

## Case 20– Possession and Trafficking of Prohibited Substances

### Key words

*Father and Daughter; Minor; Possession; Trafficking; Article 2.6; Article 2.7; Article 2.8; Anabolic Steroids; Anti-Doping Rules; Jurisdiction; Athlete Support Personnel; Multiple Substances; Lifetime ban; criminal charge; Mitigation; [Doping](#)*

### Summary

Athlete Q, and L, her father, were both charged with Anti-Doping Rule Violations (ADRVs) relating to the possession and trafficking of one or more Prohibited Substances. Both L and Athlete Q were charged with 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. The case was referred to the National Anti-Doping Panel for resolution under the Welsh Amateur Boxing Association's (WABA) Anti-Doping Rules (2009). L argued that he was not subject to the Anti-Doping Rules on the basis that he was not a coach or otherwise involved in the sport, and also denied the charges. The Tribunal determined that it had jurisdiction to deal with the charges concerning both L and Athlete Q and all charges were proved by UK Anti-Doping. The Tribunal noted that the Anti-Doping Rules provided for a sanction from four years up to a lifetime period of ineligibility and considered factors relevant to the severity of the sanction. L received a lifetime ban and Athlete Q received a four-year period of ineligibility.

### Background Facts

Athlete Q, an amateur boxer, and L, her father, were both charged with ADRVs relating to the possession and trafficking of one or more Prohibited Substances. Both L and Athlete Q were charged with 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 Tribunal**

L argued that he was not subject to the Anti-Doping Rules on the basis that he was not a coach or otherwise involved in the sport, and also denied the charges of trafficking. Both L and Athlete Q declined to give evidence throughout the hearing.

UKAD noted that, according to WABA, L had unsuccessfully applied for a Disclosure and Barring Service (DBS) check with a view to becoming a coach. In addition, L drove a minivan to transport his own and other children to WABA events and competitions. UKAD argued that a contract with a NGB can be implied by this conduct and that L was therefore bound by the Anti-Doping Rules. UKAD further argued that L had already pleaded guilty to, and subsequently been convicted of, criminal offences relating to the supply of anabolic steroids. They argued that this amounted to irrebuttable evidence that L was clearly i) in possession of and; ii) had trafficked steroids. In relation to Athlete Q, UKAD argued that she had “constructive possession” of the Prohibited Substances as she had exercised her exclusive control over the Prohibited Substances. There was evidence to show that she had posted packages containing the Prohibited Substances on several occasions. Further, UKAD argued that Athlete Q must have had knowledge of the content of the packages containing the Prohibited Substances, as police evidence showed that the packages were in clear view throughout the house which she shared with her father and other family members. Thus all charges were made out against both L and Athlete Q.

The Tribunal first considered the issue of jurisdiction, and found that such was the course of L’s dealings with the sport of amateur boxing, that he fell within the definition of *“Athlete Support Personnel”* and was therefore bound by the Anti-

Doping Rules. The Tribunal was comfortably satisfied that the police search and seizure of such a high quantity and value of Prohibited Substances from L's home address, together with his guilty plea to the criminal charge, established a violation of Article 2.6.3 (Possession) and 2.7 (Trafficking). 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. The Tribunal held that both L and Athlete Q must have been complicit and had full knowledge of the respective role played by the other and accepted that both had violated Article 2.8 (assisting, aiding and abetting). Due to the large-scale importation and distribution of the Prohibited Substances, the criminal activities, and the nature of the substances involved, the Tribunal imposed a lifetime period of ineligibility on L. The Tribunal noted that Athlete Q was very young and under the considerable influence of her father. It therefore imposed a period of ineligibility of four years.

### **Learning points**

- An individual does not need to have an express contract of membership with an NGB to be bound by its Anti-Doping Rules; the link can be implied by conduct. In this case, transporting children to and from training was sufficient to imply acceptance of the Anti-Doping Rules, and the parent's 'support' in this respect came within the definition of Athlete Support Personnel.
- When looking at the period of ineligibility to impose, a Tribunal can take into consideration a number of relevant factors, including any guilty plea to a criminal charge relating to the violation, the age and experience of the individual, the scale and nature of the Substances involved, the commercial nature of the operation and whether minors are involved.
- The fact that criminal charges relating to misuse of drugs are not successful (or are not pursued) does not prevent liability under UK Anti-Doping Rules; the rules of evidence and standard of proof are different.