

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF
WORLD ATHLETICS**

Before:

The Honorable L. Yves Fortier, PC, QC

BETWEEN:

WORLD ATHLETICS

Anti-Doping Organisation

and

OMAR CRADDOCK

Respondent

DECISION OF THE DISCIPLINARY TRIBUNAL

A. Introduction

1. I have been appointed to adjudicate a charge brought against Mr. Omar Craddock (the “Athlete”) in respect of an asserted Anti-Doping Rule Violation (“ADRV”) in connection with Whereabouts Failures within the meaning of Rule 2.4 of the World Anti-Doping Rules in force from 1 April 2020 (the “World Athletics Rules”). The charge was set out in a Notice of Charge dated 13 November 2020.

THE INDEPENDENT EXPERTS

2. World Athletics (“WA”), formerly the International Association of Athletics Federations (the “IAAF”), is the International Federation governing the sport of Athletics worldwide. It has its registered seat in Monaco. It is represented in these proceedings by the Athletics Integrity Unit (“AIU”) which has delegated authority for results management and hearings on behalf of WA pursuant to Article 1.2 of the 2019 Rules.
3. Mr. Omar Craddock is a 29-year-old triple-jump athlete from the United States of America, who competes at an elite level in international competitions.
4. At all material times, the Athlete was a member of USA Track and Field, the World Athletics Member Federation in the United States of America. In 2019, the Athlete competed in several Diamond League events and in the World Championships in Athletics in Doha, Qatar and has also competed in the USA Indoor Championships on 15 February 2020. It is common ground that he has been in the World Athletics Registered Testing Pool since 2014/2015, has received anti-doping training and has never returned a positive test.
5. By Notice of Charge dated 13 November 2020 (the "Notice of Charge"), the Athlete was charged by the AIU, acting on behalf of World Athletics, with an ADRV in violation of Rule 2.4 after three Whereabouts Failures within the 12-month period beginning 20 August 2019. The Notice provides as follows:

“Dear Mr Craddock,

This is a very important letter. It confirms a charge against you for a violation of the World Athletics Anti-Doping Rules (“ADR”). This may result in a ban from all sport for a significant period, disqualification of results and the forfeiture of any medals, titles, points and prize and appearance money. You should therefore give this letter your full and most urgent attention and we strongly advise you to seek legal advice.

Capitalised terms used but not defined in this letter have the same meaning as defined in the ADR.

1. Whereabouts Failures

1.1. The AIU is charging you with a violation of Rule 2.4 (Whereabouts Failures) for a total of three (3) Whereabouts Failures in the twelve-month period beginning 20 August 2019¹, in particular:

1.1.1. a Missed Test dated 20 August 2019;

1.1.2. a Filing Failure effective 1 April 2020; and

1.1.3. a Missed Test dated 29 July 2020.

1.2. The circumstances of these Whereabouts Failures are set out in detail below.

A. First Whereabouts Failure: Missed Test dated 20 August 2019

1.3. On 28 August 2019, the AIU wrote to you by e-mail requesting your explanation for an apparent Missed Test which occurred in Chula Vista on 20 August 2019. Your Whereabouts information stated that you would be available for testing at the following location between 06:00 and 07:00 on 20 August 2019:

“2800 Olympic Parkway, Chula Vista, California, 91915, US”.

1.4. In summary, a Doping Control Officer (“DCO”) and a Blood Collection Officer (“BCO”) attended and were able to access the above location provided in your Whereabouts information for 20 August 2019, but they were unable to locate you during the stipulated 60-minute timeslot.

1.5. You were asked to provide your explanation for failing to be available for Testing on 20 August 2019 by no later than 11 September 2019, in the absence of which the apparent Missed Test on 20 August 2019 would be confirmed against you.

¹ The AIU expressly reserves the right to amend and/or to add to the Charge at any time.

- 1.6. On 29 August 2019, the AIU received your response confirming that you did not dispute the apparent Missed Test on 20 August 2019. You stated that you were abroad in the Netherlands until 19 August 2019 before travelling the same day to Belgium and that *'the travel was made difficult through the airlines'*. You explained that, when you arrived in Belgium the only thing you wanted to do was to sleep and *'therefore I forgot to update it [your whereabouts]. I stayed there one day and left the 21st for Paris, and the days thereafter were updated'*. You thereby confirmed in your explanation that you were in Belgium on 20 August 2019 when your Whereabouts information recorded that you would be in California that day and available for testing between the hour of 06:00 and 07:00. When the DCO and BCO attempted to test you in Chula Vista during your 60-minute timeslot on 20 August 2019, they were unable to do so because you were in a different country and you had not updated your whereabouts accordingly².
- 1.7. On 17 January 2020, following a review of your explanation, the AIU confirmed the Missed Test on 20 August 2019 against you. You were afforded the right to request an administrative review of that decision by no later than 31 January 2020 and advised that, if you failed to do so, the Missed Test would be considered as a Whereabouts Failure for the purposes of Article 2.4 ADR.
- 1.8. You did not request an administrative review by 31 January 2020.
- 1.9. Therefore, the AIU recorded a Missed Test against you effective 20 August 2019.

B. Second Whereabouts Failure: Filing Failure Q2 2020 effective 1 April 2020

- 1.10. On 10 June 2020, the AIU wrote to you and asserted an apparent Filing Failure against you based on inaccuracies and insufficiencies in your Whereabouts information for the Q2 2020 period. In particular, the AIU considered that you had committed a Filing Failure, inter alia, because:

² You did make an update to your whereabouts on 21 August 2019 (US time) a day after the DCO and BCO had completed their attempt at Chula Vista to test you.

- (i) your Whereabouts information for the Q2 period was inaccurate in that it specified your training location, residence address and 60-minute time-slot at the Chula Vista Elite Athlete Training Center, Chula Vista, CA, a facility which had been closed due to the COVID-19 pandemic, and because it contained information relating to competitions that had already been cancelled;
- (ii) your Whereabouts information was also insufficient because the residence address given for the Chula Vista Elite Athlete Training Center ('2800 Olympic Parkway, Chula Vista, California') was lacking sufficient detail for a DCO to be able to locate you without providing advance notice, in particular, in relation to the requirement in Article 3.4 of Appendix A of the Regulations, which expressly requires that the information that you provide must "enable the DCO to [...] find the Athlete at the location" for Testing and on a No Advance Notice basis as set out in Article 2.22 of the Regulations; and
- (iii) your Whereabouts information was inaccurate and contradictory even after you had updated the information on 5 June 2020 (following several reminders from a USADA representative), specifically, because your 60-minute time slot was still stated to be in Chula Vista, CA, whilst your residence address was in Chandler, AZ.

1.11. On 14 June 2020 (local time in Monaco), the AIU received your explanation, and, on 25 June 2020 (local time in Monaco) the AIU received a letter in support of your explanation from your agent, Mr Lamont Dagen.

1.12. In summary, you disputed that your address in Chula Vista was insufficient because you had provided this address in the past and had never been difficult to locate for Testing on the basis of that information. You asserted that you are "entitled to a phone call within the hour for testing". You also stated that the inconsistent address information in your Whereabouts information was a "blemish", but failed to explain why this inaccurate information had been provided and also why it had not been updated (although Mr Dagen suggested that the circumstances of the COVID-19 pandemic should be taken into consideration).

- 1.13. You also explained that you had not updated your Whereabouts information immediately following your receipt of e-mails from a USADA representative because (i) you had not been informed that there was any urgent need to update your Whereabouts information by the USADA representative in the e-mails of 29 May 2020, 2 June 2020 or 5 June 2020 and (ii) that, over the weekend of 6/7 June 2020, you had been attending “peaceful protests”, and had therefore not updated your Whereabouts information to correct the inconsistent address information. Furthermore, you stated that the deadline given to you in our letter dated 10 June 2020 for you to update your Whereabouts information was 13 June 2020 and not 12 June 2020 and that you had filed the update to your Whereabouts information in accordance with that deadline.
- 1.14. On 7 August 2020, the AIU wrote to you after reviewing your explanation and the supporting information from Mr Dagen and confirmed a Filing Failure against you effective 1 April 2020.
- 1.15. The AIU concluded a Filing Failure against you because your explanation failed to provide any reason as to why your Whereabouts information for Q2 2020 (i) did not include the details of a new residence/training location and 60-minute time slot following your departure from the Chula Vista Training Center, (ii) included competitions that had been cancelled and (iii) still provided inaccurate and contradictory information regarding your training location following the update that you made on 5 June 2020.³
- 1.16. Your Whereabouts Filing for much of Q2 2020 was inaccurate, incomplete and contradictory and you failed to update your Whereabouts information as soon as possible after your circumstances changed. Moreover, following your belated update on 5 June 2020, your Whereabouts information was still inaccurate and contradictory because it indicated that you would be in Chula Vista from 06:00-07:00 and at the same time at a residential address in Chandler, AZ, between 08:00-11:30. This particular contradiction was

³ The AIU confirmed in its letter dated 7 August 2020 that it concluded that you were not negligent with respect to the asserted insufficiency of your Whereabouts for a DCO to locate you on an a No Advance Notice basis on the basis that you had provided the same information for that location in the past and had not been advised previously of its insufficiency for a DCO to be able to locate you on a No Advance Notice basis.

pointed out to you on more than one occasion by a representative of USADA, but you failed to remedy the situation until the AIU sent you a letter on 10 June 2020 to update the position by close of business on 12 June 2020. Even then, you failed to do so and when you did eventually update your Whereabouts information (late) on 13 June 2020, it still contained an inconsistency for 14 June 2020 (in that it gave the location for your 60-minute time-slot in Chandler, AZ from 06:00-07:00, but also that you would be in Chula Vista from 06:30AM-12:00PM (at an unspecified church location).

