

## **MEDIA RELEASE**

**8 August 2011**

### **Sports Tribunal finds Basketball player not at fault for cannabis anti-doping violation**

Sylvester Seay tested positive for cannabis as the result of a drug test conducted after he played a national league basketball match. Mr Seay is a USA based professional basketball player who came to New Zealand in April 2011 to play for the Waikato Pistons.

Evidence was given at the hearing that Mr Seay and his wife visited a friend (L) in California the night before they left for New Zealand and that while there he ate a cellophane wrapped sweet from a bowl of sweets that was offered to him by L. The sweets had been left behind at L's place by a friend of L and Mr Seay and L assumed they were a common commercial candy. However, L subsequently discovered from the friend who left the sweets behind, when the friend came to retrieve them, that the sweets had been obtained from a medical marijuana store and were laced with cannabis. The consumption of the sweet was 12 days before the drug test. Mr Seay gave evidence, supported by his witnesses, that he does not use cannabis, that he has never failed a drug test before and that the source of the cannabis must have been from the laced sweet.

The Tribunal considered that on the evidence presented in this case, including scientific evidence and material, it was unable to rule out the sweet as a source of cannabis causing the positive test result. The Tribunal found Mr Seay and his witnesses to be credible and accepted their evidence as truthful. The Tribunal was satisfied on the balance of probability that the cannabis, resulting in the positive test, entered Mr Seay's system through his consumption of the sweet.

The Tribunal then considered whether Mr Seay was at fault. The Tribunal considered that consuming a sweet at a friend's house will not constitute fault or negligence unless there is some objective basis for concern. The Tribunal stated:

*The Tribunal does accept that there was nothing that could fairly be said to put Sylvester on notice regarding possible contamination of the sweet. If an athlete goes to a friend's house, particularly a friend who knows of the importance of the athlete being drug free, and consumes some food or a sweet or sweets at that house it would go beyond reasonableness to then say that the athlete was at fault if some drug contamination unknown to the athlete or the friend was in fact present. Obviously the factual circumstances could be very different if the athlete was consuming food or drink provided by a stranger in a different setting.*

The Tribunal therefore concluded Mr Seay was not at fault for the anti-doping violation. Therefore no penalty was imposed and the provisional suspension order lapsed.

The decision in this case is available for download from the Sports Tribunal's website ([www.sporttribunal.org.nz](http://www.sporttribunal.org.nz)). See *Drug Free Sport New Zealand v Sylvester Seay* (ST 04/11). Copies of the decision can also be obtained directly from Brent Ellis, Registrar, Sports Tribunal of New Zealand (telephone: 0800 55 66 80; e-mail: [info@sporttribunal.org.nz](mailto:info@sporttribunal.org.nz)).