

DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MS BLESSING OKAGBARE

INTRODUCTION

1. World Athletics has established the Athletics Integrity Unit ("**AIU**") whose role is to protect the integrity of the sport of Athletics, including fulfilling World Athletics' obligations as a Signatory to the World Anti-Doping Code ('the "**Code**"). World Athletics has delegated implementation of the World Athletics Anti-Doping Rules ("**ADR**") to the AIU, including but not limited to the following activities in relation to International-Level Athletes: Testing, Investigations, Results Management, Hearings, Sanctions and Appeals.
2. Ms Blessing Okagbare is a 33-year-old Nigerian sprinter and is an International-Level Athlete for the purposes of the ADR ("the **Athlete**")¹.
3. This decision is issued by the AIU pursuant to Rule 8.5.6 ADR, which provides as follows:

"8.5.6 In the event that the Athlete or other Person either (i) admits the violation and accepts the proposed Consequences or (ii) is deemed to have admitted the violation and accepted the Consequences as per Rule 8.5.2(f), the Integrity Unit will promptly:

- (a) issue a decision confirming the commission of the violation(s) and the imposition of the specified Consequences (including, if applicable, a justification for why the maximum potential sanction was not imposed);*
 - (b) Publicly Report that decision in accordance with Rule 14;*
 - (c) send a copy of the decision to the Athlete or other Person and to any other party that has a right, further to Rule 13, to appeal the decision (and any such party may, within 15 days of receipt, request a copy of the full case file pertaining to the decision)."*
4. This decision concerns anti-doping rule violations committed by the Athlete pursuant to Rule 2.3 (Evading Sample Collection) and Rule 2.5 (Tampering or Attempted Tampering with any part of Doping Control by an Athlete). The Athlete has previously been found to have committed anti-doping rule violations pursuant to Rule 2.1 and Rule 2.2 (and to have committed other breaches of the ADR) in a decision of the World Athletics Disciplinary Tribunal ("the **Tribunal**") dated 14 February 2022².

¹ <https://worldathletics.org/athletes/nigeria/blessing-okagbare-14292330>

² See [World Athletics v. Blessing Okagbare SR/287/201](#) available [here](#).

THE ATHLETE'S COMMISSION OF RULE 2.3 AND RULE 2.5 VIOLATIONS

5. The Athlete's Whereabouts information registered for 13 June 2021 in ADAMS stated that she would be available for Testing between 05:00 and 06:00 at an address in Jacksonville, Florida, ("the **Florida Address**").
6. On 13 June 2021, a Doping Control Officer ("**DCO**") was authorized by the AIU (on behalf of World Athletics) to undertake Out-of-Competition Testing on the Athlete based on the whereabouts information provided for that day. The DCO made attempts to locate the Athlete at the Florida Address during the one-hour timeslot between 05:00 and 06:00, but the Athlete could not be located.
7. On 17 June 2021, based on the above circumstances, the AIU notified the Athlete of an apparent Whereabouts Failure and invited her to provide an explanation for her unavailability for Testing on 13 June 2021, by no later than 1 July 2021.
8. Four days after the attempted Out-of-Competition Test at the Florida Address, on 17 June 2021, the Athlete participated in the Nigerian Olympic Trials in Lagos, Nigeria, and finished in 1st place in the final of the women's 100m in a time of 10.63 (+2.7 wind). On 19 June 2021, the Athlete participated in the Women's 4x100m relay event at the Trials where the team also finished in 1st place.
9. On 20 June 2021, a urine Sample was collected from the Athlete Out-of-Competition in Lagos, Nigeria (the "**Urine Sample**").
10. On 1 July 2021, the Athlete submitted her explanation for the apparent Whereabouts Failure that occurred on 13 June 2021. In summary, the Athlete claimed that she was present at the Florida Address between 05:00 and 06:00 on 13 June 2021 but alleged that the DCO had failed to knock on her door with sufficient force to wake her up and that the DCO had therefore failed to make a reasonable attempt to locate the Athlete for Testing.
11. On 8 July 2021, following review of the Athlete's explanation, the AIU wrote to the Athlete concluding that her explanation was insufficient to demonstrate that no negligence on the Athlete's part had caused or contributed to her failure to be available for Testing at the Florida Address on 13 June 2021. The AIU confirmed a Whereabouts Failure against the Athlete accordingly and the Athlete did not request an Administrative Review of that decision.
12. On 19 July 2021, a blood Sample was collected from the Athlete Out-of-Competition in Samorin, Slovakia, (the "**Blood Sample**").
13. On 31 July 2021, the Athlete was notified that analysis of the Blood Sample had revealed the presence of human growth hormone ("**hGH**" or "**GH**") (the "**hGH Adverse Analytical Finding**") and that a Provisional Suspension had been imposed on the Athlete with immediate effect in accordance with Rule 7.4.1. The Athlete was duly invited to provide an explanation for the hGH Adverse Analytical Finding.
14. On 20 August 2021, the AIU notified the Athlete that analysis of the Urine Sample had revealed the presence of recombinant erythropoietin ("**EPO**") (the "**EPO Adverse Analytical Finding**") and invited the Athlete to provide her explanation.

