

Case 8 – Possession and Trafficking of Multiple Prohibited Substances

Key words

Possession; Trafficking; Article 2.6; Article 2.7; Anabolic Steroids; Retirement; Effective Retirement; Jurisdiction; Multiple Substances; [Doping](#)

Summary

Player A was charged with three Anti-Doping Rule Violations (ADRVs) relating to the possession and trafficking of multiple Prohibited Substances. The case was referred to the National Anti-Doping Panel for resolution under the Welsh Rugby Union Anti-Doping Rules. Player A argued that he was not subject to the Anti-Doping Rules on the basis that he had retired from playing, and also denied the charges of trafficking. The Tribunal found that an effective retirement for the purposes of the Anti-Doping Rules had not been made and were satisfied that two of the three charges were proven by UK Anti-Doping. The Tribunal noted that the Anti-Doping Rules provided for a sanction from four years up to a lifetime ineligibility and considered Player A's degree of fault. A period of eight years ineligibility was imposed.

Background Facts

Player A, a rugby union player, was charged with three Anti-Doping Rule Violations (ADRVs) relating to the possession and trafficking of multiple Prohibited Substances. Player A owned and operated a company which produced and distributed designer supplements, some of which contained Prohibited Substances.

Charge 1 related to the alleged holding of stock and offering for sale of twelve specific products on the company's website. Charge 2 related to the alleged

specific example of Player A trafficking Prohibited Substances by the sale of a product to a professional rugby player. That player subsequently returned an Adverse Analytical Finding (AAF) for metabolites of anabolic steroids, and was sanctioned by an International Rugby Board Judicial Committee with a period of two years ineligibility. Charge 3 related to the 'test purchase' of the company's products, which were purchased by an agent on behalf of UK Anti-Doping from an official stockist of the company. The products were later analysed and were found to contain various Prohibited Substances (anabolic steroids).

Reasoning and Decision of Tribunal

Player A explained that he had retired from playing high-level rugby due to injury in 2007, but had registered with his local club in the hope he may again be fit to play. He was subsequently informed that the severity of the injury was such that he should not play again. Player A explained that he and a partner founded the company in 2012 and that he was involved in the day to day running of the company.

In relation to Charge 1, Player A admitted possessing the named substances and that they were offered for sale, but argued that, in any event, he was outwith the Anti-Doping Rules on the basis that i) he had asked his local club to deregister him, and ii) at all material times he had retired from rugby. In relation to Charge 2, Player A denied trafficking the named substances to the professional rugby player, and argued that he had not sold the product to the player until after the date of the AAF. In relation to Charge 3, Player A denied trafficking the named substances to UK Anti-Doping and argued that the stockist had supplied them, not his company.

The Tribunal considered the issue of jurisdiction, and found that at all material times Player A was a registered member of the Welsh Rugby Union, and, notwithstanding his lack of playing, he had not made an effective retirement for the purposes of the Anti-Doping Rules, specifically Article 4.1.1. The Rules provided that athletes should inform the Welsh Rugby Union of retirement, whereas Player A had only informed his local club. In the light of this finding, and Player A's admission, the Tribunal were satisfied that Charge 1 had been proved.

In relation to Charge 2, the Tribunal rejected UK Anti-Doping's argument that the facts of the IRB decision relating to the professional rugby player were "irrebuttable evidence" against Player A; finding that the Code provided that only that the facts of a decision are irrebuttable evidence against the Participant to whom the decision relates. The Tribunal was not satisfied that the product in question contained the Prohibited Substances alleged and were consequently not satisfied that Player A had committed the ADRV *as charged*.

In relation to Charge 3, the Tribunal, found that Player A's integral role in the management and operations of the company meant that his and the company's actions were effectively one and the same, and therefore they were satisfied that Player A had trafficked the named Prohibited Substances, irrespective of the fact that the purchase was made through a stockist.

The Tribunal noted that the Anti-Doping Rules provided for a sanction from four years up to a lifetime ineligibility and considered Player A's degree of fault. A period of eight years ineligibility was imposed.

Learning points

- Athletes who retire, or intend to retire, may still be subject to the Anti-Doping Rules of their NGB, and will need to consult the relevant rules and procedures to clarify the effects of such retirement in relation to on-going anti-doping obligations.
- Under article 8.3.7 ADR, findings of fact in earlier tribunal hearings, will only provide irrebuttable evidence of those facts in relation to future charges brought against the player to whom the earlier hearing was brought.