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Basketball player suspended for 12 months for anti-doping rule violation

The Sports Tribunal has suspended basketball player Jordan Mills, for a period of 12 months for the presence of a prohibited substance, terbutaline, in a sample taken from him at a National Basketball League (NBL) game on 19 May 2017. Terbutaline is used to treat asthma and its use requires a therapeutic use exemption (TUE) before it can be used by athletes. Mr Mills did not have a TUE.

Mr Mills was provisionally suspended without opposition on 24 August 2017. He admitted the violation but asked to be heard as to the appropriate sanction. The presumptive period of ineligibility for the unintentional presence of a specified substance (such as terbutaline) is two years but this period may be reduced if the athlete can show no significant fault or negligence in relation to the violation. Drug Free Sport New Zealand (DFSNZ) did not contend that the violation was intentional.

To show no significant fault, Mr Mills first needed to establish how the prohibited substance entered his system. It was accepted that Mr Mills used his inhaler to treat asthma symptoms during the week prior to the NBL game.

The assessment as to whether an athlete has no significant fault in relation to a violation is a fact specific exercise. It must involve a real-life assessment of the fault, with a robust and rational determination of culpability. On balance having considered all the evidence, the Tribunal was satisfied Mr Mills had shown no significant fault in testing positive for terbutaline.

A majority of the Tribunal assessed the appropriate sanction having regard to Mr Mills' degree of fault and considered that a period of 12 months ineligibility was the minimum which had to be imposed taking into account:

- Mr Mills had used an inhaler since childhood and its use was for therapeutic reasons
- he had consulted with his doctor regarding his inhaler and his status as an athlete in 2010
- he understood SADR obligations having obtained a TUE for another medical issue
- had received anti-doping education, but received no education about asthma medication
- had previously been tested in competition and not received a positive test
- had observed other athletes using inhalers and thought their use was permitted
- was prescribed terbutaline rather than other permitted asthma medication
- was an experienced athlete, having played in the NBL for 9 seasons

However, all athletes must be aware of the strict obligations imposed under SADR. Mr Mills should have checked the status of his inhaler, but having used it throughout his life, Mr Mills didn't turn his mind to the use of an inhaler in compliance with anti-doping rules. Mr Mills was not a drug cheat but was still in breach of the high standards and clear obligations placed on all sport participants by the anti-doping regime.

Mr Mills' suspension from participating in sport is backdated to the date of testing, 19 May 2017, given his timely admission of the violation and his co-operation throughout.

The decision in this case is available for download from the website of the Sports Tribunal (www.sportstribunal.org.nz). See *Drug Free Sport New Zealand v Jordan Mills* (ST 06/17). Copies can also be obtained directly from the Registrar, Sports Tribunal of New Zealand (telephone: 0800 55 66 80; e-mail: info@sportstribunal.org.nz).