

## Case 21 – Possession and Trafficking of Prohibited Substances

### Key words

*Possession; Trafficking; Article 2.6; Article 2.7; Article 2.8; Anabolic Steroids; Anti-Doping Rules; Multiple Substances; Criminal Charge; Mitigation; Minor; [Doping](#)*

### Summary

Athlete Q, an amateur boxer, appealed to the National Anti-Doping Panel (NADP), in accordance with the UK Anti-Doping Rules as adopted by the Welsh Amateur Boxing Association (WABA). The first instance NADP Tribunal imposed a sanction of 4 years ineligibility for Anti-Doping Rule violations (ADRVs) of i) possession of Prohibited Substances; ii) trafficking or attempted trafficking of Prohibited Substances; and iii) assisting, encouraging, aiding, abetting or covering up or any other type of complicity involving an ADRV or attempted ADRV. Athlete Q appealed on the basis that; i) the ADRVs were not properly substantiated; and ii) the wing members of the first instance Tribunal were not lawyers and were misguided by the Chairman in reaching their decision. The Appeal Tribunal concluded that Athlete Q failed to satisfy any of the grounds of appeal and the appeal was dismissed.

### Background Facts

Athlete Q, an amateur boxer, appealed to the National Anti-Doping Panel (NADP), in accordance with the UK Anti-Doping Rules as adopted by the Welsh Amateur Boxing Association. The first instance NADP Tribunal imposed a sanction of 4 years ineligibility for Anti-Doping Rule violations (ADRVs) of i) possession of Prohibited Substances; ii) trafficking or attempted trafficking of Prohibited Substances; and iii)

assisting, encouraging, aiding, abetting or covering up or any other type of complicity involving an ADRV or attempted ADRV.

### **Reasoning and Decision of the Tribunal**

Athlete Q appealed on the basis that; i) the ADRV was not properly substantiated; and ii) the wing members of the first instance Tribunal were not lawyers and were misguided by the Chairman in reaching their decision. Athlete Q argued that a criminal prosecution for offences relating to the supply of steroids had been withdrawn against her, and that there was inadequate evidence by any witness to substantiate the allegation that Athlete Q was in breach of an ADRV; the only evidence there was second hand 'hearsay'. Athlete Q further argued that the Chairman of the panel had misdirected the wing members, who she alleged were unqualified and untrained, in reaching their decision. The first instance Tribunal imposed a period of Ineligibility of four years on Athlete Q, noting that she was very young and under the considerable influence of her father. The Tribunal accepted that Athlete Q had the requisite knowledge and control of the Prohibited Substances to have violated Articles 2.6.1 and 2.7 and held that both Athlete Q and her father must have been complicit and had full knowledge of the respective role played by the other and accepted that both Athletes had violated Article 2.8.

The Appeal Tribunal noted that Athlete Q had exercised her right to say nothing at the first instance hearing, and at the appeal and held that in the absence of any plausible explanation offered by Athlete Q, the first instance Tribunal was entitled to find the charges proved. Unlike criminal law prosecutions for misuses of drugs, ADR violations are part of civil law and the rules of evidence are much less restrictive; the tribunal is able to draw inferences and conclusions from second hand evidence, especially where those charged do not seek to challenge it. In relation to the allegation that the panel was unqualified and misdirected, the Tribunal found this contention to be misguided. The Tribunal found that the first instance Tribunal had been composed in accordance with the NADP Rules. The Tribunal further found that, as stated in the Rules, Athlete Q could have exercised her right to object to the

appointment of any of the Panel members but failed to do so. The Tribunal therefore accepted that the first instance Tribunal's approach to the evidence was a proper one, and dismissed the appeal.

### **Learning points**

- If an Athlete exercises their right to say nothing in response to a charge for an ADRV, the Tribunal will be entitled to infer and find that there is no plausible defence or challenge to the evidence presented and draw appropriate conclusions.
- The fact that criminal charges relating to misuse of drugs are not successful (or are not pursued) does not prevent liability under UKADR; the rules of evidence and standard of proof are different.
- The rules of evidence in ADR cases are very different (and much more relaxed) than in criminal prosecutions under the general law. Athletes should be wary about not challenging evidence if they wish to contest it.