

INTRODUCTION

1. Mr Roberts is a Rugby League player who plays for the Northcote Club in Auckland. He is not a representative player but has been a keen Rugby League player since about the age of 5 years. After a game for Northcote at the North Harbour Stadium, Albany on 3 July 2005 a urine sample was taken from him by a drug control official of the New Zealand Sports Drug Agency (“the Agency”).
2. The sample taken from Mr Roberts contained cannabis and by letter of 12 August 2005, the Agency advised Mr Roberts that its Board had determined that he had committed a doping infraction. Cannabis is a prohibited substance banned by the World Anti-Doping Code 2005 (the WADA Code) Prohibited List International Standard under S8 – Cannabinoids.
3. Mr Roberts in his notice of defence, admitted the infraction and initially did not wish to be involved in a hearing. However, he reconsidered his position and wrote to the Tribunal stating that he wished to participate in the hearing. His letter said:

“I admit that I do smoke cannabis for my own recreation and did so during the week with friends at a farewell party. I swear I do not take the drug to enhance my performance in Rugby League and regret that I did so. I apologise to the New Zealand Rugby League, my coaches, team mates and family, for bringing the game into disrepute and that was not my intentions. I fully accept that it was the wrongful thing to do and I am remorseful for my actions.”
4. What was intended to be a pre-hearing conference was conducted by telephone on 22 November. By agreement with both Mr Roberts and Mr Bailey for the respondent, the pre-hearing conference was converted to a hearing for determining the appropriate penalty. Mr Roberts, after affirming to tell the truth, was questioned by members of the Tribunal.
5. Mr Bailey did not make any submissions as to the appropriate sanction, preferring to leave that to the Tribunal. On behalf of the respondent, he expressed disappointment at Mr Roberts’ actions. New Zealand Rugby League adheres to the WADA Code and tries to educate its players on the need to comply with that code.

THE SANCTION

6. Article 10.3 of the WADA Code provides that where an athlete can establish that the use of a “Specified Substance” was not intended to enhance sports performance, the period of ineligibility provided in Article 10.2 is replaced with lesser sanctions. For a

first violation, the minimum sanction is a warning and reprimand and no period of ineligibility from future events and the maximum sanction is one year's ineligibility. Cannabis is one of the specified substances to which Article 10.3 applies.

7. The Tribunal is satisfied as a result of its questioning of Mr Roberts that the cannabis was not taken for performance enhancing purposes. There is no suggestion that use of the cannabis smoked prior to the tournament placed any competitor in danger. As noted in both *Boxing New Zealand Inc. v Mene* SDT/13/04 of 7 March 2005 and *Touch New Zealand v Koro* STD/04/05 of 26 May 2005, the appropriate penalty for a first offence with cannabis where it was not taken for the purposes of enhancing the athlete's performance and represents no danger to other competitors, officials or members of the public and there are no aggravating circumstances, is likely to be a reprimand and warning.
8. In this case there was no suggestion from the respondent that there are aggravating circumstances. The case is therefore different from the cases of *Touch New Zealand v Morunga* STD/07/05 of 2 August 2005 and *Touch New Zealand v Soloman* STD/08/05 of 1 August 2005. The appropriate sanction, in the view of the Tribunal, is a warning and a reprimand.
9. Mr Roberts has been informed that if he were to commit a further doping infraction of a similar nature, there is a mandatory sanction of two years' ineligibility, i.e. he must under the WADA Code and the New Zealand Rugby Rules be suspended from the sport for two years. This is a very severe penalty. New Zealand Rugby League is encouraged to make sure the WADA Rules are well known and understood in the sport.

PENALTY

10. The penalty imposed is a reprimand and a warning.



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Hon B J Paterson QC (Chairman)
28 November 2005