



International Paralympic Committee  
Anti-Doping Committee

In the matter of:

INTERNATIONAL PARALYMPIC COMMITTEE  
(the *Applicant*)

Versus

Mr. Yoldani SILVA PIMENTEL  
(the *Respondent*)

The case is heard in front of the Hearing Body comprised of:

Dr. Toni Pascual, Chairperson of the IPC Anti-Doping Committee; and  
Mr. Joseph de Pencier, Ms. Kate Rogowiec and Mr. George Tsamis, Members  
of the IPC Anti-Doping Committee (together with the Chairperson, the *Hearing  
Panel*)

Hearing conducted on 25 January 2012 at 14:00 CET via teleconference.

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## Parties

1. The Applicant is the global governing body of the Paralympic Movement and, in particular, of the Paralympic Games. In addition, the IPC is the International Federation of several sports, including IPC Athletics. The IPC's registered offices are in Bonn, Germany.
2. The Respondent is a Venezuelan athlete in the sport of IPC Athletics.

## Communication

3. In accordance with Article 14.1.1 of the IPC Anti-Doping Code 2009 (the *Code*), the Respondent (and other relevant persons) shall be notified of a Sample that is brought forward as an Adverse Analytical Finding by the IPC through the relevant National Paralympic Committee (NPC).

## Background

4. On 15 November 2011, the Respondent competed at the 2011 Parapan American Games in Guadalajara, Mexico (hereafter, the *Event*).
5. In accordance with Article 5 of the Code and as set out in the 2011 Parapan American Games Doping Control Guide (at pages 4 and 5), the IPC is responsible for the doping control programme of the Event (as defined in the Code).
6. After completion of his competition (100m T12), the Respondent was requested to provide a sample for doping control for an in-competition test.
7. The Respondent provided a sample (sample number 1988728) (the *Sample*) and declared the use of the following substances on the form: Complejo B12, Diclofenaco Intramuscular, Traflan Intramuscular, Aminoful, Creatina ATP, Bisolvon, Ibuprofeno, Vitamina C.
8. The Respondent complied with the request, provided a sample and signed the doping control form without adverse comment. By doing so, the Respondent indicated that he was satisfied with the sample collection procedures that had been followed in conducting the test. The Sample was sent for analysis to the WADA accredited laboratory in Los Angeles (UCLA Olympic Analytical Laboratory, the *Laboratory*).



9. On 28 November 2011, the Laboratory reported an adverse analytical finding to the IPC for the following substances: Stanozolol Metabolites; 19-Norandrosterone at a concentration greater than 25 ng/mL; and 19-Noretiocholanolone. All three substances are classified as S1. Anabolic Agents in the World Anti-Doping Agency (WADA) 2011 Prohibited List (the *Prohibited List*) and are prohibited both in- and out-of-competition.
10. On 29 November 2011, the IPC notified the Respondent via NPC Venezuela of the adverse analytical finding in accordance with Article 7.2 of the Code. The Respondent was advised that he was provisionally suspended from the date of notification (29 November 2011) and that unless Article 10.5 of the Code applies, the standard sanctions for a first-time violation would be:
- automatic disqualification of any competition results in connection with an in-competition test, including forfeiture of any medals, points and prizes obtained on the date of sample collection (15 November 2011);
  - disqualification of all competition results including forfeiture of any medals, points and prizes obtained subsequent to the sample collection date (15 November 2011);
  - an ineligibility period of two (2) years; and
  - a financial sanction of €1.500 (Article 10.11 and Chapter 1.2, Section 2, IPC Handbook ('Rules on the imposition of financial sanctions for anti-doping rule violations')).

The Respondent was also advised of his rights, including the right to request a B sample analysis and the laboratory documentation package.

11. The notification included a form titled "Letter of Decision" for the Respondent to complete and return to the IPC by no later than 5 December 2011 at 17:00 hours CET.
12. The Respondent returned the signed Letter of Decision to the IPC in a timely fashion. In the Letter of Decision, the Respondent stated that he:
- had no valid TUE justifying the presence of the Prohibited Substances found in his sample;
  - challenged the consequences set out in the 'Notification of an Adverse Analytical Finding' and wished to be invited to a Hearing; and
  - did not accept the provisional suspension.