1.17. You were afforded the right to request an administrative review of the AIU's decision to confirm a Filing Failure against you by no later than Friday 21 August 2020.

1.18. On 19 August 2020, Mr Paul Greene advised the AIU that he had been retained to represent you in relation to the confirmed Filing Failure and requested an extension of seven days to request an administrative review of the AIU's decision to record a Filing Failure against you. The requested extension was granted.

1.19. On 28 August 2020, the AIU received your administrative review request via Mr Greene. In summary, your administrative review request was based on the following grounds:

- (i) You never tried to evade out-of-competition doping control and the discrepancies in your Whereabouts filing did not affect your availability for testing, as shown by the successful doping control conducted on 9 June 2020;
- (ii) You did your best to keep your Whereabouts information updated. You had no reason to believe that the update you made on 5 June 2020 was insufficient and were not on notice that your Whereabouts information was incorrect until the AIU notification on 10 June 2020;
- (iii) The circumstances that affected you during Q2 2020 (notably the COVID-19 pandemic, and your involvement in the Black Lives Matter movement, combined with your girlfriend's mother's health issues) were

exceptionally challenging and, as a result, the discrepancies in your Whereabouts Filing should not be deemed as a Filing Failure.

1.20. On 25 September 2020, the AIU wrote to you with the outcome of the administrative review request. The AIU determined that, despite your personal circumstances, the Filing Failure should be confirmed, effective 1 April 2020.

1.21. Indeed, as confirmed in correspondence from your legal counsel, Ms Lindsay Brandon, of 12 November 2020, you were at the Chula Vista Elite Athlete Training Center from 1 April 2020 until 24 May 2020, but you failed to indicate that you had moved from this address until the (insufficient and inaccurate) update that you made following the reminders from USADA and the AIU described above. The Filing Failure confirmed against you is therefore reinforced on the basis that your Whereabouts information was inaccurate for (at least) the period 24 May 2020 to 13 June 2020.

1.22. Therefore, the AIU recorded a Filing Failure against you effective 1 April 2020.

C. Third Whereabouts Failure: Missed Test dated 29 July 2020

1.23. On 1 August 2020, the AIU wrote to you by e-mail requesting your explanation for an apparent Missed Test which had occurred Chandler, Arizona on 29 July 2020. Your Whereabouts information stated that you would be available at the following location between 06:00 and 07:00 on 29 July 2020:

[REDACTED]

1.24. The DCO was unable to locate you for Testing between 06:00 and 07:00 on 29 July 2020 at the above location.

1.25. Whilst waiting at this location between 06:00 and 07:00 on 29 July 2020, it came to the DCO's attention from social media that you might be in California rather than Arizona. At the end of the time slot, the DCO spoke with you by telephone and you confirmed that you were indeed in Chula Vista, California.

- 1.26. You were asked to provide an explanation for failing to be available for Testing on 29 July 2020 by no later than 15 August 2020, in the absence of which the apparent Missed Test on 29 July 2020 would be confirmed against you.
- 1.27. On 4 August 2020, the AIU received your response confirming that you did not dispute the Missed Test on 29 July 2020. In your explanation, you admitted that, on 29 July 2020, you were not present and available for Testing at the time and location identified in your Whereabouts information for that day and that you were in a different location (Chula Vista, California, USA).
- 1.28. On 1 October 2020, the AIU wrote to you and confirmed the apparent Missed Test on 29 July 2020.
- 1.29. You were informed that the Missed Test dated 29 July 2020 constituted your third whereabouts failure in the twelve-month period beginning 20 August 2019 together with (i) the Missed Test dated 20 August 2019 and (ii) the Filing Failure effective 1 April 2020.
- 1.30. The AIU also informed you of your right to request an administrative review of the decision to confirm the Missed Test dated 29 July 2020 against you by no later than 15 October 2020 and advised you that, if you failed to do so, then it would be confirmed as your third Whereabouts Failure in the twelve-month period beginning 20 August 2019 for the purposes of Rule 2.4.
- 1.31. You did not ask for an administrative review by that deadline.
- 1.32. Therefore, the AIU recorded the Missed Test on 29 July 2020 against you as your third Whereabouts Failure in the twelve-month period which began on 20 August 2019.

2. Charge

- 2.1. Pursuant to the foregoing, and in accordance with Rule 7.6, the AIU is satisfied that you have committed an Anti-Doping Rule Violation and issues this Notice of Charge in accordance with Rule 8.

2.2. You are hereby charged with committing the following Anti-Doping Rule Violation (the “Charge”):

2.2.1. A combination of three Missed Tests and/or Filing Failures, as defined in the International Standard for Testing and Investigations, within the twelve-month period beginning on 20 August 2019, specifically for (i) a Missed Test dated 20 August 2019, (ii) a Filing Failure effective 1 April 2020; and (iii) a Missed Test dated 29 July 2020.

2.3. The documents enclosed with this Notice of Charge constitute the evidence that the AIU relies upon in support of the Charge. However, the AIU reserves its right to introduce further evidence in support of the Charge if it is deemed appropriate to do so, in particular, within the context of any proceedings before the Disciplinary Tribunal (the “Tribunal”).

2.4. The AIU also reserves the right to amend or expand the Charge (including, without limitation, to include additional Whereabouts Failures in the relevant twelve-month period).

3. Provisional Suspension

3.1. Pursuant to Rule 7.10.4, the Head of the Integrity Unit has exercised his discretion to impose a Provisional Suspension on you until this matter is fully determined. This means that, effective immediately, you are barred temporarily from participating in any Competition or activity prior to the final decision in this matter.

4. Publication

4.1. As an Athlete who is asserted to have committed an Anti-Doping Rule Violation, your identity shall be immediately Publicly Disclosed by the AIU (including the details of your Provisional Suspension) in accordance with Rule 14.3.1. At a minimum, this means that the information shall be placed on the AIU website.

5. Mandatory Consequences

- 5.1. The mandatory Consequences to be imposed upon you are specified below.
They include:

A. Disqualification of Results

- 5.2. Rule 10.8 provides that all competitive results obtained from the date that the Anti-Doping Rule Violation occurred through to the commencement of your Provisional Suspension shall be disqualified, including forfeiture of any medals, titles, ranking points, prize and appearance money unless the Disciplinary Tribunal (“the Tribunal”) determines that fairness requires otherwise.
- 5.3. The AIU considers that the Anti-Doping Rule Violation occurred on the date of your third whereabouts failure in the twelve-month period beginning, i.e., on 29 July 2020. Therefore, all competitive results from that date through to the beginning of your Provisional Suspension (i.e., 13 November 2020) shall be disqualified (with all associated Consequences).

B. Period of Ineligibility

- 5.4. Our records indicate that this is your first Anti-Doping Rule Violation. If the Charge is upheld, you shall therefore be subject to the period of Ineligibility set out in Rule 10.3.2 for a first violation, which is a period of Ineligibility of two years, beginning on the date that the decision imposing Consequences is issued in this matter, with credit for the period of Provisional Suspension from 13 November 2020 (provided that this is effectively served).

C. Publication

- 5.5. Once fully determined, the full details of this matter shall be immediately Publicly Disclosed by the AIU in accordance with Rule 14.3. At a minimum, this means that information regarding this matter shall be placed on the AIU website.

6. Next Steps

- 6.1. **You must now confirm how you wish to proceed with this matter by no later than Monday 23 November 2020:**

A. Proceeding Without a Hearing

- 6.2. You may admit the Charge and accept the mandatory Consequences set out in paragraph 5 above. In these circumstances, there would be no need for a hearing to take place. Instead, the AIU shall issue a final decision recording the imposition of the mandatory Consequences specified in paragraph 5 and shall Publicly Report that decision in accordance with Rule 14.
- 6.3. Rule 10.10.2(b) provides the AIU with discretion to backdate a period of ineligibility so that it is deemed to have commenced on the date of last occurrence of the Anti-Doping Rule Violation (i.e., 29 July 2020) where the Athlete promptly admits the Anti-Doping Rule Violation after being confronted with it by the AIU. However, this discretion to backdate is subject to the limitation that the Athlete must actually serve at least one half of the period of ineligibility imposed⁴.
- 6.4. If you would like to admit the Charge and accept the mandatory Consequences and request that the AIU exercise its discretion to backdate the period of ineligibility so that it is deemed to have commenced as early as 29 July 2020, you should contact the AIU by e-mail to rm@athleticsintegrity.org as soon as possible and by no later than Monday 23 November 2020.

