



Issued Decision

Rugby Football Union and Taiye (Ryan) Olowofela

Disciplinary Proceedings under the Anti-Doping Rules of the Rugby Football Union

This is an Issued Decision made by the Rugby Football Union ('RFU') pursuant to the Anti-Doping Rules ('ADR') of the RFU. It concerns an Anti-Doping Rule Violation ('ADRV') committed by Mr Ryan Olowofela contrary to the ADR and records the applicable Consequences.

Capitalised terms used in this Decision shall have the meaning given to them in the ADR unless otherwise indicated.

Background and Facts

1. The RFU is the national governing body for rugby union in England. UK Anti-Doping ('UKAD') is the National Anti-Doping Organisation ('NADO') for sport in the United Kingdom. Pursuant to RFU Regulation 20, the RFU has adopted, as its own ADR, the UK Anti-Doping Rules in relation to all anti-doping activities carried out by UKAD.
2. Mr Olowofela is a 25-year-old rugby union player for Nottingham Rugby Football Club. At all material times in this matter, Mr Olowofela was subject to the jurisdiction of the RFU and bound to comply with the ADR. Pursuant to ADR Article 1.3.4(e), for the purposes of this case, UKAD has delegated Results Management responsibility to the RFU.

3. On 26 March 2023, UKAD Doping Control Personnel collected a urine Sample from Mr Olowofela In-Competition at a match between Nottingham RFC and Bedford Blues RFC.
4. Assisted by a UKAD Doping Control Officer in attendance, Mr Olowofela split the urine Sample into two separate bottles which were given the reference numbers A1184906 (the 'A Sample') and B1184906 (the 'B Sample').
5. Both Samples were transported to the World Anti-Doping Agency ('WADA') accredited laboratory in London, the Drug Control Centre, King's College (the 'Laboratory'). The Laboratory analysed the A Sample in accordance with the procedures set out in WADA's International Standard for Laboratories. Analysis of the A Sample returned Adverse Analytical Findings ('AAFs') for cocaine and its Metabolite, benzoylecgonine, at an estimated concentration of approximately 16ng/mL and 2.7µg/mL, respectively.
6. Cocaine is listed under section S6.A of the 2023 WADA Prohibited List as a Stimulant. It is a non-Specified Substance that is prohibited In-Competition only. Cocaine is also identified as one of four designated '*Substances of Abuse*' in the 2023 WADA Prohibited List.
7. Mr Olowofela does not have a Therapeutic Use Exemption ('TUE') for cocaine.
8. On 28 April 2023, UKAD sent Mr Olowofela a notification letter (the 'Notice Letter'). The Notice Letter confirmed the imposition of a Provisional Suspension and formally notified Mr Olowofela, in accordance with ADR Article 7.8, that he may have committed an ADRV pursuant to ADR Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample) and/or an ADRV pursuant to ADR Article 2.2 (Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method).
9. On 5 May 2023, Mr Olowofela acknowledged receipt of the Notice and admitted that he had ingested cocaine on Thursday 23 March 2023, Out-of-Competition.
10. On 9 May 2023, UKAD requested further information in relation to Mr Olowofela's ingestion of cocaine.
11. On 10 May 2023, Mr Olowofela responded to confirm the quantity of cocaine ingested, how it was ingested and the time of ingestion.

12. Further clarifications were requested by UKAD on 11 May 2023, to which Mr Olowofela responded to on the same day to confirm how many times cocaine was ingested.
13. On 11 May 2023 UKAD instructed Professor David Cowan OBE, Professor Emeritus in Pharmaceutical Toxicology, King's College London, to review the account provided by Mr Olowofela. Professor Cowan provided a written opinion on 23 May 2023, in which he stated that Mr Olowofela's explanation was i) not "*scientifically plausible*" as to when he ingested the cocaine, and ii) that it was more likely than not that ingestion of cocaine occurred during the In-Competition period (i.e. on or after 11:59pm on 25 March 2023).
14. On 15 June 2023, the RFU proceeded to issue Mr Olowofela with a Charge Letter in accordance with ADR Article 7.11.2. The Charge Letter asserted the commission of an ADRV pursuant to Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample) and an ADRV pursuant to Article 2.2 (Use of a Prohibited Substance or Method) (the 'Charge').

Admission and Consequences

15. ADR Article 2.1 provides that the following is an ADRV:

2.1 *Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample, unless the Athlete establishes that the presence is consistent with a TUE granted in accordance with Article 4.*

16. ADR Article 2.2 provides that the following is an ADRV:

2.2 *Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method, unless the Athlete establishes that the Use or Attempted Use is consistent with a TUE granted in accordance with Article 4.*

2.2.1 [...]

2.2.4 *Out-of-Competition Use of a substance that is only prohibited In-Competition is not an Article 2.2 Anti-Doping Rule Violation. If, however, an Adverse Analytical Finding is reported for the presence of such substance or any of its Metabolites or Markers in a Sample collected In-*

Competition, that may amount to an Article 2.1 Anti-Doping Rule Violation.

17. ADR Article 10.2.4 provides:

10.2.4 Notwithstanding any other provision in Article 10.2, where the Anti-Doping Rule Violation involves a Substance of Abuse:

(a) If the Athlete can establish that any ingestion or Use occurred Out-of-Competition and was unrelated to sport performance, the period of Ineligibility shall be three (3) months; provided that it may be further reduced to one (1) month if the Athlete satisfactorily completes a Substance of Abuse treatment program approved by UKAD. The period of Ineligibility established in this Article 10.2.4(a) is not subject to any reduction pursuant to Article 10.6.

