

1. Evaan Reihana (Mr Reihana) is a New Zealand rugby league and rugby union player and member of New Zealand Rugby League (NZRL). NZRL has adopted the 2023 Sports Anti-Doping Rules (SADR) promulgated by Drug Free Sport New Zealand (DFSNZ) as its anti-doping policy.
2. A sample was collected from Mr Reihana in competition on 1 October 2023 following a match between Waikato and Canterbury in the Rugby League National Premiership competition. Analysis of the sample showed the presence of cocaine which is a non-specified substance (and substance of abuse) prohibited in competition.
3. On 16 November 2023, DFSNZ filed an Application for Provisional Suspension alleging breaches of SADR rules 2.1 and 2.2.
4. Mr Reihana engaged Mr Cornegé as counsel and on 8 December 2023 he notified the Tribunal that Mr Reihana intended to oppose the application.
5. That same day the Tribunal received a joint request for directions for Mr Reihana's opposition to be filed by 13 December 2023 and a joint memorandum to be filed by 15 December 2023. The directions were made as requested.
6. Mr Cornegé had difficulty filing the opposition on the 13th; the Notice of Defence and unsworn affidavit were received and accepted by the Tribunal on 14 December 2023. A further unsworn affidavit was filed on 15 December 2023.
7. Mr Reihana admits using cocaine but says that he used it out of competition (before midnight the day before the competition), and that his use was unrelated to sports performance. Mr Reihana says he used cocaine to help him deal with things that were going on in his life which were causing him to struggle with his sport and his business; specifically, he had found out that his mother, who had been battling cancer, was told she had only weeks if not days to live.

Provisional suspension and sanction

8. DFSNZ does not contest the position that Mr Reihana took cocaine out-of-competition.
9. The joint memorandum of counsel sets out the relevant provisions of the SADR relating to whether a provisional suspension should be imposed and to sanction following admission. The Tribunal was asked to consider whether Mr Reihana had taken cocaine (a substance of abuse) out-of-competition and not for the purposes of

performance enhancement, making Rule 7.4.1(ii) available to him, and to further consider that Rule 10.2.4.1 should apply to Mr Reihana.

10. The memorandum submits that should the Tribunal agree that the substance of abuse was taken out-of-competition and was not sports performance related, the appropriate sanction should be a period of ineligibility of three months and that a provisional suspension order is unnecessary.

Discussion on provisional suspension and sanction

11. The Tribunal accepts Mr Reihana's admission that he took cocaine, a prohibited substance.
12. The only evidence before the Tribunal as to whether Mr Reihana took cocaine out-of-competition and was not used in relation to sports performance are Mr Reihana's affidavits. DFSNZ offers no evidence to the contrary. On that basis, the Tribunal accepts that Mr Reihana did not take the substance of abuse to enhance his sporting performance and that he took the substance before midnight the day before the competition.
13. The Tribunal therefore accepts that Rule 10.2.4.1 applies to Mr Reihana and that a period of ineligibility of three months should be imposed. The Tribunal also accepts that there is no need to consider a mandatory provisional suspension order.

Public disclosure

14. The joint memorandum of counsel also asked the Tribunal to consider the issue of redacting Mr Reihana's identifying information from its decision before it is published. Submissions were received from both parties.
15. DFSNZ has its own discretion regarding publication and is governed by Rule 14 of the SADRs.
16. Counsel for Mr Reihana submits that the Tribunal should redact identifying information because Mr Reihana is a recreational athlete, the ADRV was low level, was not committed for sports performance, he has had no previous ADRVs and is unlikely to commit breaches in the future.
17. Mr Reihana's submissions, while pointing to difficult personal circumstances at the time of the breach, did not address the impact publication of his name would have on him.

18. Counsel for DFSNZ submits in response that the reasons against publication cited by Mr Reihana have already been applied to reach a very low period of ineligibility and are not factors that should be further applied to the matter of public disclosure.
19. DFSNZ further submits that Mr Reihana did not provide evidence as to the effect publication of his name would have on him and pointed to the principle of deterrence which it submits is integral to the anti-doping regime. Its submission also points to a recent Tribunal decision¹ where redaction was granted and distinguishes Mr Reihana from that case on the basis the athlete had already served the ineligibility period by the time the decision was released. This was not the only reason for the decision to redact and the additional reasons are addressed in the discussion below.

Discussion on public disclosure

20. The Tribunal accepts that Mr Reihana is a recreational athlete according to the definition in the SADRs and that DFSNZ has discretion whether to publicly disclose that Mr Reihana violated the SADRs.
21. The decision for the Tribunal is whether it will redact Mr Reihana's identifying information from its written decision.
22. The Tribunal is of the view that Mr Reihana has already benefitted from the factors he puts forward as reasons for non-publication. The Tribunal would have expected to receive evidence about the impact publication would have on Mr Reihana and, in the absence of such, determines that there is nothing exceptional about Mr Reihana's circumstances which would mean name publication would cause him undue hardship.
23. The Tribunal also notes that Mr Reihana's case can be distinguished from *Anon*² in that the athlete in that case did not intentionally ingest the prohibited substance and was found to have borne no significant fault or negligence; alongside that the athlete was very young and the impact of prolonged proceedings had taken a toll on the athlete, of course, the athlete had already been suspended from all sport for longer than the period of ineligibility that was imposed. In contrast, Mr Reihana has deliberately and knowingly taken a prohibited substance which is not just banned from use in sport but is an illegal Class A drug. The Tribunal has sympathy for the difficult

¹ *DFSNZ v Anon* ST0123

² As at n 1

situation Mr Reihana was in having heard his mother's prognosis, but it cannot condone illegal behaviour.

24. As Mr Reihana has already benefitted from his classification as a recreational athlete, did not provide evidence about the impact publication would have on him and intentionally took the prohibited substance, the Tribunal does not agree that Mr Reihana's name should be redacted from this decision.

Orders and Directions

25. The Tribunal **dismisses** the application for provisional suspension.
26. The Tribunal **orders** that a period of three months ineligibility, commencing on 20 December 2023, from participation in any event or activity organised, sanctioned or authorised by New Zealand Rugby League or by any other sporting organisation that is a signatory to the SADR, is imposed on Mr Reihana under Rule 10.2.4.1.
27. This decision will be published by the Tribunal by uploading this decision to the Tribunal website.

Dated: 20 December 2023



John Macdonald
Chair



Ruth Aitken DNZM
Member



Paula Tesoriero MNZM
Member