

Case 11 – Presence of a Prohibited Substance

Key words

Article 2.1; Methylhexaneamine (MHA); Oxy Elite Pro; Supplement; Checks; Support Personnel; Article 10.4; Article 10.5.1; Article 10.5.2; [Doping](#)

Summary

Player J was charged with an Article 2.1 Anti-Doping Rule Violation (ADRV) following an Adverse Analytical Finding (AAF) for the presence of methylhexaneamine (MHA). The case was referred to the National Anti-Doping Panel for resolution under the Rugby Football League Anti-Doping Rules. The Tribunal found that Player J did not satisfy the requirements of Articles 10.4 (no Intention to enhance performance), 10.5.1 (no Fault or Negligence) or 10.5.2 (no Significant Fault or Negligence) in order to obtain a reduction in sanction, and therefore imposed the standard sanction of two years ineligibility.

Background Facts

Player J, a professional rugby league player, was charged with an Article 2.1 ADRV following an AAF for the presence of MHA. He admitted the ADRV, but sought a reduction in sanction under Articles 10.4, 10.5.1 and 10.5.2. Player J explained that he had bought and used a supplement called Oxy Elite Pro to combat tiredness that arose as a result of his early morning commute to training but had undertaken no checks on the supplement's ingredients. Player J said that he had passed the supplement to his club's Conditioning Coach, who undertook checks on the supplement's ingredients on the internet and WADA website, believed the supplement not to contain any Prohibited Substance, and returned it to Player J to use.

Reasoning and Decision of tribunal

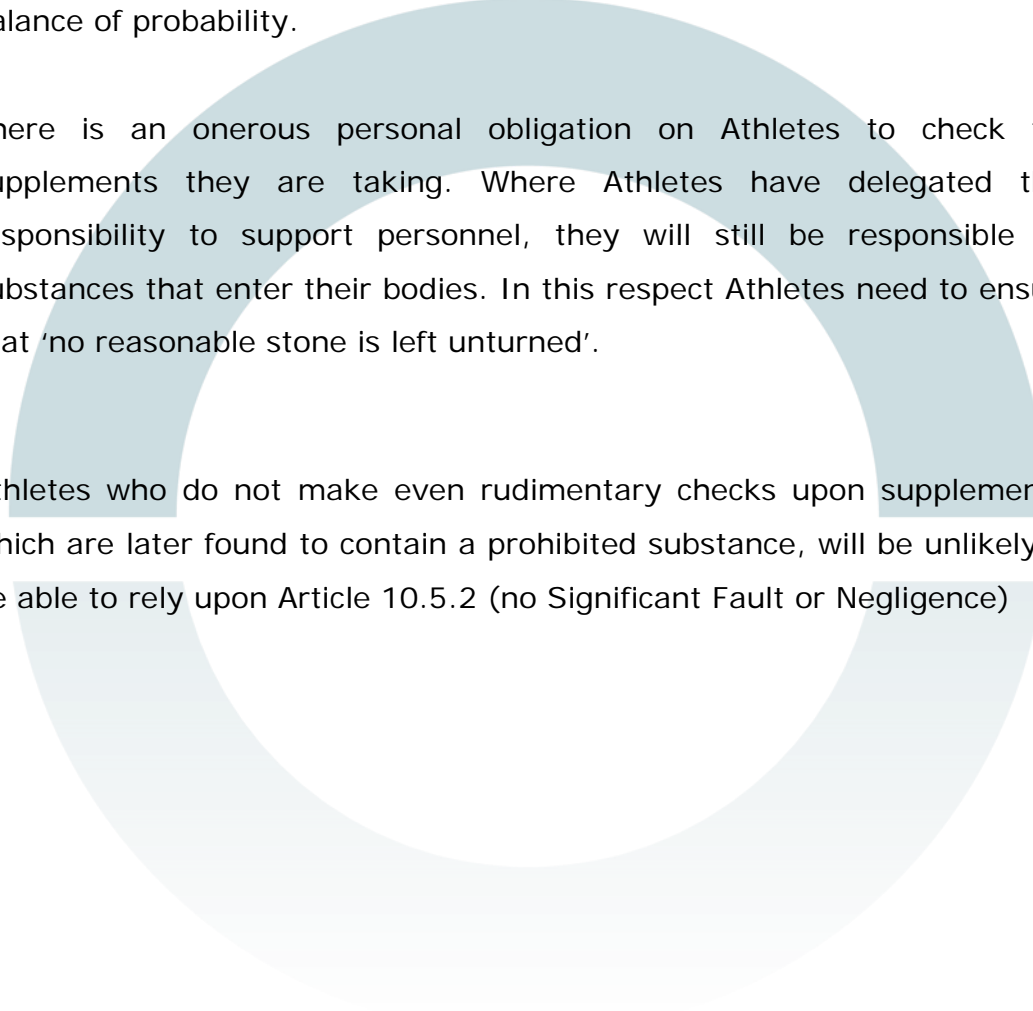
Following the Notice of Charge, Player J claimed that an investigation was undertaken by the Chief Executive of Player J 's Club, who identified that the Conditioning Coach had only searched Sections 1 to 5 of the Prohibited List, and therefore did not identify MHA as a Prohibited Substance. MHA was in fact listed under Section 6 – Specified Substances. Given the Conditioning Coach's experience and recent correspondence with the RFL about MHA, the Tribunal had serious doubts over whether he had actually carried the stated searches (and been incompetent in failing to identify MHA) as opposed to simply fabricating his evidence to protect the player. However, as UKAD did not allege that the Conditioning Coach had fabricated evidence to protect the player, it was accepted that Player J had consulted the Conditioning Coach about the use of the supplement.

The Tribunal found that, for the purposes of Article 10.4¹, Player J had not adduced corroborating evidence which established, to their comfortable satisfaction, the absence of an intent to enhance sport performance (the Conditioning Coaches evidence was seen as unreliable). The Tribunal also found that Player J had not established that he bore no Fault or Negligence or No Significant Fault or Negligence, and emphasized the onerous personal duty of each player to comply with the Anti-Doping Rules; the fact that this duty cannot be absolved by passing the responsibility to make checks to another; and the lack of steps taken by Player J to investigate the nature of the supplement.

Player J was therefore not entitled to a reduction in sanction under Articles 10.5.1 (no Fault or Negligence) or 10.5.2 (no Significant Fault or Negligence). The standard sanction for a first violation of two years ineligibility was duly imposed.

Learning points

¹ Article 10.4 has since been superseded by the 2015 UK Anti-Doping 2015 Rules.

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- An Athlete who is charged with an AAF must provide corroborating evidence to demonstrate no Intention to enhance performance. A mere assertion of no Intention is not enough. The Athlete must satisfy the Tribunal to 'its comfortable satisfaction', which is a standard of proof higher than the balance of probability.
 - There is an onerous personal obligation on Athletes to check the supplements they are taking. Where Athletes have delegated that responsibility to support personnel, they will still be responsible for substances that enter their bodies. In this respect Athletes need to ensure that 'no reasonable stone is left unturned'.
 - Athletes who do not make even rudimentary checks upon supplements, which are later found to contain a prohibited substance, will be unlikely to be able to rely upon Article 10.5.2 (no Significant Fault or Negligence)