

BETWEEN **DRUG FREE SPORT NEW ZEALAND**
Applicant

AND **THOMAS CAMERON**
Respondent

AND **SOFTBALL NEW ZEALAND**
Interested Party

DECISION OF TRIBUNAL DATED 20 APRIL 2009

Hearing: Conference Call, 17 April 2009

Present: Paul David for Applicant
Respondent in person
Megan Harlick for Interested Party

Tribunal members: Hon Barry Paterson, QC
Ron Cheatley
Dr Lynne Coleman

Registrar: Brent Ellis

INTRODUCTION

1. The Applicant (DFS) made application to the Tribunal alleging that the Respondent, Thomas Cameron, committed an anti-doping rule violation by competing in the Men's National Softball League Finals on 28 February 2009 with the presence of the prohibited substance, cannabis, in his system.
2. Mr Cameron admitted the violation but wished to participate in the proceeding to make submissions on the sanction to be imposed. A hearing to consider the sanction was held on 17 April by means of a telephone conference.
3. Softball New Zealand, on being advised of the adverse analytical finding, applied for provisional suspension and Mr Cameron was provisionally suspended by this Tribunal on 30 March 2009.
4. Cannabis is a prohibited substance under the Sports Anti-Doping Rules (2009) (the Rules) and under Rule 14.4, the sanction for a first violation is at a minimum, a reprimand and no period of ineligibility from future events, and a maximum of two years ineligibility provided that the athlete can establish how the specified substance entered his body and that such specified substance was not intended to enhance the athlete's sports performance. To justify any elimination or reduction of the sanction, from the minimum sanction of two years' ineligibility for taking a drug, the athlete is required to produce corroborating evidence in addition to his word which establishes to the comfortable satisfaction of the Tribunal, the absence of an intent to enhance sports performance. The athlete's degree of fault is to be the criterion considered in assessing any reduction of the period of ineligibility.

Mr Cameron's position

5. Mr Cameron's statement of evidence read:

I had injured my groin the weekend before I got tested. My coach, Donny Hale, had told me to sit out that weekend. He had mentioned it at training the Thursday before we had our game but he still wanted me to wear my uniform. I went out that Thursday night knowing I would not be playing. They were handing a smoke around at the party I was at and I had

some. I wouldn't have smoked it if I knew I was playing that weekend. I did not use it for performance enhancing. It was for recreational use.

6. Mr Cameron was affirmed during the evidence and confirmed this evidence and reiterated that he did not smoke cannabis for performance enhancing purposes. His evidence was that he has smoked cannabis in the past now and then, but it is not a regular activity.
7. Mr Cameron acknowledged that he knew cannabis was a prohibited substance and that his team had been advised earlier in the season of this fact.
8. Mr Cameron played softball in Japan during the last off-season and has lived off his earnings from that playing since. He has recently applied for a training course outside softball.
9. He did however intend this season to play either in Holland where its six months' season has already started, or in Brisbane which starts its season on 19 April.
10. As corroboration was required, evidence was given by a friend of Mr Cameron who accompanied him on the night that he smoked the cannabis. That friend, in a witness statement submitted to the hearing, said he "witnessed Thomas Cameron on 26 February partaking in the drug marijuana in a social environment. I truly believe it was for recreational purposes and not for performance enhancement". This evidence was amplified during the hearing.

The sanction

11. Having heard the evidence of both Mr Cameron and his friend, the Tribunal accepts that the evidence establishes to its comfortable satisfaction the absence of an intent to enhance sports performance. The lesser sanction provided for by Rule 14.4 of the Rules is therefore applicable.
12. The Tribunal has noted in a number of cases, that depending on the circumstances, a sanction of ineligibility ranging between one or two months should be imposed for use of cannabis, depending on the absence of aggravating or mitigating features. A list of some of the cases confirming this

principle appears in paragraph 18 of *Drug Free Sport v Wineti (ST 14/08 Decision 19 December 2008)*. The Tribunal notes that the time may now have arrived for the Tribunal to reconsider the sanctions being imposed and increase the period of ineligibility. There are indications that some national sports organisations believe that stiffer sanctions may eliminate what is seen as a blight on some sports.

13. The Tribunal does not see any mitigating factors in this case. Mr Cameron acknowledges that he received the necessary education on prohibited substances and knew that he was taking a prohibited substance. The Tribunal accepts the submission of Mr David on behalf of DFS that his knowledge is an aggravating factor in this matter. It considers that the appropriate sanction in this case is a period of two months' ineligibility.
14. Under Rule 14.9 of the Rules, the period of ineligibility is to start on the date of the hearing but any period of provisional suspension is to be credited against the total period of ineligibility. Mr Cameron is entitled to this credit.
15. The Tribunal has considered whether it is necessary to extend the period of ineligibility because the New Zealand softball season has concluded and a period of two months' ineligibility will have no application to Mr Cameron in this country. However, Mr Cameron proposes to play overseas and a two month period of ineligibility will prevent him from playing overseas before 30 May 2009. It will therefore be an effective sanction.
16. Mr Cameron is reminded of two matters:
 - (a) During the period of ineligibility he may not participate in any capacity in any national sporting team, competition, event or activity whether local or national, organised, authorised or sanctioned by any signatory of the World Anti-Doping Code or signatory's member organisations, or a club or other member organisation of a signatory's member organisation or in competitions authorised or organised by any professional league or any international or national level organisation; and
 - (b) If Mr Cameron were to offend again, the Rules require that the period of ineligibility is to be no less than one year and no more than four years.

DECISION

17. In accordance with Rule 14.4 of the Rules, Mr Cameron is ineligible for a period of two months from 30 March 2009. The provisions of Rule 14.10 of the Rules will apply to that period of ineligibility.

Dated 20 April 2009

A handwritten signature in black ink, appearing to read 'B. Paterson', is written over a light grey rectangular background.

.....

...
Hon Barry Paterson QC
Chairman