schedule a sitting for the hearing of a case concerning the alleged breach by Kurt Butters of the Anti-doping Regulations (Legal Notice 17 of of 2015, Sports Act, Chapter 455, Laws of Malta).

Took note and reviewed the following documents that were forwarded to the Panel at the initial stage by the Coordinator of the Anti-Doping Programme, namely:

- (i) The request by NADO to the Panel to schedule a hearing dated the 1st February 2019;
- (ii) Letter of Notification by NADO to Kurt Butters, Malta Judo Federation and WADA of the alleged violation of the Anti-Doping Rules dated the 10th February 2019;
- (iii) The Doping Control Form dated 9th December 2018;
- (iv) The Test Report dated the 9th January 2019 reporting an Adverse Analytical Finding of Carboxy-THC, a Specified Substance in Competition;
- (iv) A letter dated the 30th January 2019 which confirms that the athlete has accepted the provisional suspension;
- (v) The Notification from the NADDP to the athlete dated 26th February 2019 whereby the athlete has been given the possibility to send written submissions;
- (vi) The written submissions of the athlete dated the 9th March 2019;
- (vii) The written submissions of NADO Malta dated the 22nd March 2019;
- (viii) The Notice of hearing from the NADDP dated the 25th April 2019;
- (ix) The written submissions from Mario Giuliano the Head Sensei, Kamikwai Judo Club.

Took note of the Notice sent to Kurt Butters and copied to NADO, Malta Judo Federation, SportMalta to appear before the Panel on the 3rd of May 2019 @ 1800 and answer to the accusation that a prohibited substance or its metabolites or markers (presence of a specified substance Carboxy-THC above the limit of 180 ng/mL as specified by WADA; Carboxy- THC

is classified under S8 as Cannabinoid in the 2018 WADA Prohibited List) was detected in the athlete's urine sample collected on the 19th December 2018 during the 2018 Judo National Championships.

2. Merits:

2.1 Took note of the evidence showing that the athlete produced a urine sample on the on the 19th December 2018 during the 2018 Judo National Championships and the Test Report dated the 9th January 2019 confirming an Adverse Analytical Finding. Moreover. Moreover, the athlete did not request a B Sample.

2.2 Took note of the written declaration of the athlete before the Panel whereby he admitted to the charges and apologised as well the Sensei's declaration.

2.3 Took note of NADO's written submissions on the finding which concerns a substance classed under S8 as specified stimulants according to the 2018 List of Prohibited Substances and such was found during an 'in competition' judo event.

3. Considerations:

3.1 The Panel considers the evidence produced confirm an analytical adverse finding in the urine sample submitted by the athlete. The Panel takes note of the admission to the charges of the athlete during before the hearing and the athlete's cooperation and repentance.

3.2 The Panel takes note that the provisional suspension was accepted by the athlete.

3.3 The Panel takes note of the declaration and *viva voce* submissions from the athlete confirming his apologies for his action and explaining that this was a mistake from which he has worked hard to quit any use of such substance. The athlete showed sincere remorse. NADO in its written declaration has confirmed it is satisfied that the merits of the case entitle a reduction in penalty. The Panel also takes into consideration the contents of the declaration of the

3.4 The Panel takes note that the substance involves a Specified Substance taken in competition and that taking into consideration the declaration of the athlete and that no further evidence was produced than the documentary evidence presented by NADO, there is no sufficient evidence to proof an intentional element. Thus, the Panel has reached a comfortable satisfaction that there is no proof on intention on part of the athlete to cheat.

3.5 The Panel took note of articles 3(2)(a), 11(4)(a) and 11(4)(b), 11(4)(d) of LN 17 of 2015.

4. Decision:-

Therefore on the basis of the above considerations, the National Anti-Doping Disciplinary Panel rules that:

4.1 Kurt Butters has breached the Anti-Doping Regulations, 2015 [Art. 3(2)(a)] and WADA Code Art. 2.1, whereby the presence of a prohibited substance or its metabolites or markers has been found in the athlete's urine sample A that had been collected from him on the 9th December 2018.

4.2 And therefore the National Anti-Doping Disciplinary Panel as provided under Art 11(2) (b) and 11(4)(d)(iv) of the Anti Doping Regulations, 2015 and Art. 10.6.4 of the WADA Code is imposing on the athlete Kurt Butters a suspension of ineligibility from any sports activities for a period of one (1) year commencing from the 30th January 2019 (the date of the provisional suspension).

4.3 A copy of this decision is to be forwarded to the Malta Judo Federation.

This decision is subject to an Appeal under L.N.17 of 2015, Anti Doping Regulations 2015.

Dr. Maria Azzopardi LL.D
Chairperson

Prof. Janet Mifsud
Member

Mr Mark L. Zammit
Member

This 22nd day of May 2019.