

AMERICAN ARBITRATION ASSOCIATION

North American Court of Arbitration for Sport Panel

United States Anti-Doping Agency, Claimant

And

Torri Edwards, Respondent

Re: 30 190 00675 04

FINAL AWARD OF THE ARBITRATORS

WE, THE UNDERSIGNED ARBITRATORS, having been designated by the above-named parties, and having duly heard the proofs and allegations of the parties, and having issued an Interim Award on July 22, 2004, do hereby issue this Final Award, as follows:

THE PARTIES

1. Claimant, the United States Anti-Doping Agency (USADA) is the independent anti-doping agency for Olympic Movement sports in the United States and is responsible for conducting drug testing and adjudication of potential doping offenses pursuant to the United States Anti-Doping Agency Protocol for Olympic Movement Testing (the "USADA Protocol").

2. Respondent, Torri Edwards, is an elite sprinter who was the gold medalist in the 100 meter event at the 2003 World Championships. She recently qualified for the 2004 United States Olympic Team in the 100 and 200 meter events.

BACKGROUND AND PROCEDURAL HISTORY

3. On July 19, 2004, this Panel conducted a hearing pertaining to Respondent's positive doping test which occurred at the April 24, 2004 International Association of

Athletics Federations (IAAF) competition in Martinique known as the Meeting du Conseil Général.

4. At the hearing before this Panel, Respondent admitted that she had committed a doping offense through the ingestion of the prohibited stimulant nikethamide, but contended that exceptional circumstances existed which should result in the reduction or elimination of any period of ineligibility to be imposed in connection therewith.

5. Thus, as we noted in our interim award, "the only issue submitted to this panel [was] whether to impose the requisite sanction, or to find that there *may be* exceptional circumstances under [IAAF] Rule 38.12(iii)."¹

6. At the hearing, Respondent was given the opportunity to make a complete record regarding her claim of exceptional circumstances. She submitted documents and testified about the circumstances surrounding her ingestion of nikethamide and submitted to cross examination.

7. After hearing the evidence and the arguments of counsel presented at the hearing this Panel concluded "that exceptional circumstances may here exist" and that "referral to the IAAF pursuant to Rule 38.16 is the proper course of action."

8. Acting upon our referral, the Doping Review Board of the IAAF issued a determination dated August 3, 2004.

9. In its determination the IAAF Doping Review Board noted that it had reviewed our interim award, certain relevant correspondence, the exhibits presented at the hearing before this Panel and the transcript of the hearing before this Panel. That

¹ Our interim award dated July 22, 2004 is attached hereto. To the extent that it sets forth the background to this decision and covers issues not addressed herein, we incorporate our interim award herein by reference as if fully set forth.

determination notes that Claimant and Respondent were given the opportunity to submit to the Doping Review Board evidence not presented during the hearing before this Panel.

10. In addition, the IAAF Doping Review Board noted that it had obtained and reviewed the packaging of a box of Coramine Glucose manufactured by Novartis Santé Familiale (the brand of Coramine Glucose purchased for and used by Respondent), which was not made available at the July 19, 2004, hearing before this Panel.

11. A copy of these packaging materials was appended to the IAAF Doping Review Board's written determination.

12. The IAAF Doping Review Board summarized its conclusion on the question of the existence of "exceptional circumstances" as follows:

The Doping Review Board does not consider the circumstances of this case to constitute Exceptional Circumstances as required by IAAF Rule 38.12. By reason of the factors listed above, the Doping Review Board considers that Ms. Edwards is unable to establish that this anti-doping violation took place without significant fault or negligence on her part. On the contrary, in the Board's view, the athlete was at significant fault and, in consequence of this, there are no Exceptional Circumstances in this case.

13. By letter dated August 5, 2004, this Panel invited additional submissions by counsel for Claimant and Respondent on the outstanding issues in this matter.

DECISION

14. As noted in this Panel's interim award, the IAAF's new anti-doping rules were recently adopted (effective March 1, 2004), and at the time of the hearing, there was a "lack of precedent under these newly promulgated rules as to what may constitute 'no fault or negligence' under Rule 40.2 and 'no significant fault or no significant negligence' under Rule 40.3." We therefore referred that dispositive issue to the IAAF as provided in its Rule 38.16.

15. Having reviewed the written determination of the IAAF Doping Review Board, this Panel now adopts its reasoning and findings as our own.²

16. The presumptive sanction for Respondent's doping offense is a *minimum* two year period of ineligibility to run from the date of the hearing pursuant to IAAF Rule 40.1(a), and disallowance of results obtained between the date of her positive drug test and the date on which her period of ineligibility begins, as set forth in IAAF Rule 39.4.

17. USADA has not sought a sanction of longer than the minimum two year period of ineligibility mandated by IAAF Rule 40.1(a), and this Panel has been presented with no evidence reflecting that a lengthier period of ineligibility is warranted.

18. Under IAAF Rule 40.9, the period of ineligibility is to commence on the date of the hearing decision, except that any period of provisional suspension served by the athlete is to be credited against that period.

19. USADA has informed the Panel that Respondent agreed to serve a provisional suspension commencing upon completion of her last competition in the 2004 United States Olympic Trials on July 18, 2004.

20. Accordingly, pursuant to IAAF Rule 40.1(a)(i), the Panel hereby imposes a two year period of ineligibility upon Respondent to expire on July 17, 2006, and, in accordance with IAAF Rules 39.1 and 39.4, orders disqualification of all results obtained by Respondent at the April 24, 2004 competition in Martinique and all of Respondent's subsequent competitive results through the date of this decision, including the forfeiture of all titles, awards, medals, points and prize and appearance money received as a result of competitions or appearances occurring during this period.

21. Each party shall bear its own costs and attorney's fees.
22. The administrative fees and expenses of the American Arbitration Association and the compensation and expenses of the arbitrators shall be borne by Claimant.
23. This Award is in full settlement of all claims submitted to this arbitration. All claims not expressly granted herein are hereby denied.

Dated: August 10, 2004


Richard K. Jeydel, Chairman

Maidie E. Oliveau

Alan I. Rothenberg

² The written determination of the IAAF Doping Review Board is attached hereto and is incorporated herein by reference as if fully set forth.

21. Each party shall bear its own costs and attorney's fees.

22. The administrative fees and expenses of the American Arbitration Association and the compensation and expenses of the arbitrators shall be borne by Claimant.

23. This Award is in full settlement of all claims submitted to this arbitration. All claims not expressly granted herein are hereby denied.

Dated: August 10, 2004

Richard K. Jeydel, Chairman

Maidie E. Oliveau

Alan I. Rothenberg

² The written determination of the IAAF Doping Review Board is attached hereto and is incorporated herein by reference as if fully set forth.