B. Request a Hearing

- 6.5. You have the right to deny the Charge (or admit the Charge, but seek mitigation of the Consequences). In such circumstances, you have the right to request a hearing before the Tribunal for the matter to be determined.
- 6.6. Your request for a hearing must specify how you wish to respond to the Charge (i.e., whether you deny it or whether you admit it, but wish to seek mitigation of the Consequences).
- 6.7. If this matter proceeds to a hearing, the AIU will have the burden of proving the Charge to the comfortable satisfaction of the Tribunal. You will have the

⁴Any backdating of the period of Ineligibility to 29 July 2020 would also lead to all results obtained from that date being automatically disqualified.

opportunity to challenge the evidence put forward by the AIU and/or to introduce evidence of your own that you believe shows the AIU cannot meet/has not met its burden of proof.

- 6.8. You may seek a reduction in the period of Ineligibility of two years down to a minimum of one year depending on the degree of your Fault before the Tribunal.
- 6.9. If you would like these matters to be determined by the Tribunal (either because you deny the Charge or because you admit the Charge, but seek to mitigate the Consequences), you must submit a written request for a hearing to the AIU by e-mail to rm@athleticsintegrity.org and provide a copy to the Disciplinary Tribunal by e-mail to [REDACTED] as soon as possible, but in any event by no later than Monday 23 November 2020.

C. No Response

- 6.10. If you fail to respond to this Notice of Charge by Monday 23 November 2020, you will be deemed to have admitted the Charge and to have accepted the mandatory Consequences, which will include a period of Ineligibility of two years beginning on the date of your Provisional Suspension (i.e., 13 November 2020) and disqualification of your competitive results since 29 July 2020.
- 6.11. The AIU shall then issue a final decision recording the imposition of these Consequences and shall Publicly Report that decision in accordance with Rule 14.”

I trust that this letter is clear. We nevertheless remain at your disposal for any questions/clarifications you may have in relation to the application of the ADR or the procedures applicable to this matter.

I look forward to receiving your response to this Notice of Charge including confirmation of how you wish to proceed with this matter by no later than **Monday 23 November 2020.**”

6. As set out above in the Notice of Charge, the Athlete was provisionally suspended on 13 November 2020 pending determination of the alleged ADRV, pursuant to Rule 7.10.4, and notified of his right to admit the charge and/or request a hearing before the Disciplinary Tribunal.
7. On 23 November 2020, the Athlete denied the ADRV and requested a hearing before a Disciplinary Tribunal.
8. On 26 November 2020, I was appointed as sole Arbitrator for the Disciplinary Tribunal.
9. On 7 December 2020, I issued Directions setting out the dates for the Parties' pleadings and the hearing to be held on 23 February 2021, with 24 February as a reserve day.
10. On 7 January 2021, the AIU filed its Brief, together with a request for discovery of certain documents by the Athlete.
11. On 9 February 2021, I granted the AIU's request for discovery and directed the Athlete to produce the documents by 15 February 2021. I also directed the AIU to submit its Reply Brief by 19 February 2021.
12. On 17 February, pursuant to the Parties' agreement, I amended my Directions as follows:
 - The Athlete's production of the documents is due by COB on 18 February 2021
 - The AIU Reply brief will be filed by COB on 4 March 2021
 - The virtual hearing will be held on 25 and 26 March 2021"
13. On 11 March 2021, the date agreed by the Parties, the AIU submitted its Reply Brief.
14. On 25 March 2021, the hearing was held by videoconference. The following persons participated:

- Mr. Tony Jackson, Athletics Integrity Unit
- Mr. Ross Wenzel, Counsel for the AIU
- Ms. Olympia Karavasili, Athletics Integrity Unit
- Ms. Lindsey Stafford, USADA Testing and Athlete Services Manager
- Mr. Howard Jacobs, Counsel for the Athlete
- Ms. Lindsay Brandon, Counsel for the Athlete
- Mr Aaron Mojarras, Intern for Counsel for the Athlete
- Mr. Omar Craddock, Athlete
- Mr. Lamont Dagent, Athlete's agent
- Mr. Joshua Ingham-Headland, Disciplinary Tribunal Secretariat
- The Hon. L. Yves Fortier, PC, QC, Cabinet Yves Fortier, Sole Arbitrator
- Ms. Laurence Marquis, Cabinet Yves Fortier, Lawyer

15. On 9 April 2021, I admitted into the record a second witness statement by Ms. Lindsay Stafford regarding the Athlete's testimony at the hearing that he had attempted to login with the two-step login system to the USADA app from the Amsterdam airport on 19 August 2019.
16. On 13 April 2021, the Athlete submitted a second witness statement in reply to Ms. Stafford's statement. He admitted he had not attempted to log in to the USADA app with the two-step login system on 19 August 2019 and had been confused when he testified at the hearing.
17. On 16 April 2021, the parties filed their post-hearing submissions.

B. Applicable Rules and Jurisdiction

18. No issues were raised by the Parties with respect to the constitution or the jurisdiction of the Tribunal, the authority of the AIU or the application of the World Athletics Rules and the 2019 IAAF Rules to this matter. The AIU's authority rests on Articles 1.2 and 7.2 of the World Athletics Rules. Mr Craddock is an Athlete within the meaning of Article 1.6 and an International-Level Athlete within the meaning of Article 1.8. The Tribunal's jurisdiction is clearly set out in Article 8.1(a).

C. Issues before the Tribunal

19. As the Athlete only challenges his first Whereabouts Failure, the Missed Test of 20 August 2019, there are two issues before me.
20. Firstly, I must determine whether the AIU has established to my comfortable satisfaction that the Athlete committed a Whereabouts Failure on 20 August 2019 as he missed a test on that day.
21. If the AIU discharges its burden of proof, the Athlete will be presumed to have been negligent and he has the burden of rebutting that presumption by establishing, on a balance of probability, that he was not negligent.
22. Secondly, if I find that the Athlete committed a Whereabouts failure on 20 August 2019, this Missed Test will constitute his Third Whereabouts Failure in the twelve-month period beginning 20 August 2019 having regard to the Filing Failure of Q2 2020 and the Missed Test of 29 July 2020 which are not challenged.
23. I will then have to determine whether or not the two-year period of Ineligibility mandated by Article 10.3.2 of the World Athletics Rules should be reduced because of the Athlete's degree of Fault.

D. Relevant Provisions

24. The IAAF Anti-Doping Regulations in force from 1 January 2019 (“the 2019 Regulations”) apply to the Missed Test of 20 August 2019.
25. The World Athletics Rules and the World Athletics Anti-Doping Regulations (“the Regulations”) in force from 1 April 2020 (“ADR”) apply to procedural matters and to the alleged commission of the ADRV by the Athlete.
26. The 2019 Regulations implement the specific provisions of the WADA International Standard for Testing and Investigation (ISTI) in accordance with World Athletics’ obligation under Article 23.3 of the World Anti-Doping Code.
27. The following provisions of the World Athletics Rules are relevant to the present proceedings:

Rule 2.4: Whereabouts Failures

Any combination of three Missed Tests and/or Filing Failures, as defined in the International Standard for Testing and Investigations, within a twelve-month period by an Athlete in a Registered Testing Pool.

28. The Ineligibility Consequences of a violation under Rule 2.4 that is the Athlete's first anti-doping offence are set out in Rule 10.3.2:

Rule 10.3.2

The period of Ineligibility imposed shall be two years, subject to reduction down to a minimum of one year, depending on the Athlete's degree of Fault. The flexibility between two years and one year of Ineligibility in this Article is not available to Athletes where a pattern of last-minute whereabouts changes or other conduct raises a serious suspicion that the Athlete was trying to avoid being available for Testing.

29. Fault is defined as:

"Fault" Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or other Person is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in their career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Rule 10.5.1 or 10.5.2.

30. The relevant provisions of the ISTI are:

Missed Test: A failure by the Athlete to be available for Testing at the location and time specified in the 60-minute time slot identified in his/her Whereabouts Filing for the day in question, in accordance with Article I.4 of the International Standard for Testing and Investigations.

I.1.1 An Athlete who is in a Registered Testing Pool is required:

a) to make quarterly Whereabouts Filings that provide accurate and complete information about the Athlete's whereabouts during the forthcoming quarter, including identifying where he/she will be living, training and competing during that quarter, and to update those Whereabouts Filings where necessary, so that he/she can be located for Testing during that quarter at the times and locations specified in the relevant Whereabouts Filing, as specified in Article I.3. A failure to do so may be declared a Filing Failure; and

b) to specify in his/her Whereabouts Filings, for each day in the forthcoming quarter, one specific 60-minute time slot where he/she will be available at a specific location for Testing, as specified in Article I.4. This does not limit in any way the Athlete's Code Article 1.2 obligation to submit to Testing at any time and place upon request by an Anti-Doping Organization with Testing Authority over him/her. Nor does it limit his/her obligation to provide the information specified in Article I.3 as to his/her whereabouts outside that 60-minute time slot. However, if the Athlete is not available for Testing at such location during the 60-minute time slot specified for that day in his/her Whereabouts Filing, that failure may be declared a Missed Test.

