

BETWEEN DRUG FREE SPORT NEW ZEALAND

Applicant

AND NICHOLAS BYRNE

Respondent

AND CYCLING NEW ZEALAND

Interested Party

**PROVISIONAL SUSPENSION ORDER AND
MINUTE OF TELEPHONE CONFERENCE
DATED 29 JUNE 2018**

Present: Paul David QC, counsel for Applicant
Hayden Tapper, Drug Free Sport NZ
David Neild, counsel for Respondent
Hughie Castle, for Cycling New Zealand

Chairman: Sir Bruce Robertson

Registrar: Neela Clinton

1. Nick Byrne is a member of Cycling New Zealand which has adopted the 2018 Sports Anti-Doping Rules (SADR) promulgated by Drug Free Sport New Zealand (DFSNZ) as its anti-doping policy.
2. DFSNZ alleges that the analysis of a sample collected on 20 April 2018 from Mr Byrne at the NZ Age Group Road Cycling Championships confirmed the presence of Androsterone, Etiocholanone and Testosterone and 5 β Adiol which are non-specified substances prohibited at all times under class S1.1B Anabolic Agents on the 2018 Prohibited List. This sample is also alleged to have confirmed the presence of anastrozole and its metabolites which are specified substances prohibited at all times under S4.1 Hormone and Metabolic Modulators on the 2018 Prohibited List.
3. On 15 June 2018 DFSNZ filed an Application for the Provisional Suspension of Mr Byrne alleging a breach of SADR 2.1.
4. Mr Byrne is currently in France and has requested an analysis of the B sample. A telephone conference was scheduled on 29 June 2018 for the Tribunal Chairman to consider the Provisional Suspension Application. Counsel for the respondent advised the application was not opposed.
5. Accordingly, and being satisfied that there was no substantive reason why provisional suspension should not be imposed, the Tribunal Chairman ordered the provisional suspension of Mr Byrne with immediate effect from 29 June 2018. Mr Byrne may not take part in any way in any event or activity, organised, sanctioned or authorised by Cycling New Zealand or by any other sporting organisation which is a signatory to the SADR.
6. The following timetabling orders were made in relation to the substantive anti-doping rule violation proceedings:
 - (a) DFSNZ is to file and serve its Form 1 and any written material in support by 20 July 2018;
 - (b) the Respondent is to file and serve his Form 2 together with any evidence and other written material in support by 3 August 2018; and
 - (c) a pre-hearing teleconference is set for 9 August 2018 at 9.00am.

7. A copy of this Provisional Suspension Order will be sent to the parties but otherwise should remain confidential until publication of the final decision on the Anti-Doping Rule Violation. All other process steps under the SADR should similarly remain confidential.
8. Mr Byrne has requested his B sample be analysed. Leave is reserved for the parties to request a telephone conference if required following these test results.

Dated: 29 June 2018



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Sir Bruce Robertson
Chairman