

DISCIPLINARY HEARING

IN THE INDEPENDENT DOPING HEARING PANEL

established in terms of rule 8.1 of the Anti-Doping Rules made under
the South African Institute for Drug-Free Sport Act, 1997 (Act 14 of 1997)

HELD ON 11, 12 AND 18 SEPTEMBER 2018

AT THE TUKSSPORT ATHLETICS CLUBHOUSE, PRETORIA

In the matter of:

South African Institute for Drug-Free Sport

Complainant

and

Ruann Visser

Respondent

Case no

SAIDS/2018/02

Before

Prof Steve Cornelius
Prof Denver Hendricks
Dr Dimakatso Ramagole
Mr Mandla Tshabalala

Chairperson
Panel Member
Panel Member
Panel Member

RULING

1. The Complainant was represented by Adv Jannie Lubbe SC and Ms Wafeekah Begg, who acted as the Prosecutors in this matter.

2. The Respondent was present in person and was represented by Adv Francois Strydom and his attorney, Mr Faan Nolte.

3. Mr Tsholofelo Lejaka, the Chief Executive Officer of Boxing South Africa attended part of the hearing as observer.

4. At the outset, the Panel wishes to express its appreciation to the Prosecutors and the Respondent's counsel for their thorough preparation and well drafted submissions.

Anti-doping rules violation

5. The following facts were common cause:

5.1 The Respondent is a boxer who participated in a national heavyweight title fight on 23 February 2018. As such, the respondent was subject to the rules of Boxing South Africa, the South African Sports Confederation and Olympic Committee and the South African Institute for Drug-Free Sport. At this event, the Respondent was requested to provide a urine sample for an in-competition test in accordance with South African Institute for Drug-Free Sport Anti-Doping Rules 2016 (the Rules).

5.2 The urine samples were submitted to the Doping Control Laboratory in Ghent (the Laboratory), which was, at the time, a laboratory accredited by the World Anti-Doping Authority (WADA).

5.3 An analysis of the A-sample returned an adverse analytical finding in that it revealed the presence of 3'OH-stanozolol-glucunoride, a metabolite of the exogenous anabolic androgenic steroid Stanozolol, in the A-sample.

6. Stanozolol and its metabolites are prohibited substances in terms of article 4.1 of the Rules read with the 2016 WADA List of Prohibited Substances and Methods (the WADA List) and are listed under category S1 Anabolic Agents and as such, do not constitute Specified Substances in terms of article 4.2.2 of the Rules.

7. Article 2 of the Rules provides inter alia:

"The following constitute anti-doping rule violations:

2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample

2.1.1 ...

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 (2) 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.

8. The Complainant notified the Respondent of the adverse analytical finding in a letter dated 16 April 2018 and, since Stanozolol and its metabolites are not specified substances in terms of article 4.2.2 of the Rules, the Respondent was provisionally suspended from participation in any sport as from the date of the notification.

9. On 23 April 2018, the Respondent requested an analysis of his B-sample. This analysis was performed by the Laboratory and confirmed the presence of 3'-OH-stanozolol-glucuronide as indicated in respect of the A-sample. The Respondent was informed of this result in a letter dated 14 May 2018.

10. At the hearing, the respondent denied the charge brought against him and the opening statement made on his behalf by Adv Strydom made it clear that the respondent would base his defence on various irregularities in the doping control process, as well as anomalies in the urine sample that arrived and was tested at the Laboratory.

11. The defence essentially averred that the urine samples provided to the SAIDS doping control officer at the in-competition test on 28 February 2018, were not delivered to the Laboratory intact. This raised two matters: Either the urine samples delivered to the Laboratory were not the urine samples which the respondent had provided to the doping control officer at the in-competition test on 28 February 2018, or if they were indeed the samples provided by the respondent as aforementioned, there were various possible ways in which the urine samples could have been contaminated.

12. The Complainant called various witnesses to present its case to the Panel. The first witness was Prof Peter van Eenoo, the head of the Laboratory, who sought to explain some of the anomalies in the urine samples received at the laboratory.

13. The complainant also called Mr Hilton Mitileni and Lt Col Narainsamy Pongum, who were respectively the lead doping control officer and doping control officer at the event on 28 February 2018, as well as Ms Kefilwe Mocwagole, the doping control administrator of the Complainant. Their evidence was presented to establish the procedure that was followed at the event in question. Their testimony, particularly under cross-examination, showed that from the outset, the doping control process at the event was fraught with difficulties. The problems began with the organisers of the event providing inadequate facilities to establish a proper doping control centre that was private and secure. The available ablution facilities were dirty and wet and the lead doping control officer had to intervene to have these clean up before the event.

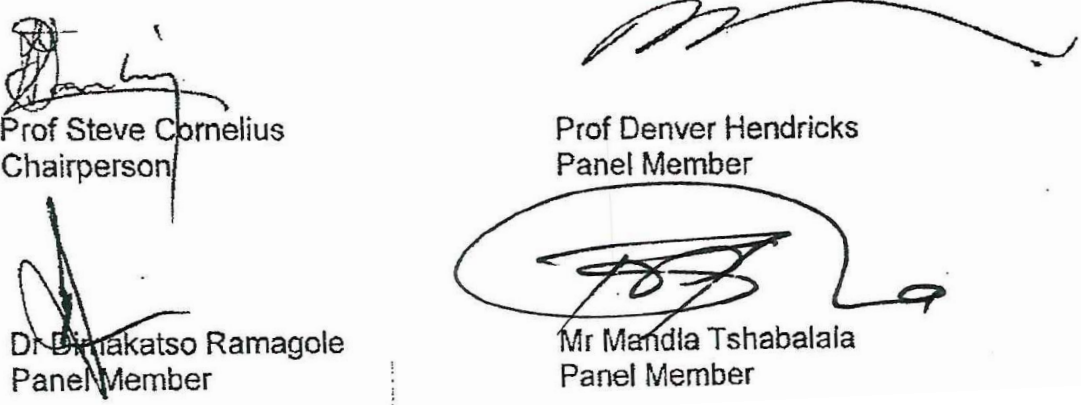
14. During cross-examination of the witnesses, it became apparent that there were various other deviations from the prescribed procedures. These included uncertainty regarding the number of sample collection kits that were available at the event, incomplete or improper completion of the doping control forms, uncertainty as to whether the Respondent or someone else had signed the doping control forms, insufficient supervision of the doping control station and the doping control process by the lead doing control officer, inappropriate handling of collected samples, leaving collected samples unattended during the event, insecure storage of samples after the event, as well as delays in dispatching the samples to the Complainant. There were also indications that the Complainant exercised inadequate control over sample collection kits and inventories of stock in the possession of doping control officers were only taken once per annum during the annual audit. This made the charge against the Respondent tenuous at best.

15. On 27 September 2018, the Complainant notified the Panel that it had re-evaluated the testimony presented by the witnesses and had decided to withdraw the charge filed against the Respondent and that the provisional suspension of the Respondent was lifted.

Finding on anti-doping rules violation

16. In view of the decision by the Complainant to withdraw the charge filed before the Panel against the Respondent, the Panel rules that the Respondent is acquitted of a violation of Article 2.1 of the Rules.

17. The Panel confirms that the provisional suspension of the Respondent is lifted.



Prof Steve Cornelius
Chairperson

Prof Denver Hendricks
Panel Member

Dr Dinkatso Ramagole
Panel Member

Mr Mandla Tshabalala
Panel Member

Pretoria
5 October 2018