I.3.5 Where a change in circumstances means that the information in a Whereabouts Filing is no longer accurate or complete as required by Article I.3.4, the Athlete must file an update so that the information on file is again accurate and complete. In particular, the Athlete must always update his/her Whereabouts Filing to reflect any change in any day in the quarter in question (a) in the time or location of the 60-minute time slot specified in Article I.3.2; and/or (b) in the place where he/she is staying overnight. The Athlete must file the update as soon as possible after the circumstances change, and in any event prior to the 60-minute time slot specified in his/her filing for the day in question. A failure to do so may be pursued as a Filing Failure and/or (if the circumstances so warrant) as evasion of Sample collection under Code Article 2.3, and/or Tampering or Attempted Tampering with Doping Control under Code Article 2.5. In any event, the Anti-Doping Organization shall consider Target Testing of the Athlete.

I.4.1 While Code Article 5.2 specifies that every Athlete must submit to Testing at any time and place upon request by an Anti-Doping Organization with Testing jurisdiction over him/her, in addition an Athlete in a Registered Testing Pool must specifically be present and available for Testing on any given day during the 60-minute time slot specified for that day in his/her Whereabouts Filing, at the location that the Athlete has specified for that time slot in such filing. A Failure to Comply with this requirement shall be pursued as an apparent Missed Test.
[...]

1.4.3 An Athlete may only be declared to have committed a Missed Test where the Results Management Authority can establish each of the following:

a) that when the Athlete was given notice that he/she had been designated for inclusion in a Registered Testing Pool, he/she was advised that he/she would be liable for a Missed Test if he/she was unavailable for Testing during the 60-minute time slot specified in his/her Whereabouts Filing at the location specified for that time slot;

b) that a DCO attempted to test the Athlete on a given day in the quarter, during the 60-minute time slot specified in the Athlete's Whereabouts Filing for that day, by visiting the location specified for that time slot;

c) that during that specified 60-minute time slot, the DCO did what was reasonable in the circumstances (i.e. given the nature of the specified location) to try to locate the Athlete, short of giving the Athlete any advance notice of the test;

d) that Article 1.4.2 does not apply or (if it applies) was complied with; and

e) that the Athlete's failure to be available for Testing at the specified location during the specified 60-minute time slot was at least negligent. For these purposes, the Athlete will be presumed to have been negligent upon proof of the matters set out at sub- Articles 1.4.3(a) to (d). That presumption may only be rebutted by the Athlete establishing that no negligent behaviour on his/her part caused or contributed to his/her failure (i) to be available for Testing at such location during such time slot and (ii) to update his/her most recent Whereabouts Filing to give notice of a different location where he/she would instead be available for Testing during a specified 60-minute time slot on the relevant day.

(All emphasis in these provisions is mine)

E. Burden and Standard of Proof

31. All matters that come before this Tribunal are subject to the general Burdens and Standards of Proof set out in Rule 3.1 of the World Athletics Rules:

World Athletics or other Anti-Doping Organisations shall have the burden of establishing that an Anti-Doping Rule Violation has been committed. The standard of proof shall be whether World Athletics has established the commission of the alleged Anti-Doping Rule Violation to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation that is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where these Anti-Doping Rules place the burden of proof upon the Athlete or other Person alleged to have committed an Anti-Doping Rule Violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability.

F. Position of the Parties

32. The evidence adduced and submissions made by the Parties are summarised below. While I have considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, I refer in this Decision only to the evidence and submissions I consider necessary to explain my reasoning.
33. The AIU submits that the 20 August 2019 Missed Test was a Whereabouts Failure and that the resulting asserted ADRV should be confirmed by the Tribunal. As the Athlete's degree of fault is high, the AIU requests that the Athlete serve the full two-year period of Ineligibility.
34. The Athlete's challenge of the asserted ADRV rests solely on the 20 August 2019 Missed Test. He does not challenge the Q2 2020 Filing Failure effective 1 April 2020 or the

Missed Test of 29 July 2020. If I find that he has committed an ADRV, the Athlete seeks a reduction of his period of Ineligibility from two to one year because his degree of Fault “falls at the very lowest end of the scale”⁵, and “under no circumstances should his sanction extend into 2022”.⁶

1) Missed Test of 20 August 2019

a. AIU’s Position

35. The AIU submits that the “Athlete’s defence, that he believed he had updated his Whereabouts information for 20 August 2019 as a travel day on 19 August 2019, is demonstrably untrue.”⁷ The real explanation is that the Athlete had simply forgotten to update his Whereabouts information for 20 August 2019, as he admitted in his email of 29 August 2019.

36. Ms. Stafford, in her First Witness Statement, wrote the following which she confirmed at the hearing:

10.1. there was no login activity (or attempted login activity) to either the website or the mobile application by the Athlete between 13 August 2019 and 20 August 2019;

10.2. on 20 August 2019, although the Athlete logged in to the mobile application (iOS Native App) at 07:12AM MST (14:12 CET), no Whereabouts update was submitted on that date; and

10.3. the Athlete logged in to the mobile application on 21 August 2019 at 07:34 MST (14:34 CET) and submitted a Whereabouts update via the mobile application at 07:43 MST (14:43 CET). The details of this Whereabouts update are indicated in the [Daily Updates] section of the Athlete’s Daily Updates PDF from that date, enclosed as Exhibit 2.⁸

⁵ Athlete’s Answer Brief dated 28 January 2021 [Athlete’s Answer], para 5.6, HB 715-738.

⁶ Athlete’s Post-Hearing Brief dated 16 April 2021 [Athlete’s Post-Hearing Brief], para 5.1.

⁷ AIU’s Post-Hearing Brief dated 16 April 2021 [AIU’s Post-Hearing Brief], para 34.

⁸ Witness Statement of Ms Lindsay Stafford, 8 March 2021, Exhibit 24 to the AIU’s Brief dated 7 January 2021, HB 686-691.

37. She also confirmed that “the first time that the Athlete set up the 2FA process for purposes of logging in to the USADA App was on 9 April 2020. Prior to that date, the Athlete did not receive any codes by SMS message and was not required to enter any such code to be able to log in to the USADA App”⁹ and that “the Athlete did not submit a password reset request in the period 19 - 20 August 2019.”¹⁰
38. The Athlete, avers the AIU, receives daily e-mail and SMS reminders with respect to his Whereabouts information for the following day.¹¹ The Athlete confirmed at the hearing he had received this email on 19 August 2019 although he contends that he did not read it.¹²
39. The AIU disputes the Athlete’s testimony that he could not update his Whereabouts information as he did not yet know when or where he would be in Brussels and Paris.
40. In fact, submits the AIU, the Athlete knew as of 10 August that he would be at the USATF Training Base in Leuven, Belgium on 19 August. As of 18 August, the Athlete knew he would be at the USATF Training Base on 19-20 August and would fly to Paris on 21 August.¹³ When he updated his Whereabouts information on 21 August, after his arrival in Paris, the time slot for that date had already passed.
41. As a result, submits the AIU, the Athlete was out of reach of any Anti-Doping Organisation for three (3) days; “from 07:00 on 19 August 2019 until 06:00 on 22 August 2019.”¹⁴
42. Therefore, concludes the AIU, the Missed Test on 20 August 2019 has been established as well as the negligence of the Athlete.

⁹ Ms Stafford Second Witness Statement dated 8 April 2021, paras 8-9.

¹⁰ *Ibid*, paras 8-9.

¹¹ AIU’s Reply Brief dated 10 March 2021, para 46, HB 30.

¹² Hearing Transcript of 25 March 2021 [Hearing Transcript], p. 61.

¹³ AIU’s Post-Hearing Brief, para 37. See also WhatsApp messages between the Athlete and Mr Dagen, Exhibit 8 to Athlete’s Answer, at HB 767-768.

¹⁴ AIU’s Post-Hearing Brief, para 59.

Athlete's Position

43. In brief, the Athlete maintains that he did not admit in his email of 29 August 2019 that he had forgotten to update his Whereabouts information for 20 August (his counsel wrote that it was “an informal response”)¹⁵ as he had, he believed, updated it from the airport in Amsterdam on 19 August while he was waiting to board a flight to Brussels listing 20 August as a travel day.
44. The Athlete recalls that his information was correctly updated for the days surrounding his travel and that only the 20 August 2019 travel day was incorrectly entered in the system. This, argues the Athlete, was due to the problems associated with the software used.¹⁶
45. The Athlete also submitted videos evidencing that the computer filing system and the agencies connected with it are defective. The software, argues the Athlete, frequently fails to save the whereabouts or inputs incorrect addresses (*i.e.* “Paris, California” rather than “Paris, France”).¹⁷
46. Finally, the Athlete also maintains that he was not in a position to update his information before 19 August. Mr Dagen, the Athlete’s agent, confirmed when he testified that he was only able to send him his plane ticket to Paris and hotel information after he had arrived in Brussels.¹⁸
47. In the alternative, the Athlete argues that his “degree of fault with respect to the 20 August 2019 missed test was low: he did not have 2 prior “strikes” (*i.e.*, there was no “high alert” requirement); he believed that his Whereabouts had been updated [...]; and he had encountered unforeseen travel difficulties [...].”¹⁹

¹⁵ Athlete’s Post-Hearing Brief, para 2.11.