13. With the Letter of Decision, the Respondent also submitted a letter with the following statements:
- The Respondent knows the consequences of using prohibited substances in sport;
  - The Respondent suffered from a leg muscle injury in August 2011 and attended the health care center of FUNDELA (Lara State Sports Foundation) for rehabilitation treatment.
  - From 14 to 24 August 2011 the Respondent participated in the Para National Games, which were held in Barquisimeto, Venezuela, where he suffered a further leg muscle injury. The Respondent was treated for his injury at the above mentioned health care center by Mr. Gerardo Sanchez. The Respondent was given shots for regeneration of muscular tissue.
  - The Respondent identifies Mr. William Escalona, coordinator of the Paralympic athletes in FUNDELA, Mr. Alexander Gonzalez, athlete of the joki national team, and Mr. Dorian Machado, member of the national Paralympic team of Venezuela, as witnesses who saw Mr. Sanchez “using invasive methods in my body”. The Respondent further states that these witnesses can be contacted at any time to testify to the Respondent’s statements;
  - Upon receipt of the notification of an Adverse Analytical Finding, the Respondent conducted a personal investigation to source the findings and learned from Dr. Eduardo Gutierrez, Director of Doping in Venezuela, that Mr. Sanchez did not have a degree accrediting him as a physician.
14. The Respondent also submitted medical reports of the scans made of the leg muscles to the IPC together with the above statement.
15. The Respondent accuses Mr. Sanchez of being responsible for the findings and requests the IPC and NPC Venezuela to open an investigation. The Respondent states in his supporting letter that he never attempted to enhance his physical condition with any prohibited substance because he is aware of the consequences and he believes he is a victim of trusting someone that was thought to be a specialized physician.
16. The Respondent requests that the IPC does not issue any sanction because he did not use the prohibited substances intentionally. He further states that he would like the IPC to take into account the fact that he has never previously been involved in a similar situation during his seven-year long career.



17. Upon receipt of the Letter of Decision and the supporting statements by the Respondent, the Respondent was informed on 16 December 2011 that a hearing will be scheduled to determine the outcome of his case.

### **The Hearing**

18. A Hearing was scheduled for 12 January 2012, but the Respondent was unable to join the call for technical reasons.
19. The Hearing took place on 25 January 2012 via conference call, in accordance with Article 8.1.6 of the Code.
20. The IPC was represented in the case by:
  - Dr. Peter Van de Vliet, IPC Medical & Scientific Director
  - Ms. Vanessa Webb, IPC Anti-Doping Manager
21. Attending the Hearing on behalf of the Respondent were:
  - Mr. Yoldani Silva Pimentel, the Respondent
  - Mrs. Ahiquel Hernández, Chairperson of the Paralympic Committee of Venezuela
  - Mr. Osmiler Araujo, interpreter.
22. Ms. Emilie Jones, IPC's legal adviser, attended the Hearing.
23. Mr. Ryan Montgomery, IPC Athletics Sport Manager, attended the Hearing as the representative of IPC Athletics and as an observer.
24. The Applicant requested, and the Hearing panel agreed, on the following witnesses to join the Hearing:
  - Dorian Machado, member of the national Paralympic team of Venezuela
25. The following outline of the facts and parties' positions is illustrative only and may not comprise every piece of information or submission made by the parties. The Hearing Body has carefully considered all the evidence and submissions provided by the parties, even if there is no specific reference in this recommendation.
26. The Hearing Body reminds the Respondent of the provisions of Article 7.5.1 that a provisional suspension is mandatory to be imposed for the Prohibited Substances detected in the Respondent's sample.
27. The Applicant's case is that the Respondent has violated Article 2.1 (Presence in Sample) of the Code. It asserts that there was no valid



TUE and no departures from the Code that caused the adverse analytical finding. It also asserts that there are no circumstances that would justify the application of Code Article 10.5 (Exceptional Circumstances) to reduce the period of ineligibility.