(b) [...]

18. Out-of-Competition is defined in the ADR as:

Any period which is not In-Competition.

19. In-Competition is defined in the ADR as:

The period commencing at 11:59 p.m. on the day before a Competition in which the Athlete is scheduled to participate through the end of such Competition and the Sample collection process related to such Competition; provided, however, that WADA may approve, for a particular sport, an alternative definition if an International Federation provides a compelling justification that a different definition is necessary for its sport. Upon such approval by WADA, the alternative definition shall be followed by all Major Event Organisations for that particular sport.

20. In respect of the charge pursuant to ADR Article 2.1 (Presence), as Mr Olowofela admitted ingesting cocaine, in order to benefit from a three-month period of Ineligibility, the burden rested on him to prove (on the balance of probabilities) that ingestion occurred Out-of-Competition (i.e., before 11.59pm on 25 March 2023).

Mr Olowofela's Evidence

21. On 6 July 2023, Mr Olowofela (through his legal representatives, who were not instructed at the time of his first response) responded to the Charge Letter denying the charge as drafted but accepting and providing evidence that the ingestion of the Prohibited Substance occurred Out-of-Competition, during an informal gathering of friends at a public house on the evening of Friday 24 March 2023. It was asserted that the ingestion was not related to sports performance and consequently that ADR Article 10.2.4(a) applied.

22. Mr Olowofela's response to UKAD's Notice Letter originally stated that he had ingested cocaine on the evening of Thursday 23 March 2023. In his reply to the RFU's Charge Letter, it was explained that he had got the date wrong because he had assumed the match/Sample collection had occurred on a Saturday, which was when most of his club's (Nottingham RFC) matches were played. He knew he had been out two nights before the match so believed this to be on the Thursday night. However, this match was (unusually) played on a Sunday, which led him getting the day and date wrong.

23. In light of the revised statement from Mr Olowofela relating to the date of ingestion, on 31 July 2023 the RFU requested a second expert report from Professor Cowan. Professor Cowan's updated report provided to the RFU on 7 August 2023, incorporating the change in date/time, concluded that Mr Olowofela's revised account was consistent with Out-of-Competition ingestion.

24. At the request of the RFU, Mr Olowofela provided further evidence to support his revised account that ingestion of cocaine occurred on the evening of Friday 25 March 2023. This included witness statements from two workers at the bar he attended confirming that

he was indeed present in the bar with a group of friends on that night. Bank records were also exhibited that demonstrated he had made two card transactions at the bar on that date. In addition, Mr Olowofela provided several text messages from Saturday 25 March 2023 which purported to demonstrate that Mr Olowofela was not feeling well from the excesses of the night before, as well as a witness statement and other text messages which evidenced that he was at home on the night of Saturday 25 March 2023, and not socialising on that particular night.

25. The evidence received by the RFU from Mr Olowofela regarding his whereabouts on 24 and 25 March 2023 combined with the expert evidence of Professor Cowan, is sufficient for the RFU to be satisfied, in respect of the ADRV under ADR Article 2.1, that Mr Olowofela has discharged his burden to demonstrate that his ingestion of cocaine occurred Out-of-Competition and in a context unrelated to sport performance.
26. In respect of the ADRV under ADR Article 2.2, the RFU did not consider, having reviewed Mr Olowofela's revised account in conjunction with the expert evidence of Professor Cowan, that it could demonstrate that ingestion took place In-Competition, and it therefore did not pursue a the charge of Use.
27. As such, Mr Olowofela has admitted to an ADRV under ADR Article 2.1 only and the applicable period of Ineligibility is 3 months as per ADR Article 10.2.4(a).

Commencement of period of Ineligibility

28. ADR Article 10.13 requires that the period of Ineligibility starts on the date Ineligibility is accepted or otherwise imposed where there is no hearing.
29. However, ADR Article 10.13.2 allows for credit to be given against the total period of Ineligibility to be served where an Athlete has been provisionally suspended and has respected the terms of that Provisional Suspension.
30. Mr Olowofela has been subject to a Provisional Suspension since the date of the Notice, i.e. since 28 April 2023, and as far as the RFU is aware, had respected the terms of that

Provisional Suspension. Therefore, on 28 September 2023, the RFU wrote to Mr Olowofela informed him that the RFU had lifted his provisional suspension, acknowledging that he had served the maximum three (3) month period of Ineligibility in the case. Therefore, affording Mr Olowofela credit for the time he has spent provisionally suspended, his period of Ineligibility is deemed served and he is eligible to participate in sport forthwith.

Summary

31. For the reasons given above, the RFU has issued this Decision in accordance with ADR Article 7.12.2, and records that:
 - a) Mr Olowofela has committed an ADRV pursuant to ADR Article 2.1;
 - b) A period of Ineligibility of three (3) months is imposed pursuant to ADR Article 10.2.4(a); and
32. In accordance with ADR Article 10.13.2, affording Mr Olowofela credit for the time he has spent provisionally suspended, his period of Ineligibility is deemed to have commenced on 28 April 2023, and is deemed served and he is eligible to participate in sport forthwith. Mr Olowofela, UKAD, World Rugby, and WADA have a right to appeal against this Decision or any part of it in accordance with ADR Article 13.4.
33. The Decision will be publicly announced via the RFU & UKAD's website in accordance with ADR Article 8.5.3 and ADR Article 10.15.

6 November 2023