¹⁶ See USADA v. Rollins (AAA No. 01-17-001-3244) [Rollins], para 8.4, Exhibit 24 to the Athlete’s Answer, HB 891-892.

¹⁷ Athlete’s Answer, para 5.5, HB 736.

¹⁸ *Ibid*, para 4.4.2, HB 730.

¹⁹ Athlete’s Post-Hearing Brief, para 5.7.

2) Filing Failure for Q2 2020

a. AIU's position

48. As extensively detailed in the Notice of Charge, the AIU contends that the Athlete committed a Filing Failure in Q2 2020. This is admitted by the Athlete.

49. The AIU's main contention is "that the Athlete was not at the CVEATC until 24 May 2020; rather, he left at the end of March 2020. The Athlete was therefore delinquent as to his Whereabouts information for a period of over two (2) months and put himself beyond the reach of Testing for that entire period."²⁰

50. In order to prove the Athlete's negligence for Q2 2020, the AIU adduced evidence which, it maintains, demonstrates that the Athlete was in Texas between March and May 2020, and not at the CVEATC in California.

51. At the hearing, counsel for the AIU cross-examined the Athlete in respect of his Instagram posts which suggest he was in Texas at that time:

- On 30 March 2020, in Mesquite, Texas, for a gym training;
- On 28 April 2020, in Dallas, Texas, distributing cupcakes for his birthday;
- On 5 June 2020, at Rock Round, Texas, for a youth sport event;
- On 20 June 2020, in Dallas, Texas, for a Juneteenth celebration.

52. He maintained at the hearing that these were "old pictures"²¹ but, despite requests from the AIU and my order, the Athlete did not provide time-stamped originals of these photographs.

b. Athlete's Position

53. The Athlete requests that, if I confirm the asserted ADRV, I should take into account a number of extenuating circumstances including the Covid-19 pandemic, the infection of

²⁰ AIU's Post-Hearing Brief, para 61.

²¹ Hearing Transcript p. 67.

his roommate with Covid-19, the murder of George Floyd, his involvement in the BLM movement and the health-issues of his future mother-in-law.

54. At the hearing, the Athlete testified that when Covid-19 became a pandemic, he found himself isolated at the training center. On 18 March 2020, the CVEATC restricted on-site access to residents only, closed all training facilities, and limited services to essential needs and, on 20 March, the state of California issued a statewide “shelter in place” order.²² The Athlete faced the impact of the pandemic on the sport, the cancellation of the Olympics, the stress he experienced when his roommate contracted Covid which, considered together, left him “in a preoccupied mental state”.²³
55. On 24 May 2020, “mentally overwhelmed”, he left the CVEATC to visit his fiancé and mother-in-law in Chandler, Arizona, and his mother, in Texas.²⁴ He did so without informing CVEATC personnel or updating his Whereabouts information, as “his main focus at the time was reuniting with family and preserving his peace of mind.”²⁵
56. On 25 May 2020, George Floyd was “tragically murdered by police in Minnesota, sparking months of massive protests and civil unrest in America (and across the globe), ultimately leading to a historic civil rights movement fighting against racism and police brutality.”²⁶ At the hearing, with videos demonstrating the sports community’s role in the wake of the BLM movement, the Athlete explained how he had “used his platform as an elite athlete to lead by example and speak out against these injustices”.²⁷
57. These factors, explained at length by Mr. Craddock when he testified, “form the quintessential basis of a “preoccupied mental state,” submits the Athlete’s counsel.

²² Athlete’s Post-Hearing Brief, paras 3.2-3.3.

²³ *Ibid*, para 5.4.

²⁴ *Ibid*, para 3.4.

²⁵ *Ibid*, para 3.4.

²⁶ *Ibid*, para 3.5.

²⁷ *Ibid*, para 3.5.

58. These “extenuating circumstances reasonably caused Mr. Craddock to overlook his Whereabouts obligations during this time. Thus they should significantly reduce Mr. Craddock’s degree of fault.”²⁸

59. Accordingly, the Athlete submits that his degree of Fault with respect to the Q2 2020 Filing Failure was low as “he was dealing with numerous emergencies/unforeseen events.”²⁹

3) Missed Test of 29 July 2020

a. AIU’s Position

60. The circumstances of the Missed Test on 29 July 2020 relate to the Athlete’s travel between Chandler, Arizona and San Diego, California.

61. At that time, submits the AIU, the Athlete had already been notified that he had two (2) Whereabouts Failures on his record. He should therefore have been on ‘red alert’³⁰ and exercise extreme caution with respect to the sufficiency and accuracy of his Whereabouts information to avoid committing a third failure.

62. The Athlete testified at the hearing that he had travelled in mid-July from Chandler, Arizona to San Diego, California in order to find an apartment. He did not update his Whereabouts information.³¹

63. In brief, the AIU submits that the Athlete was very negligent as he could easily have logged into the app and updated his Whereabouts.

64. The Athlete’s failure to update his Whereabouts at that time as he was travelling from one state to another is yet another demonstration of his significant negligence.

²⁸ *Ibid*, para 5.9.

²⁹ *Ibid*, para 5.10.

³⁰ AIU’s Post-Hearing Brief, para 68. See *World Athletics v. Deajah Stevens* (SR/092/2020) [Stevens], para. 71.

³¹ *Ibid*, para 69. Hearing Transcript, p. 79.

b. Athlete's position

65. The Athlete says very little to excuse his Missed Test of 29 July 2020.
66. He testified that he had tried to comply with his reporting obligations to the best of his abilities at a time when he was looking for a place to live and “bouncing in between different houses with friends”.³² He maintains that it was all very hectic and stressful.

G. Parties' Request for Relief

1) The AIU's Request for Relief

67. The AIU, on behalf of World Athletics, requests the following relief:
- (i) the Tribunal has jurisdiction to decide on the subject matter of this dispute;*
 - (ii) the Athlete has committed an anti-doping rule violation pursuant to Rule 2.4 of the World Athletics Rules;*
 - (iii) to impose a period of ineligibility of two (2) years upon the Athlete for the anti-doping rule violation, commencing on the date of the Tribunal's award;*
 - (iv) to give credit for the period of Provisional Suspension imposed upon the Athlete from 13 November 2020 until the date of the Tribunal's Award against the total period of ineligibility, provided that it has been effectively served by the Athlete;*
 - (v) to order the disqualification of any results obtained by the Athlete between 29 July 2020 and 13 November 2020 with all resulting consequences including the forfeiture of any titles, awards, medals, points and prize and appearance money pursuant to Rule 10.8 of the World Athletics Rules; and*

³² Hearing Transcript p. 79.

(vi) to award World Athletics a contribution to its legal costs.³³

3)The Athlete's Request for Relief

68. The Athlete requests the following relief:

For all of the foregoing reasons, Mr. Craddock submits that his 20 August 2019 Missed Test should be set aside. In the alternative, it is submitted that he is entitled to a significant reduction in any sanction should this Sole Arbitrator find a Whereabouts violation. It is submitted that any sanction imposed upon Mr. Craddock—who was provisionally suspended on 19 November 2020—should not extend beyond the end of 2021.³⁴

H. ANALYSIS

69. The Athlete only challenges one of the three Whereabouts Failures that have been asserted against him by the AIU, the Missed Test on 20 August 2019.

70. Accordingly, I will commence my analysis with a review of the evidence pertaining to this Missed Test.

71. According to his Whereabouts information for 20 August 2019, the Athlete was supposed to be at the Chula Vista Elite Athlete Training Center (the "CVEATC") in California and available for testing during the 60-minute timeslot from 06.00 to 07.00 that day.

72. The AIU arranged for the Athlete to be tested on 20 August 2019 at the CVEATC during that 60-minute timeslot. As the Athlete was then at the USA Track and Field (USATF) Training Base in Leuven, Belgium, the DCO was unable to locate him and thus filed an Unsuccessful Attempt Report.

³³ AIU's Reply Brief, para 68.

³⁴ Athlete's Post-Hearing Brief, para 6.1.

73. As noted earlier in the present Decision, when the Athlete received a notice from the AIU on 28 August 2019³⁵ of the 20 August 2019 Missed Test, he answered by email on 29 August 2019 as follows:

'Yes, I did miss the test.

As my whereabouts show everything was updated as I was in The Netherlands until the 19th.

