

INTRODUCTION

1. Stacey Lambert played professional basketball for the Manawatu Jets in the National League of Basketball New Zealand (BBNZ). A sample was taken from him by the applicant (DFS) after a match in Palmerston North on 21 May 2008. The sample returned an adverse analytical finding for the prohibited substance, cannabis.
2. Mr Lambert waived the right to have the "B" sample analysed. He admitted the violation but participated in the proceeding to make submissions on any sanction or penalty which might be imposed.
3. A telephone conference convened for 11 July 2008 was, with the agreement of both parties, converted into the hearing, for the purposes of the parties making submissions on the sanction.

MR LAMBERT'S POSITION

4. The results of the "A" sample were received two to three days before Mr Lambert was due to play, what he says, was probably to be his last match as a professional basketball player. BBNZ made an immediate application for provisional suspension under the Sports Anti-Doping Rules 2007 (the Rules). A panel of the Tribunal was assembled with urgency and a telephone conference hearing was held to determine the provisional suspension application on the evening of 6 June 2008. Mr Lambert was due to play the following day. Both Mr Lambert and his team manager, who participated in the telephone conference, gave an undertaking that Mr Lambert would be stood down and not play in the last match. In the circumstances, the Tribunal did not deem it necessary to impose a provisional suspension order.
5. Mr Lambert gave evidence at the hearing on 11 July and was questioned by members of the Tribunal. He acknowledged that he was aware that cannabis was a prohibited substance and that he had been warned against its use during the basketball season. He said he was an occasional user for recreational purposes. He gave evidence that he did not smoke the cannabis for performance enhancing purposes.

6. Mr Lambert asked that his contribution to basketball, both locally and nationally, be taken into account when considering the appropriate sanction.
7. Mr Lambert said that he does not intend to play professional basketball next season. However, he does not discount the possibility that he may return to basketball in the future. He expects to be involved in coaching basketball players and would like to play at a local level next season. It is understood that the season begins in April, although there is a summer league. He is currently coaching his son's basketball team after school and there have been suggestions that he become involved in coaching in Manawatu and he expects this to happen.

BBNZ'S POSITION

8. BBNZ was invited as an interested party to make submissions. Its position is that any sanction imposed should have the necessary punitive, educational and restorative effect on the individual, and also raise the awareness of the basketball community (and all sports) that actions like this will not be tolerated and penalties will reflect this by being a sufficient deterrent to this type of activity. BBNZ is committed to educating its athletes, participants and officials about the positive effects of being drug-free in sport and in life. It is not prepared to tolerate the taking of prohibited drugs in any sport.
9. It noted that recent penalties handed down to basketballers do not seem to have had any positive effect on the wider basketball community.
10. Ms Tong accepted Mr Lambert had contributed, both nationally and locally, to basketball in a significant manner but submitted that this Tribunal should be consistent in its approach to imposing sanctions, as this would assist BBNZ in having its sport free of drugs.

DFS'S POSITION

11. DFS asked that the penalties be imposed in line with r.14.3 of the Rules by imposing a period of ineligibility for such a term as the Tribunal deems appropriate. Ms Kernohan did not submit that the cannabis had been taken for performance enhancing purposes. Indeed, her submission suggested to the contrary.

DISCUSSION

12. The Tribunal accepts that Mr Lambert did not smoke cannabis for performance enhancing purposes. Accordingly, the lesser sanctions provided for in r.14.3 of the Rules apply.
13. Several cases in the last year or two establish that the Tribunal, for a first cannabis infringement when the drug was not taken for performance enhancing purposes, normally imposes a period of ineligibility of between one month and two months. The Tribunal notes the comments of BBNZ and the time may be approaching for the Tribunal to take a tougher stance if, as BBNZ suggests, the message is not having a positive effect on the wider basketball community.
14. The difficulty which confronts the Tribunal in this case is that during the period of ineligibility Mr Lambert will not be able to participate in any capacity in any competition, event or activity, whether local or national, organised, authorised or sanctioned by BBNZ or any other national sporting organisation which is a signatory to the Rules. Thus, during the period of ineligibility which the Tribunal intends to impose on Mr Lambert, he will not be able to play, coach, referee or administer basketball which is organised, authorised or sanctioned by BBNZ.
15. Thus, if the sanction imposed were to extend to a period in the new season commencing 1 April 2009, Mr Lambert would be prohibited from some of the coaching activities which he is likely to be involved in for a considerable period of time.

16. The practise of the Tribunal is not to impose a sanction which has no effect, because it applies in an off-season when the athlete would not have any involvement in the sport. Thus, if Mr Lambert was not intending to play or take part in any basketball activity before 1 April 2009, the period of ineligibility imposed would extend beyond that period. However, in this case it has come to the view that, if it imposes a sanction extending beyond 1 April 2009, it will be a very severe sanction. (Under the Rules, the sanction must commence no later than the date of the hearing decision.) This is because of the other activities Mr Lambert intends to be involved in in the interim. The Tribunal is of the view that prohibiting Mr Lambert from participating in any manner in basketball for a period of two months from 16 July 2008, the sanction will be effective. It will prevent him from being involved in coaching activities for the next two months. This sanction also gives credit for him standing down voluntarily from the game on 7 June 2008.

DECISION

17. In accordance with the provisions of r.14.3 of the Rules, a sanction of two months' ineligibility is imposed on Mr Lambert, such period to commence from 16 July 2008. During that period, Mr Lambert may not participate in any event in any capacity in any basketball activity (including playing, refereeing, coaching or administrating) in basketball organised, authorised or sanctioned by BBNZ. The same period of ineligibility will apply to such activities in any other sport which is a signatory to the Rules.
18. Mr Lambert is advised that if he were to further infringe, the minimum period of ineligibility which must be applied under the Rules is a period of two years.

Dated 16 July 2008



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Hon B J Paterson QC
Chairman