

BETWEEN DRUG FREE SPORT NEW ZEALAND

Applicant

AND JARED NEHO

Respondent

AND NEW ZEALAND RUGBY LEAGUE

Interested Party

DECISION

Dated 25 January 2013

Hearing: 23 January 2013
by telephone conference

Tribunal: Barry Paterson QC (Chairman)
Sir Bruce Robertson
Chantal Brunner

Present: Jared Noho (Athlete)
Paul David (Counsel for Drug Free Sport New Zealand)
Graeme Steel (Drug Free Sport New Zealand)
Jayne Kernohan (Drug Free Sport New Zealand)
Kevin Bailey (NZ Rugby League)
Zara Taukamo (Witness) for part of time

Registrar: Brent Ellis

1. Drug Free Sport New Zealand (DFS) applied under the provisions of the Sports Anti-Doping Rules (2012) (the Rules) alleging that Mr Neho committed a violation under the provisions of r 3.1 of the Rules.
2. The alleged violation was that Mr Neho, a rugby league player, competed in a Pirtek National Premiership match on 1 October 2012 at the Mount Smart Stadium, Auckland with the prohibited substance 11-nor-delta-9-tetrahydrocannabinol-9-carboxylic acid (a metabolite of cannabis) in his system. Cannabis is a prohibited substance in competition under the provisions of the 2012 Prohibited List International Standard.
3. Mr Neho does not deny the allegation. He was on 11 December 2012 provisionally suspended by this Tribunal.
4. A hearing of the application was conducted by means of a telephone conference call on 23 January 2013.

Mr Neho's position

5. Mr Neho seeks a reduced sanction under the provisions of r 14.4 of the Rules. His position is that when he smoked the cannabis he had no intention of enhancing his sports performance.
6. Mr Neho does not deny smoking cannabis nor does he deny that he knew that it was a prohibited substance in competition under the Rules. His evidence is that he knew his obligation and gave up smoking prior to the rugby league competition commencing. He withdrew from the team for family and work commitments. After he withdrew from the team he occasionally smoked cannabis again.
7. However, due to injuries and unavailability of other players, he filled in.
8. Mr Neho's partner, Ms Taukamo, in a general way, confirmed his evidence. It was also confirmed in one respect by Mr Bailey who

had checked the records and confirmed that Mr Neho did not commence playing in the competition until the fifth round. The sample on which the allegation is based was given after he had played his second match, in the sixth round of the competition.

DFS's position

9. Mr David, for DFS, accepted that if the Tribunal accepted the evidence, Mr Neho had discharged the burden on him under r 14.4. If that were to be the case, the Tribunal's standard starting point of an effective four months ban was appropriate. In this case the aggravating factor was that Mr Neho knew that he should not be taking the substance and played knowing the risk, while the mitigating factor was Mr Neho's late call up into the team.

Discussion

10. The Tribunal accepts that Mr Neho has established to its comfortable satisfaction the absence of an intent to enhance sports performance.
11. The Tribunal considers that the appropriate starting point is an effective four months suspension.
12. Under the provisions of the Rules the period of ineligibility is to commence from 25 January 2013, but Mr Neho is to receive a credit for the period of provisional suspension which commenced on 11 December last.
13. As the period of provisional suspension is during the rugby league off season, a credit for this period against a four month period of suspension will give an effective suspension of less than four months. Taking into account the aggravating and mitigating factors and that the suspension will prevent Mr Neho from participating in pre-season matches and activity, the Tribunal considers that the appropriate sanction is a 12 week sanction.

Decision

14. The Tribunal imposes on Mr Neho a 12 week period of ineligibility commencing from 25 January 2013.

15. Mr Neho is advised that under r 14.10 of the Rules, he may not during the period of ineligibility participate in any capacity in a competition or activity authorised or organised by New Zealand Rugby League or a rugby league club or in any similar activities in any other sport which is a signatory to the Rules.

Dated 25 January 2013



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B J Paterson QC
Chairman