I then traveled on the 19th to Belgium, but the travel was made difficult through the airlines. When I arrived in Belgium all I wanted to do was sleep, therefore I forgot to update it. I stayed one day and left the 21st for Paris, and the days thereafter were updated.

*I also added pictures to show the conversation about the difficulty with travel. Thanks, I hope this clears things up.'*³⁶

74. During the hearing, the Athlete retracted his admission of 29 August 2019 and testified that he “believed”³⁷ that he had updated his Whereabouts information for 20 August 2019 as a “travel day” from the airport in Amsterdam on 19 August 2019.

75. As noted above, in her First Witness Statement, Ms. Lindsay Stafford, the USADA Testing and Athlete Services Manager, asserted the following with supporting documentary evidence:

10.1. there was no login activity (or attempted login activity) to either the website or the mobile application by the Athlete between 13 August 2019 and 20 August 2019;

10.2. on 20 August 2019, although the Athlete logged in to the mobile application (iOS Native App) at 07:12AM MST (14:12 CET), no Whereabouts update was submitted on that date; and

³⁵ Exhibit 13 to the AIU’s Brief, Correspondence File Missed Test 20 August 2019, HB 493-504.

³⁶ *Ibid*, HB 505 My emphasis.

³⁷ Hearing Transcript p. 56.

10.3. the Athlete logged in to the mobile application on 21 August 2019 at 07:34 MST (14:34 CET) and submitted a Whereabouts update via the mobile application at 07:43 MST (14:43 CET). The details of this Whereabouts update are indicated in the [Daily Updates] section of the Athlete's Daily Updates PDF from that date, enclosed as Exhibit 2.³⁸

76. I must therefore consider and analyse very carefully the evidence of the Athlete with respect to his Missed Test of 20 August 2019.

77. During his cross-examination of the Athlete, Mr Wenzel asked him to explain how he could reconcile his reply to the AIU on 29 August that he had forgotten to update his Whereabouts on 20 August with his testimony under oath before me that he believed that, while at the airport in Amsterdam on 19 August, he had logged in to the USADA mobile app to update his Whereabouts, listing 20 August as a travel day.

78. I need to cite in full the exchange between Mr Wenzel and Mr Craddock on this crucial point:

RW: Just to be clear. Do you ... It's fine if you don't remember, but do you remember or not where you first checked your emails after you got off the flight?

OC: I told you I don't remember but I would believe that I may have checked it in the van while I was sitting there waiting for the other athletes until I got to the room and went to sleep.

RW: Now, what you said in your initial explanation which is that you arrived in Belgium and all I wanted to do was sleep, therefore I forgot to update it.

OC: Right.

RW: I forgot ... I forgot to update it.

OC: Right.

RW: How on earth ... how on earth, Mr Craddock is that consistent with what you've just told us? Which is that you were ... it appears either nearly certain or strongly believe that you'd updated it and here, nine days later, you're saying, "I forgot to update it." How is that ... how are we to understand?

³⁸ Witness Statement of Ms Lindsay Stafford, 8 March 2021, paras 10.1-10.3, HB 686-691.

HJ: I object, it's argumentative as phrased.

RW: Okay, what did you mean ... what did you mean when you said, "I forgot to update it"?

OC: Because as you see that it was not updated, that's all I just wanted to say. For the sake of responding to the email.

RW: Sorry, can you repeat that answer? I'm not sure I understood anything.

OC: For the sake of responding to the email I answered the email.

RW: So, you're, you're saying that when you said, "I forgot to update it," in fact you were saying something that you knew not to be true.

OC: I was answering the email.

RW: Well, just answer my question for the time being. When you said in the email, "I forgot to update it," you knew that not to be true, because in fact you were ... you were ... you were sure that you had updated your Whereabouts, is that what you're telling us now?

OC: It was, because I got contacted by my roommate when he told me that they were there to test me.

RW: Again, I'm not sure I've got an answer to my question. I'll, I'll try one more time. When you said on the 29th, "I forgot to update it," that ... you're talking about your Whereabouts, right? The, 'it,' is your Whereabouts.

OC: That's what we're talking about.

RW: Okay. So, when you said I forgot to update the Whereabouts, in fact, you, you knew that, that was not true. That was not what you believed.

OC: Because I had just found out already when my roommate told me that they were there to test me that it was not updated.

RW: But you don't say, "It didn't ... it wasn't updated," or, "My update didn't go through," you say, "I forgot to update it."

OC: Okay.

RW: Well, again ...

OC: (inaudible 191:03).

RW: You ... but you've told us today that you didn't forget at all. You did update it, you believed it had gone through ...

OC: That's correct.

RW: And so, why, nine days later are you saying that you forgot?
HJ: Object, he's answered this at least three times. Asked and answered.
YF: Objection dismissed.
RW: Please answer the question, Mr Craddock. Why are you saying that you forgot to update it?
OC: Because now that I'm in Leuven I wanted to sleep. So, I'm not thinking that I needed to update, I'm thinking about going to sleep.
RW: This is nine days later.
OC: (inaudible 191:43).
RW: This is nine days later and you're ...
OC: Right.
RW: ... confronted with this and you've told us that, in fact, you believed you had updated it.
OC: Correct.
RW: So, my, my question to you is why did you say you forgot to update it?
OC: I already believed that it was updated. Nine days later. I'm, I'm answering ... So, after nine days later for the sake of me answering the email I just wanted to answer the email.

79. Whereas counsel for the AIU submitted that the Athlete's explanation "makes no sense"³⁹, counsel for the Athlete submitted that his client's email on 29 August was "an informal response".⁴⁰

80. In respect of that crucial issue, I have, on the one hand, the evidence of Ms. Stafford whose testimony was straightforward and unwavering and whose Second Witness Statement was very clear and supported by key documents. On the other hand, I have the evidence of the Athlete which, as seen above, was vague and evasive. Despite being asked repeatedly by Mr. Wenzel to explain the inconsistency between his email of 29 August and his evidence at the hearing, the Athlete failed to provide a satisfactory explanation.

³⁹ AIU's Post-Hearing Brief, para 16.

⁴⁰ Athlete's Post-Hearing Brief, para 2.11.

81. The Athlete, confronted by an experienced counsel in the formal setting of a virtual court hearing, may well have been confused.⁴¹ Nevertheless, I accept the evidence of Ms. Stafford rather than the testimony of Mr. Craddock.
82. Having reviewed carefully the totality of the evidence with respect to the Athlete's Missed Test of 20 August 2019, I conclude that the Athlete, in his email of 29 August, did indeed admit that he had missed the test because he had forgotten to update his Whereabouts.
83. Accordingly, the AIU has discharged its burden of proof to my comfortable satisfaction that the Athlete, as he failed to update his Whereabouts, missed a test on 20 August 2019.
84. As to whether or not the Athlete acted negligently in respect to this missed test on that date, I have no hesitation in finding that his failure to be available for testing on 20 August 2019 during the specified 60-minute timeslot was due to his negligence.
85. In brief, the evidence on the record confirms the following.
86. The Athlete updated his Whereabouts information on 12 August indicating he would be in Den Haag from 13 to 19 August. He was aware as of 10 August, when his flights between Amsterdam and Brussels were booked by Mr Dagen, that he would stay at the USATF Training Base in Leuven, Belgium at least from the evening of 19 August. He could then have updated his information accordingly.
87. The WhatsApp exchange between the Athlete and Mr Dagen confirmed the flights discussed with the Athlete by phone on 18 August.⁴² Therefore, by 18 August at the very latest, the Athlete knew that he would be staying at the USATF Training Base in Leuven, Belgium overnight on 19 August and 20 August 2019, leaving for Paris on a flight from Brussels at 09:25am on 21 August. However, the Athlete still failed to update his Whereabouts information for 20 August 2019.

⁴¹ Post-Hearing Statement Witness Statement of Omar Craddock dated 13 April 2021, para 6.

⁴² See *supra* footnote 13.

88. The Athlete's update made at 15:36 CET on 21 August³⁷, following his arrival in Paris, was inadequate as the time slot for that date (06:00-07:00) had passed by the time of his update.
89. Therefore, the Athlete, through his negligence, put himself entirely out of reach of any Anti-Doping Organisation for three (3) days; from 07:00 on 19 August 2019 until 06:00 on 22 August 2019. He was, to say the least, very careless.
90. As the Athlete has not challenged the other two Whereabouts Failures mentioned in the Notice of Charge, I find that the Athlete is responsible for three Whereabouts Failures within the twelve-month period beginning 20 August 2019 and has thus committed an ADRV in violation of Rule 2.4 of the World Athletic Anti-Doping Rules.
91. As this is the Athlete's first anti-doping offence, the period of Ineligibility to be imposed "shall be two years, subject to reduction down to a minimum of one year, depending on the Athlete's degree of Fault".⁴³
92. For ease of reference, I now recall the definition of "Fault" in the World Athletics Rules:

***"Fault"** Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete or other Person's degree of Fault include, **for example, the Athlete's or other Person's experience, whether the Athlete or other Person is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk.** In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in their career, or the timing of the sporting calendar, would not be*

⁴³ See *supra* para 28, Rule 10.3.2 of the World Athletics Rules.

relevant factors to be considered in reducing the period of Ineligibility under Rule 10.5.1 or 10.5.2.