15. Following receipt of the Athlete’s explanations for the hGH Adverse Analytical Finding and the EPO Adverse Analytical Finding, in which she denied any knowledge whatsoever as to how they had occurred, the Athlete was interviewed by representatives of the AIU on 15 September 2021. During this interview, the Athlete refused to comply with the AIU’s Demand for the copying and/or downloading of her electronic storage devices (i.e., her mobile telephone), in breach of Rule 5.7.7 ADR.
16. On 20 September 2021, therefore, having satisfied itself that the Athlete had committed anti-doping rule violations pursuant to Rule 2.1 and Rule 2.2 ADR (as well as further breaches of the Rules for the Athlete’s refusal to comply with the Demand at interview), the AIU issued the Athlete with a Notice of Charge in accordance with Rule 8.5.1 and Article 7.1 ISRM (“the **First Charge**”).
17. On 2 October 2021, the Athlete requested a hearing before the Tribunal to determine the anti-doping rule violations and other breaches of the Rules set out in the First Charge.

A. US CRIMINAL PROCEEDINGS

18. On 12 January 2022, the United States Department of Justice issued a public release announcing the unsealing of the first Federal criminal charge under the Rodchenkov Anti-Doping Act, signed into law in the US on 4 December 2020, which proscribes doping schemes at international sports competitions, including the Olympic Games³.
19. The public release included a copy of a Complaint (signed by Special Agent Ryan Serkes of the Federal Bureau of Investigation [FBI]) which alleged that one Mr Eric Lira (“**LIRA**”), a “naturopathic” therapist operating principally in El Paso, Texas, had obtained various performance enhancing drugs (“**PEDs**”) and distributed those PEDs to certain athletes in advance of, and for the purpose of cheating at, the Tokyo 2020 Olympic Games (“the **Complaint**”)⁴.
20. In particular, the Complaint referred to LIRA and to two (2) Athletes, identified therein as “Athlete-1” and “Athlete-2”.
21. Specifically, in relation to “Athlete-1”, the Complaint confirmed that:
 - 21.1. “Athlete-1” had provided a blood sample Out-of-Competition on 19 July 2021 in Slovakia that reflected “Athlete-1’s” use of hGH⁵; and

³ See <https://www.justice.gov/usao-sdny/pr/first-olympic-anti-doping-charges-filed-manhattan-federal-court> (last accessed on 13 January 2022).

⁴ See a copy of the Complaint at: <https://www.justice.gov/usao-sdny/press-release/file/1462091/download>.

⁵ See para 11.a of the Complaint.

- 21.2. “Athlete-1” was Provisionally Suspended from the Olympic Games on or about 30 July 2021, including from the semi-finals of the women’s 100m event set to take place later that same evening⁶.
22. According to that information, and comparing it to the facts of the Athlete’s case with the AIU, in particular, the facts related to the collection of the Blood Sample and the Athlete’s subsequent Provisional Suspension by the AIU on 31 July 2021 from the Tokyo 2020 Olympic Games, the AIU concluded that “Athlete-1” referred to in the Complaint was the Athlete.
23. The Complaint also specifically detailed the nature of a written exchange between LIRA and “Athlete-1” (the Athlete) in the following terms⁷:

“On or about June 13, 2021, Athlete-1 wrote to LIRA, “So I took 2000iu of the E, yesterday, is it safe to take a test this morning?” LIRA replied “Good day [Athlete-1]...2000iu is a low dosage.” Athlete-1 replied further “Remember I took it Wednesday and then yesterday again / I wasn’t sure so I didn’t take a test / I just let them go so it will be a missed test.”