28. In answer to the questions from the Hearing Body, the Respondent stated that he received 4 injections (one every two days) for leg muscle pain in a timeframe of 8 days, starting 15 August 2011, but that he cannot identify the medication which he was treated with. He was told the medication was 'vitamins for the pain'. The witness to the Hearing who was with the Respondent when treatment took place, cannot provide details on the type of medication received. The Respondent confirmed that no subsequent treatments took place after this initial one.

### **Analysis**

29. The principle of strict liability applies to anti-doping matters. An athlete is responsible for any Prohibited Substance found in his or her sample, and an Anti-Doping Rule Violation occurs whenever a Prohibited Substance is found in an athlete's sample (comment to Code Article 2.1.1.). The Athlete confirms that he is familiar with the consequences of the use of prohibited substances.
30. The Prohibited Substances found in the Respondent's sample are classified as Class S1. Anabolic Agents in the World Anti-Doping Agency (WADA) 2011 Prohibited List (the *Prohibited List*) and are prohibited both in-and out-of-competition.
31. The Respondent was asked if he had any medical treatments after the August treatment. He responded that he had not had any further treatment.
32. The Chairperson informed the Respondent that stanozolol metabolites, one of the substances found in his sample collected on 15 November 2011, are not able to remain in the body for almost two months as the half-life of stanozolol is only 1 day. Therefore, stanozolol cannot have entered the body through the injections that the Respondent was given at the FUNDELA health care center between 14 and 24 August 2011 as the Respondent claims in his statement.
33. The Respondent was not able to explain where the substances came from and attributed them to the injections received in August.



34. The Hearing Body finds that the Respondent was negligent in his general anti-doping duties under Article 2 of the Code. Furthermore, multiple prohibited substances were found in the Respondents sample meaning that Code Article 10.6 (Aggravating circumstances which may increase the period of ineligibility) may be applied. The Hearing Body however, is in view that the Respondent did not have sufficient support from his surroundings to further his understanding of the consequences of inappropriate medical treatment and/or medication use.

### **Recommendation to the IPC Governing Board**

35. The IPC Anti-Doping Committee recommends the following to the IPC Governing Board:
- a. Pursuant to Article 9 of the Code, the Respondent's individual results obtained at the 2011 Parapan American Games and at any other event from the date of 15 November 2011 onwards should be automatically disqualified, including forfeiture of any medals, points and prizes won;
  - b. Pursuant to Article 10.2 of the Code, a two-year (2-year) period of ineligibility should be imposed on the Respondent.
  - c. Pursuant to Article 10.9.3 of the Code, the Respondent shall receive credit for the period of provisional suspension and should therefore be declared ineligible from 29 November 2011 (date of notification) until 28 November 2013; and
  - d. Pursuant to Article 10.11 of the Code and the IPC Handbook, Section 2, Chapter 1.2 ('Rules on the imposition of financial sanctions for anti-doping rule violations'), a financial sanction of €1.500,- should be imposed on the Respondent.
36. The IPC Anti-Doping Committee would further like to remind the Respondent of his status of Ineligibility as set forth in Article 10.10 of the Code and in Article 8 of the 'Rules on the imposition of financial sanctions for anti-doping rule violations'.

### **Appeal**

37. The Respondent is reminded of the Appeal procedures in Article 13 of the IPC Anti-Doping Code.



Submitted to the IPC Governing Board as a recommendation from the IPC Anti-Doping Committee in accordance with Article 8.5.2 of the IPC Anti-Doping Code 2009.

On 13 February 2012 the IPC Governing Board reviewed the above document and accepted the recommendation of the IPC Anti-Doping Committee.

A handwritten signature in black ink, appearing to be "Xavier Gonzalez", is positioned above the typed name.

Mr. Xavier Gonzalez  
Chief Executive Officer  
International Paralympic Committee

cc. Kerwin Clarke, WADA Results Management  
Toni Pascual, Chairperson IPC Anti-Doping Committee