(emphasis added)

93. Before I proceed with my analysis of the Athlete's degree of Fault, I need to highlight two important matters which, although not pertinent to my finding of the Athlete's ADRV or available to explain his departure from the standard of behaviour expected of him in respect of each one of his "offences", have nevertheless influenced the flexibility and the discretion which I have to assess the Athlete's degree of Fault in this case.⁴⁴
94. These two matters are:
- (1) The Athlete has been a member of the World Athletics Registered Testing Pool since 2014/2015, has been tested many times, including during this 12-month period, and has never returned a positive test,⁴⁵ and
 - (2) There is no suggestion by the AIU that the Athlete was trying to avoid being available for testing during this 12-month period.
95. When assessing the Athlete's degree of Fault, I need to take into consideration the circumstances surrounding all three "offences".⁴⁶ The first sentence of the definition of Fault instructs my remit very clearly. It refers to "any breach of duty or any lack of care appropriate to a particular situation".⁴⁷
96. The Parties' submissions on the level of Fault and the resulting Ineligibility of the Athlete are set out above at some length. On the one hand, the AIU submits that the Athlete's degree of Fault is at the high end of the spectrum and that, due to the Athlete's "pattern of negligence", the Tribunal should not reduce the two-year sanction. On the other hand, the Athlete submits that his degree of Fault is at the low end of the spectrum and warrants a sanction closer to 12 months and "no further than the end of 2021".

⁴⁴ See *Stevens*, para 80.

⁴⁵ Omar Craddock Testing History, Exhibit 3 to Athlete's Answer.

⁴⁶ See *Coleman v. World Athletics* (CAS 2020/A/7528), [Coleman] at para 168(c).

⁴⁷ My emphasis.

97. As the *Stevens* Panel wrote, the “degree of fault has never been defined”.⁴⁸ But the article does provide some examples of factors which I can take into consideration in assessing the Athlete’s degree of Fault.
98. The article also provides me with some guidance as it directs me, in assessing the Athlete’s degree of Fault, to consider circumstances which “must be specific and relevant to explain the Athlete’s departure from his expected standard of behaviour”.⁴⁹
99. In the present case, the most important factor which I will take into account is the degree of risk that should have been perceived by Mr. Craddock with respect to each one of his three “offences” and the level of care which he should have exercised in each instance in relation to what should have been that perceived lack of risk.
100. In my assessment of the Athlete’s degree of Fault in connexion with each one of the Athlete’s three “offences”, I find very helpful, as the *Stevens* Panel did, to refer to the three “degrees of fault” identified by the CAS Panel in *Cilic*:⁵⁰
- a. Significant degree
 - b. Normal degree
 - c. Light degree
101. As the CAS Panel in *Coleman* pointed out, since Mr Cilic’s case was not dealing with Whereabouts matters, a calibration is required in those cases, such as the present one. In the words of the *Coleman* Panel, the levels of Fault in Whereabout cases are "high" (20-24 months, with a midpoint of 22 months), "medium" (16-20 months, with a midpoint of 18 months), and "low" 12-16 months, with a midpoint of 14 months).⁵¹
102. I will adopt these labels which I find appropriate and helpful.
103. Relying on the definition of Fault, the AIU submits that the degree of risk that should have been perceived by the Athlete is an objective standard.⁵²

⁴⁸ Attention this is not on the record. *Stevens*, para 77.

⁴⁹ My emphasis.

⁵⁰ *Stevens*, para 77.

⁵¹ *Coleman*, para 187.

⁵² AIU’s Post-Hearing Brief, para 46.

104. The Athlete submits that, in addition to the objective level of Fault, some subjective elements, such as the Athlete's "preoccupied mental state" should be taken into consideration and, if proven to my satisfaction, may "reduce an athlete's degree of fault".⁵³
105. While the objective elements of the Athlete's standard of behaviour must be paramount in my determination of his degree of Fault, I will also consider and weight some subjective elements if I find that these elements impacted his behaviour and contributed to his "offence".⁵⁴
106. For ease of reference, I recall Article 1.7 of the World Athletics Rules which provides that "All Athletes ... shall be responsible for knowing what constitutes an Anti-Doping Rule Violation under these Anti-Doping Rules" and those articles of the ISTI which set out the obligation of the Athlete with respect to his Whereabouts Filings.⁵⁵
107. With respect to the Missed Test of 20 August 2019, I have already decided that the Athlete was liable for that missed test as he admitted, 9 days after his failure to update, that he had forgotten to do it.
108. I have also opined, having regard to his failure to explain to my satisfaction the inconsistencies between his admission in his email of 29 August 2019 and his testimony on 25 March 2021, that I preferred the evidence of Ms. Stafford rather than the testimony of Mr. Craddock on that crucial point.
109. Counsel for the AIU submits,⁵⁶ as to the Missed Test on 20 August 2019, that the Athlete should have appreciated a significant degree of risk as to the accuracy of his Whereabouts information due to his extensive travels during that month.

⁵³ Athlete's Post-Hearing Brief, para 5.4.

⁵⁴ See *Stevens* para 79.

⁵⁵ See *supra* para 30 ISTI I.1.1. and I.3.5.

⁵⁶ AIU's Post-Hearing Brief paras 47 to 60.

110. Mr Wenzel avers that, as the Athlete knew by 18 August that he would be staying at the USATF Training Base in Leuven, Belgium, overnight on 19 and 20 August, he could have updated his Whereabouts on that date.
111. The Athlete's counsel, on the other hand, pleads that the "difficulties surrounding Mr. Craddock's travel period around his 20 August 2019 Missed Test must be taken into consideration"⁵⁷ and that his degree of Fault was low.⁵⁸
112. With respect, I cannot agree with Mr. Jacobs. As is clear from the record, the Athlete travelled extensively during the month of August.⁵⁹ On 12, 21, 24, 25 and 27 August he duly submitted his Whereabouts updates while travelling. I see no valid reason which would explain his failure to discharge his obligation to update his Whereabout on 19 August and thereby avoid the Missed Test between 06:00 and 07:00 PST in Chula Vista, California on 20 August 2019.
113. In reaching my conclusion that the Athlete was negligent and that his level of Fault was high, I also attach a great deal of importance to the fact that when Mr Craddock received an email reminder from USADA on 19 August 2019 confirming that his Whereabouts information for 20 August 2019 was in Chula Vista, California, he testified that he did not read that email.
114. The Athlete's exchange with Mr. Wenzel on that issue follows:
- RW: And it didn't occur to you that it was strange that you hadn't received an email from USADA reflecting the update that you thought that you'd made?
- OC: I'm not ... I don't necessarily check for emails from USADA.
- RW: Do you remember seeing the email that USADA sent you on the 19th of August saying that you were going to be in Chula Vista the next day?
- OC: No.
- RW: But you received that email, correct?
- OC: It's possibly in my email, I'm sure it is.

⁵⁷ Athlete's Post-Hearing Brief, para 5.6.

⁵⁸ *Ibid*, para 5.7.

⁵⁹ Exhibit 1 to the Witness Statement Ms Lindsay Stafford 8 March 2021, HB 690-691

RW: Do you remember reading it?

OC: No.

RW: If you saw an email from, from USADA you would have opened it and read it, right?

OC: No.

RW: Why not?

OC: I, I only open the ones that say, like, that I've missed a test or something like that.

RW: Well, how would you know what would be in the email if you didn't open it?

OC: Because I believe the subject matter it would say Whereabouts or something like that, like, Whereabouts for tomorrow.

RW: So, you're telling me that you get emails with Whereabouts reminders and you just don't open them unless it's saying that you could have done something wrong or missed something. Is that your testimony?

OC: Correct.⁶⁰

115. The Athlete's answers, in my opinion, constitute convincing evidence of extreme carelessness and negligence on his part.

116. Therefore, in respect of that "offence", I conclude without any hesitation that the Athlete's degree of Fault is "high", at the highest end of the spectrum.

117. I now turn to the Filing Failure of Q2 2020 which the Athlete does not challenge. My remit in respect of that "offence" consists only in an assessment of his degree of Fault.

118. I have reviewed earlier in the present decision the chronology of the important facts which the Athlete has put forward to explain the reasons why he did not update his Whereabouts for 25 May 2020. I have also reviewed the evidence submitted by the AIU concerning that "offence".

119. I would have been assisted in my assessment of the Athlete's evidence as to when he left the CVEATC and whether or not he was in Texas or at CVEATC during the second

⁶⁰ Hearing Transcript pp 61-62.

quarter of 2020 if he had called as witnesses his then fiancée (now his wife), one or both of his CVEATC roommates, Toby and Hagan, a staff member of CVEATC or his friend Deja Young.