24. The AIU concluded that the foregoing exchange between the Athlete and LIRA on or around 13 June 2021 demonstrated that the Athlete knew that a DCO had attempted to locate her for Testing at the Florida Address on 13 June 2021 and that the Athlete knowingly and deliberately took steps to avoid that Testing, contrary to the Athlete’s position set out in her explanation for the Whereabouts Failure provided on 1 July 2021. As a result, the AIU opened an investigation into possible further anti-doping rule violations by the Athlete.

B. INVESTIGATION INTO THE CIRCUMSTANCES OF 13 JUNE 2021

25. On 14 January 2022, the AIU issued the Athlete with a Notice of Investigation requesting her explanation for the circumstances of the Whereabouts Failure on 13 June 2021 in view of the exchange of messages with LIRA as set out above⁸.
26. On 21 January 2022, the Athlete provided her written explanation to the AIU. The Athlete maintained that she had not heard the DCO on 13 June 2021 (as previously stated in her explanation from 1 July 2021). The Athlete also confirmed that, to the best of her knowledge, she did not have the conversation with LIRA set out in the messages identified in the Complaint.

⁶ See para. 11.b of the Complaint.

⁷ See para 12.i of the Complaint.

⁸ The Athlete was also issued with a Demand to provide the AIU with copies of the messages exchanged with LIRA on or around 13 June 2021 as referred to in the Complaint. In her response, the Athlete claimed that she no longer had those messages on her device to be able to provide them to the AIU in accordance with the Demand.

C. DETERMINATION OF THE FIRST CHARGE

27. On 31 January 2022, a hearing took place before a Sole Arbitrator of the Tribunal to determine the anti-doping rule violations and further breaches of the Rules asserted against the Athlete in the First Charge.
28. On 14 February 2022, the Sole Arbitrator of the Tribunal issued a decision in the matter (“the Decision”)⁹ which:
- 28.1. found that the Athlete had committed the anti-doping rule violations pursuant to Rule 2.1 ADR and Rule 2.2 ADR and the further breaches of the Rules as asserted by the AIU; and
- 28.2. imposed a period of Ineligibility of five (5) years against the Athlete for the anti-doping rule violations based on application of Rule 10.4 (Aggravating Circumstances that may increase the period of Ineligibility)¹⁰ and a period of ineligibility of five (5) years against the Athlete for other breaches of the Rules in accordance with Rule 12 (to be served consecutively, i.e., a total period of Ineligibility of ten (10) years).
29. The Decision confirmed that the Sole Arbitrator was comfortably satisfied that the Athlete was “Athlete 1” as described in the Complaint:

“109. The admissibility of evidence and its weight is a matter for the Tribunal. In that respect, the messages are contained in a court document, the content of which was sworn on oath before a judge to be true and accurate. That is reliable evidence. But those messages only have relevance as against the Athlete if she is part of the conversation. Put another way, she is “Athlete 1”.

110. The Tribunal is comfortably satisfied that the Athlete is the “Athlete 1” named in the FBI Complaint. The available evidence to establish that is compelling. It includes:

- a. At an address in Jacksonville, Florida a parcel addressed to “Athlete 1” was found. It contained hGH. The sender was “Mr Lira”. His number on the parcel matched the number saved in “Athlete’s mobile telephone as “Eric Lira Doctor” when it was examined by the FBI following her stop by Customs officers upon her return from the Olympic Games.*
- b. On 13 June 2021, “Athlete 1” queried in a message sent to Lira whether she was safe to take a test following a particular dosage, and because she was not sure about it she “just let them go so it will be a missed test”. The AIU attempted to test the Athlete during the Athlete’s specified 60-minute time slot (05:00-06:00) at an address in Jacksonville, FL, USA on 13 June 2021 in accordance with the information specified in the Athlete’s Whereabouts information in*

⁹ Ibid. footnote 2.

