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Cyclist suspended for prednisone and terbutaline anti-doping violation

The Sports Tribunal has suspended veteran cyclist Mark Spessot for two years for the presence of two prohibited substances in a sample taken from him. Mr Spessot tested positive for the specified substances, prednisone and terbutaline, after the Twizel to Timaru cycling race in September 2015.

The substances were taken by Mr Spessot in the two days before the race for genuine medical reasons and not to enhance sport performance. The Tribunal accepted Mr Spessot's evidence that the substances had been taken to relieve the symptoms of his longstanding asthma. This condition had been exacerbated by extreme temperature changes in his place of work as a silviculture contractor in the week prior to the event. Due to his work commitments, Mr Spessot had not been able to see a doctor in relation to this asthmatic episode and self-administered the prednisone and terbutaline obtained from an earlier prescription.

At the time of testing, Mr Spessot duly disclosed the substances on his Doping Control Form. He subsequently exercised his right as a non-national level athlete to apply for a retroactive Therapeutic Use Exemption (TUE) from the Drug Free Sport New Zealand (DFS) TUE Committee. His application was declined on the basis that insufficient medical evidence had been provided to meet the TUE International Standard requirements. To meet the Standard in this case, he would have been required to produce medical evidence that the taking of the prohibited substance was necessary at the time, highly unlikely to provide undue performance advantage, and there was no other reasonable therapeutic alternative. This would have required a doctor's visit in relation to the specific episode, despite it being a recurrent condition.

Mr Spessot was provisionally suspended on 23 December 2015. He admitted the anti-doping rule violation and asked to be heard as to sanction. Under the 2015 Sports Anti-Doping Rules (SADR), the standard period of suspension for an anti-doping violation involving the substances in question, where unintentional, is two years unless Mr Spessot could show no significant fault or negligence in relation to the violation.

The Tribunal was not persuaded that Mr Spessot could establish no significant fault or negligence. In light of his experience and general awareness of the testing regime and the prohibited status of prednisone, notwithstanding his lack of any formal education from DFS, Mr Spessot's decision to enter the race without at least making further inquiry from DFS, disregarded the strict obligations on all athletes under the SADR. The Tribunal noted that "while the Rules are complex and stringent, if Mr Spessot had thought to make inquiry from DFS in this particular case to clarify the rules about TUE's and the meaning of "in competition", he could have avoided his predicament".

Although Mr Spessot could not meet the high threshold to avoid the standard two year period of ineligibility, given all the circumstances of the case and his timely admission after exercising his right to apply for a retroactive TUE, the Tribunal exercised its discretion for that period to commence from the date of sample collection on 19 September 2015. Mr Spessot advised the Tribunal that he had not competed since that date.

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 Mark Spessot* (ST 15/15). 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).