120. Any one of these persons could have corroborated his evidence that he was at the CVEATC until 24 May 2020.

121. But, as I just wrote, I need only assess Mr. Craddock's degree of Fault and, while I consider that the objective criteria of his Filing Failure during Q2 2020 seem to indicate that he was not at the CVEATC between March and May 2020, I have formed the view that, during that period, the Athlete lived through a series of very stressful events which can explain that he was distracted from his quotidian, though very important, responsibilities.⁶¹

122. I agree with Mr. Jacobs that, at this time, the Athlete had a "preoccupied mental state".

123. That mental state, in my judgment, impacted his behaviour and may explain, to a certain extent, why he overlooked his Whereabouts obligations.

124. These events include:

- The worldwide Covid-19 pandemic;
- The infection of his own roommate who contracted Covid-19;
- The uncertainty about the testing of athletes during these months;
- The cancellation of the World Indoor Championships;
- The postponement of the Tokyo Olympics; and
- Last, but not least, the murder of George Floyd.⁶²

125. I have a great deal of sympathy for the Athlete and I will take all of these unique, stressful and unforeseen events into account in assessing his degree of Fault.

⁶¹ See *Rollins* para 8.4. See also the Athlete's Post-Hearing Brief, paras 5.8., 5.8.1 and 5.8.2.

⁶² Hearing Transcript pp 45-46.

126. While I do not agree with the Athlete's counsel that Mr. Craddock's degree of Fault with respect to his Q2 2020 Filing Failure was low, I am comfortable in concluding that it has shifted from the highest end to the lowest level of that spectrum, and I so find.
127. It remains for me now to address the Athlete's Missed Test of 29 July 2020 which, I recall, he does not challenge.
128. I note that, in his Post-Hearing Brief, the Athlete's counsel chose not to make any submission with respect to this "offence".
129. For purposes of assessing his degree of Fault for this "offence", I need only mention that, at this time, the Athlete had been notified that he had missed a test on 20 August 2019⁶³ and that a Filing Failure had been registered on his record for Q2 2020.⁶⁴ In other words, the Athlete knew that he had two strikes against him and that a third strike before 20 August 2020 would make him liable to an ADRV and a 2-year period of Ineligibility.
130. Despite being on "red alert",⁶⁵ the Athlete, in July 2020, took two interstate trips between Chandler, Arizona and San Diego, California, without making any update to his Whereabouts. This led to his Missed Test on 29 July 2020.
131. Without any hesitation, I find that the level of risk that should have been perceived by the Athlete was very significant and that his level of Fault is at the highest level of the spectrum; it is high.
132. The AIU submits that, in view of all circumstances pertaining to each one of the three Whereabouts failures, the Athlete's level of Fault is "to say the least, significant"⁶⁶ and that there is no reason to reduce the two-year sanction of Ineligibility.
133. The Athlete's counsel, on the other hand, submits that his client "is entitled to a significant reduction" of the two-year period of Ineligibility and that "any sanction imposed upon Mr.

⁶³ Exhibit 13 to the AIU's Brief, Correspondence File Missed Test 20 August 2019, HB 510-512.

⁶⁴ Exhibit 14 to the AIU's Brief, Correspondence File Filing Failure Q2 2020, HB 513-516.

⁶⁵ See *Stevens* para 71.

⁶⁶ AIU's Post-Hearing Brief, para 10.

Craddock—who was provisionally suspended on 19 November 2020—should not extend beyond the end of 2021”.⁶⁷

134. I cannot agree with the Athlete’s counsel that, in my assessment of Mr. Craddock’s degree of Fault, I should not consider the three “offences” equally.⁶⁸
135. I note that Mr. Jacobs, in aid of this submission, refers to paragraphs 168(c) and 173 of the *Coleman* Decision. But, with respect, this is not what the *Coleman* Panel said. The Panel said that the circumstances of all the “offences” should be taken into account (168(c)) and that the focus on one of the “offences” in that particular case was because “the Panel was not in a position to form a considered view of [the other] incidents”.⁶⁹
136. The situation is altogether different in the present case as I am in a position to form a considered view of all three incidents, and I have done so.
137. With respect to the first and third incidents, I have found that the degree of Fault of the Athlete was high and at the highest level of this spectrum and, with respect to the second incident, I have found that the degree of Fault of the Athlete while high was at the lowest level of that spectrum.
138. Before I make my final determination of the Athlete’s overall degree of Fault and decide whether I should reduce the two-year sanction of Ineligibility, I need to recall that “Fault” means “any breach of duty”. The duties of an athlete are set forth in the World Athletics Rules, the Anti-Doping Regulation and in Annex 1 to ISTI reproduced above.⁷⁰
139. These duties of the Athlete who is in the Registered Testing Pool require him, first and foremost, to provide accurate and complete information about his Whereabouts and to update those Whereabouts Filings as necessary so that he can be located for testing at the times and locations specified in his Filings.

⁶⁷ Athlete’s Post-Hearing Brief, para 6.1.

⁶⁸ *Ibid*, para 5.3.

⁶⁹ See *Coleman*, para 173.

⁷⁰ *Supra* para 30.

140. This obligation of the Athlete is of the utmost importance and, in making my final determination, I cannot stress enough that the Athlete should, at all times, have perceived the level of risk that he was running by failing to update his Whereabouts Filings.
141. Even if he was in a “preoccupied mental state” during the second quarter of 2020 because of extenuating circumstances for which I have given him credit, I cannot overlook my conclusion that his testimony, with respect to his Missed Test of 20 August 2019, was vague and evasive and that he failed to adduce evidence that could have corroborated some crucial facets of his testimony with respect to his Filing Failure of Q2 2020.
142. As other Panels have done⁷¹, I have also taken into consideration the fact that this is Mr. Craddock’s first offence, that he has a clear record after years of testing and that there is no suggestion by the AIU that he was trying to avoid testing during this period.
143. I have come to the conclusion that, while “high”, he has moved the needle ever so slightly from the highest to the lowest level of that spectrum.
144. Accordingly, the Athlete’s period of Ineligibility will be reduced from 24 to 20 months.
145. As the Athlete has been provisionally suspended since 13 November 2020, I agree that his 20-month period of Ineligibility should run from that date.
146. The Athlete’s 20-month period of Ineligibility will thus run from 13 November 2020 until midnight on 13 July 2022.

Disqualifications of Results and Other Consequences

147. The AIU has requested that the Athlete’s results between 29 July 2020 and 13 November 2020 should be disqualified.

⁷¹ See *Rollins*, para 8.4, *Stevens* para 80.

148. Article 10.8 governs the Disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation. It provides as follows:

In addition to the automatic Disqualification, pursuant to Article 9, of the results in the Competition that produced the Adverse Analytical Finding (if any), all other competitive results of the Athlete obtained from the date the Sample in question was collected (whether In-Competition or Out-of-Competition) or other Anti-Doping Rule Violation occurred through to the start of any Provisional Suspension or Ineligibility period shall be Disqualified (with all of the resulting consequences, including forfeiture of any medals, titles, ranking points and prize and appearance money), unless the Disciplinary Tribunal determines that fairness requires otherwise.

149. Having determined that the Athlete committed an ADRV, I find that the Athlete's results, if any, between 29 July 2020 and 13 November 2020 should be disqualified and any medals, titles, ranking points and prize and appearance money he may have earned should be forfeited.

Costs

150. I do not consider it appropriate to make any award of costs, as no submissions were made by either Party in that respect.

I. ORDER

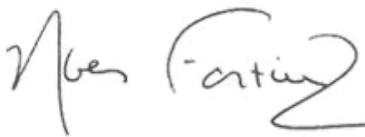
151. Having examined and weighted the totality of the evidence, I rule that:

(i) I have jurisdiction to decide the subject matter of this dispute;

(ii) Mr. Craddock has committed an Anti-Doping Rule Violation under Rule 2.4 of the World Athletics Anti-Doping Rules;

- (iii) The provisional suspension imposed on the Athlete as of 13 November 2020 will be taken in consideration and given as credit towards the Athlete's period of Ineligibility;
- (iv) Mr. Craddock shall serve a period of Ineligibility of twenty (20) months commencing on 13 November 2020 and ending at midnight on 13 July 2022;
- (v) Results obtained by the Athlete between 29 July 2020 and 13 November 2020 with all resulting consequences will be disqualified and any titles, awards, medals, points and prize and appearance money will be forfeited pursuant to Rule 10.8 of the World Athletics Rules;
- (vi) Each party shall bear its own costs.

152. Pursuant to the requirements of Article 8.9.2(d) of the World Athletics Rules, I inform the Parties that they have the right of appeal against this decision in accordance with Rule 13 of the World Athletics Rules. In accordance with Art. 13.7 of the World Athletics Rules parties shall have 30 days from receipt of this decision to lodge an appeal to the *Court of Arbitration for Sport ("CAS")*, located at *Château de Béthusy, Avenue de Beaumont 2, CH-1012 Lausanne, Switzerland* (procedures@tas-cas.org).



The Hon. Yves Fortier, PC, QC

Montreal, Canada

07 May 2021

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