¹⁰At paragraphs 104-112 of the Decision, the Sole Arbitrator of the Tribunal determined that the following Aggravating Circumstances were present in the Athlete’s case: (i) Presence of multiple (two) Prohibited Substances, namely hGH and EPO on different occasions (ii) Use of the same two Prohibited Substances on multiple occasions and (iii) that both were taken intentionally and plainly as part of an organised doping regime.

ADAMS for that date. The Athlete was unavailable for Testing, which resulted in a Missed Test being confirmed against her.

- c. *“Athlete 1” underwent blood doping control in Slovakia on 19 July 2021, where they were preparing for the Tokyo Olympics. So did the Athlete.*
- d. *That doping control Sample returned a positive result for hGH, as did the Athlete’s.*
- e. *“Athlete 1” was provisionally suspended from Olympic competition on 30 July 2021, including from the upcoming women’s 100m semi-final event due to take place at the Tokyo Olympics, as was the Athlete.*

111. *All of which explains and is no doubt the derivation of the following. The letter from Victor Burgos, USADA Chief Investigative Officer to AIU dated 28 October 2021, which confirmed the FBI had imaged the Athlete’s mobile telephone also said this: “I am aware that Ms. Okagbare’s mobile device contained text messages in which Ms. Okagbare discusses procuring and using human growth hormone and EPO. The messages also indicate that Ms. Okagbare procured, or attempted to procure, prohibited substances for at least one other person, an athlete preparing for the 2020 Tokyo Olympic Track and Field trials, scheduled for July 2021.”*

30. The Athlete failed to challenge the Decision by way of an appeal to the Court of Arbitration for Sport and it therefore became final and binding as a matter of the ADR. In accordance with Rule 3.2.5 ADR, the AIU duly considered that the facts established in the Decision (including the Sole Arbitrator’s determination that the Athlete was “Athlete 1” as referred to in the Complaint) constituted irrefutable evidence against the Athlete.

D. THE SECOND CHARGE

31. On 10 June 2022, following a review of the above, including further investigation of the Athlete’s explanation for the circumstances of the Whereabouts Failure on 13 June 2021 as submitted by her on 21 January 2022, the AIU issued the Athlete with a Notice of Charge for committing further anti-doping rule violations as set out in the Rules (“the **Second Charge**”).

32. More particularly, the AIU confirmed that it remained satisfied, based on the exchange (between the Athlete and LIRA) on 13 June 2021 that the Athlete (i) was aware that an Anti-Doping Organization wanted to test her on that day and (ii) took steps intended to avoid being tested, which constituted Evading Sample Collection under Rule 2.3 and that the Athlete’s Evading Sample Collection on 13 June 2021 also constituted intentional conduct preventing the collection of a Sample¹¹ pursuant to Rule 2.5 (Tampering or Attempted Tampering with any part of Doping Control by an Athlete).

¹¹ The definition of Tampering in the ADR provides as follows (emphasis added):

*“Tampering: **intentional conduct that subverts the Doping Control process** but that would not otherwise be included in the definition of Prohibited Methods. **Tampering shall include, without limitation, offering or accepting a bribe to perform or fail to perform an act, preventing the collection of a Sample, affecting or making impossible the analysis of a Sample, falsifying documents submitted to an Anti-Doping Organisation or TUE committee or hearing panel, procuring false testimony from witnesses, committing any other fraudulent act upon the Anti-Doping Organisation or hearing body to affect Results Management or the**”*

