

Background

1. Dylan Turner a registered member of New Zealand Powerlifting participated at the Waikato Bay of Plenty Provincial 3 Lift Championships on 21 April 2018. He was tested, and a positive result was obtained. On the doping control form he listed he had taken one scoop of “Black Belt Protein” and a multivitamin tablet.

Proceedings

2. On 28 May 2018 Drug Free Sport New Zealand (DFSNZ) filed proceedings alleging a violation of Rule 2.1 of the Sports Anti-Doping Rules 2018 (SADR) evidenced by the presence of a prohibited substance in the sample collected on 21 April 2018.
3. The analysis of the sample confirmed the presence of metabolites of GW 1516 which is a non specified substance prohibited at all times, under class S4 Hormone and Metabolic Modulators of the Prohibited List 2018.
4. Mr Turner was provisionally suspended without opposition on 31 May 2018. On 8 June 2018 DFSNZ filed an application for substantive anti-doping rule violation proceedings.
5. On 21 June 2018 Mr Turner filed his Form 2 admitting the violation and advising that he did not wish to be involved in a hearing.
6. On 28 June 2018 DFSNZ filed a memorandum in support of its application which was served on Mr Turner. The memorandum submitted the applicable sanction of four years’ ineligibility be imposed in accordance with SADR 10.2.1.
7. The Tribunal again advised Mr Turner of the position and indicated he had a final opportunity to consider his involvement. In the absence of further communication, the Tribunal proceeded with the scheduled teleconference hearing based on the material filed.
8. Steve Lousich advised the Tribunal at the hearing he had recently spoken directly to Mr Turner who confirmed his attitude and approach to him.
9. The Tribunal is unaware of and has not been notified by Mr Turner of any representative acting on his behalf.

Issue

10. The sole issue for the Tribunal is to determine the penalty to be imposed.

Relevant SADR Provision

11. SADR 10.2 states:

Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substances or Prohibited Methods

The period of *Ineligibility* imposed for a violation of Rules 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Rules 10.4, 10.5 or 10.6:

10.2.1 The period of *Ineligibility* shall be four years where:

10.2.1.1 The anti-doping rule violation does not involve a *Specified Substance*, unless the *Athlete* or other *Person* can establish that the anti-doping rule violation was not intentional.

There are no possible reductions applicable in this case.

Discussion

12. The presence of the prohibited substance in Mr Turner's sample establishes an anti-doping violation under SADR 2.1. The period of ineligibility is four years, unless Mr Turner is able to prove that the violation was not intentional.
13. From the outset Mr Turner indicated that he did not wish to be part of the proceedings and did not provide any information in support of his case. He did not make himself available for the hearing to advance a defence which would justify a reduction of the period of ineligibility. Mr Turner did not seek to explain the background circumstances in which the prohibited substance entered his system or present any material to persuade the Tribunal that the violation was not intentional. Consequently, Mr Turner is subject to the applicable four year sanction.
14. Given the consequences, numerous attempts were made by both DFSNZ and the Tribunal to engage with Mr Turner throughout the process. He was offered advice and information and provided with a Legal Assistance Panel List to help him appoint a lawyer. Mr Turner was advised of the repercussions for failing to engage.
15. Mr Turner has been given every opportunity to consider his position and take action. Despite numerous emails and telephone exchanges to facilitate support, provide information and to engage Mr Turner with this matter, he could not be convinced to participate and remained indifferent to the proceedings or the outcome. Mr Turner did

not contact DFSNZ or the Sports Tribunal for advice, obtain legal assistance or appoint a representative to act on his behalf.

16. The Tribunal, being satisfied that Mr Turner knew of this hearing and the applicable sanction, has no discretion on the issue of suspension. The onus was on Mr Turner to discharge the strict liability burden, but given his refusal to be involved, the outcome is unavoidable.
17. Mr Turner admitted the anti-doping rule violation, and in the absence of any explanation from him, the Tribunal has no alternative but to impose on Mr Turner the mandatory penalty as required by SADR.
18. A credit is always provided for the period from the date of provisional suspension of the athlete to the date of the decision. Further, the Tribunal has a discretion to backdate the commencement of the period of ineligibility to as early as the date of the sample collection which was 21 April 2018. A small allowance can be made for Mr Turner's timely admission.

Conclusion

19. Mr Turner's suspension for a period of four years is backdated to commence on 21 April 2018 allowing credit for the period of provisional suspension served and for his timely admission.

Dated: 5 July 2018



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Sir Bruce Robertson
Chairman