

**BETWEEN                      DRUG FREE SPORT NEW ZEALAND**

**Applicant**

**AND                              KYLE REUBEN**

**Respondent**

**AND                              NEW ZEALAND RUGBY LEAGUE**

**Interested Party**

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**DECISION ON APPLICATION IN ANTI-DOPING RULE VIOLATION  
1 DECEMBER 2010**

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**Panel:**                      Barry Paterson QC (Chair)  
                                    Ron Cheatley  
                                    Anna Richards

**In attendance:**        Paul David (counsel) for applicant  
                                    Graeme Steel and  
                                    Jayne Kernohan for Drug Free Sport  
                                    Kyle Reuben in person  
                                    Kevin Bailey for NZ Rugby League (Interested Party)

**Registrar:**                Brent Ellis

## **INTRODUCTION**

1. The Applicant (Drug Free Sport) instituted an anti-doping rule violation proceeding against the Respondent (Kyle Reuben). The allegation, pursuant to rule 3.3 of the Sports Anti-Doping Rules (2010), is that Kyle Reuben refused or failed without compelling justification to provide a sample after notification under the Rules.
2. On 8 October 2010, Kyle Reuben was provisionally suspended as a result of this allegation on an application brought by NZ Rugby League.
3. Kyle Reuben filed a notice of defence admitting the violation but advising he wished to participate in the proceeding by making submissions on the possible sanction.
4. At a telephone conference on 23 November 2010, it was explained to Kyle Reuben the normal sanction provided for by the Rules was two years' suspension. Mr Reuben was also referred to rules 14.5.1 and 14.5.2 of the Rules (the 'no fault or negligence' and the 'no significant fault or negligence' provisions).
5. Kyle Reuben advised that he did not wish to call any evidence or make any further submissions and wanted the matter behind him. Consequently, a panel was assembled and this hearing proceeded on 25 November 2010.

## **FACTS**

6. Kyle Reuben played for Southern against Counties Manukau in the national rugby league competition at Rugby League Park, Christchurch on 3 October 2010. At the conclusion of the match, he was requested to give a sample.
7. Kyle Reuben advised the chaperone that he wanted to provide the sample immediately. However, he arrived back with only a partial sample of approximately 10 mls (90 mls is the minimum volume required).

8. During his conversation with the chaperone he asked about cannabis and the possible repercussions.
9. He told the chaperone he was not prepared to wait around to pass a further sample and would accept the consequences. He walked off. The chaperone reported that he advised Kyle Reuben of the possible consequences but Kyle declined to complete the test.

### **KYLE'S STATEMENT**

10. In his notice of defence, Kyle stated:

"I accept any penalty handed down, but I had no idea of the severity with the 2 year Ban. I had heard that first time offenders with Cannabis may get Six Months. I have embarrassed myself and family with this incident but I am not a bad person with something to hide but definitely a foolish one.

I travelled to the game with my brother, he told me he was leaving with or without me. I am a hard working husband and father and always leave matches straight away with my wife Juggling study, work, my sport & son. My wife was working and I was expected to collect my son from a babysitter. I was not nervous about the test at all as claimed. I wanted to do the test as quickly as possible to make sure I got home on time – I openly told the Chaperone of social cannabis use."

11. At the hearing, Kyle Reuben did not elaborate on the statement, other than saying that he put family commitments first.

### **DISCUSSION**

12. Under rule 14.3 of the Rules, the sanction for refusing or failing to give a *sample* without compelling justification is a period of two years' ineligibility. It is only possible to reduce that period if the conditions provided in either rule 14.5.1 or rule 14.5.2 are met.
13. Rule 14.5 allows for elimination of the period of ineligibility if there is no fault or negligence, while rule 14.5.2 allows for reduction of the penalty, but not below a period of one half of the

minimum period of ineligibility (i.e. one year's ineligibility in this case), if there is no significant fault or negligence on the part of the athlete.

14. As the comment on the Rules clearly states, these rules "have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases".
15. It is unnecessary to refer to those circumstances where rules 14.5.1 and 14.5.2 have application. In the Tribunal's view, this is not one of those cases. Mr Reuben chose to walk away from the chaperone and not complete the test. The justification which he gives falls well short of the 'exceptional circumstances' test.
16. It is necessary to comment on Kyle's statement that he had no idea of the severity of the two year ban. The chaperone reported that he was warned of this ban and the Tribunal is aware of Drug Free Sport's procedures and accepts that Kyle Reuben was told of the two year ineligibility period.
17. It may be that Kyle was confused in his own mind by the knowledge that athletes who test positive for cannabis are usually suspended for a period of approximately three months. He may have thought that because he acknowledged taking cannabis, the period of ineligibility would be so reduced. If he formed this view, he was mistaken. The provisions which apply to an athlete who tests positive for cannabis do not apply to an athlete who has declined to give a test. In the latter circumstances, the fact that an athlete may have smoked cannabis has no relevance to the sanction applied when the athlete refuses to complete a test.

## **SANCTION**

18. A period of two years' ineligibility from 8 October 2010 is imposed on Kyle Reuben.

19. Kyle's attention is drawn to rule 14.10 of the Rules which gives his status during ineligibility. He cannot participate in any capacity in any national sporting team, competition, event, or activity, whether local or national, organised, authorised or sanctioned by New Zealand Rugby League or by any other signatory to the Rules. The sanction, therefore, has cross-sport effect and will prevent him participating in other sports and not just rugby league.

Dated 1 December 2010



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**B J Paterson QC**  
**Chairman**