33. Considering the Consequences already imposed by the Decision in relation to the determination of the First Charge (see paragraph. 28.2 above), the AIU specified in the Second Charge that it would seek the following Consequences (inter alia):
- 33.1. an additional period of Ineligibility of one (1) year to be added to the period of Ineligibility of five (5) years already imposed upon the Athlete for the anti-doping rule violations in the Decision, pursuant to Rule 10.4¹²;
 - 33.2. disqualification of results with all resulting consequences including forfeiture of any medals, titles, points, prize money and prizes since 13 June 2021 in accordance with Rule 10.10 ADR; and
 - 33.3. disqualification of the results of any relay team in which the Athlete competed since 13 June 2021 in accordance with Rule 11.3.1 ADR.
34. The Athlete was invited to respond indicating how she would like to proceed with the Second Charge by no later than 17 June 2022. The Athlete was also informed that, if she failed to respond by that date, the AIU would be entitled to deem that she had waived her right to a hearing, admitted the anti-doping rule violations and accepted the Consequences set out in the Second Charge, and that the AIU would thereafter issue a final decision in this matter.
35. The Athlete failed to respond to the Notice of Charge by the stipulated deadline of 17 June 2022.
36. On 20 June 2022, the AIU wrote to the Athlete affording her a final opportunity until close of business on 21 June 2022 to respond indicating how she wished to proceed with the Second Charge. The Athlete was specifically warned in the letter that, if she did not respond on this occasion, she would be deemed to (i) have waived her right to a hearing, (ii) have admitted the anti-doping rule violations, and (iii) accepted the Consequences in the Second Charge, including the disqualification of her results since 13 June 2021 (both individual and of any team in which she competed).
37. The Athlete failed to respond to the Notice of Charge by the final deadline of 21 June 2022.
38. The Athlete is therefore deemed to have waived her right to a hearing before the Tribunal, admitted the anti-doping rule violations and accepted the Consequences specified in the Second Charge in accordance with Rule 8.5.2(f) ADR.

imposition of Consequences, and any other similar intentional interference or Attempted interference with any aspect of Doping Control.

¹² The Sole Arbitrator of the Tribunal concluded that Aggravating Circumstances were present in the Athlete's case in relation to the anti-doping rule violations under Rule 2.1 and Rule 2.2 and increased the period of Ineligibility by a period of Ineligibility of one (1) year (of a maximum of up to two (2) years) in accordance with Rule 10.4. The AIU confirmed that it considered the anti-doping rule violations committed by the Athlete pursuant to Rule 2.3 and Rule 2.5 to constitute further Aggravating Circumstances in the Athlete's case (on the basis that committing multiple other anti-doping rule violations is expressly included within the definition of Aggravating Circumstances in the ADR) and that it would therefore seek an additional period of Ineligibility of one (1) year (up to the maximum of two (2) years permitted under Rule 10.4 ADR) due to the seriousness of the Athlete's conduct and the nature of the Aggravating Circumstances.

CONSEQUENCES

39. Together with the anti-doping rule violations pursuant to Rule 2.1 and Rule 2.2 confirmed in the Decision, the Athlete's anti-doping rule violations pursuant to Rule 2.3 and Rule 2.5 collectively constitute the Athlete's first anti-doping rule violation in accordance with Rule 10.9.3(a) ADR.
40. On the basis that the Athlete is deemed to have admitted the anti-doping rule violations under Rule 2.3 ADR and Rule 2.5 ADR and accepted the Consequences set out in the Second Charge, the AIU confirms by this decision the following Consequences for the anti-doping rule violations:
- 40.1. an increase of one (1) year to the period of Ineligibility of five (5) years already imposed upon the Athlete by the Tribunal in the Decision in accordance with Rule 10.4 ADR¹³;
 - 40.2. disqualification of the Athlete's results since 13 June 2021, with all resulting Consequences, including the forfeiture of any titles, awards, medals, points prizes and appearance money; and
 - 40.3. disqualification of the results of any relay team in which the Athlete competed since 13 June 2021 in accordance with Rule 11.3.1 ADR.

PUBLICATION

41. In accordance with Rule 8.5.6(b) ADR, the AIU shall publicly report this decision on the AIU's website.

RIGHTS OF APPEAL

42. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.
43. Further to Rule 13.2.3 ADR, the Athlete, the World Anti-Doping Agency ("**WADA**") and the Nigerian National Anti-Doping Committee have a right of appeal against this decision to the Court of Arbitration for Sport in Lausanne, Switzerland, in accordance with the procedure set out at Rule 13.6.1 ADR.

Monaco, 23 June 2022

¹³ The period of Ineligibility for the Athlete's anti-doping rule violations is therefore a period of six (6) years pursuant to Rule 10.4. Taken together with the period of Ineligibility imposed for the Athlete's other breaches of the Rules in the Decision, the period of Ineligibility is a total of eleven (11) years (commencing from 31 July 2021 until 30 July 2032).