

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF
WORLD RUGBY AND THE RUGBY FOOTBALL UNION**

Before:

Michelle Duncan (Chair)

Professor Kitrina Douglas

Dr Terry Crystal

BETWEEN

RUGBY FOOTBALL UNION (“RFU”)

and

National Governing Body

CHRISTOPHER MAYOR

Respondent

DECISION OF THE NATIONAL ANTI-DOPING PANEL ON SANCTION

Introduction

1. The Panel was appointed to determine whether the Respondent, Mr Mayor (the “**Player**”), committed three Anti-Doping Rule Violations (“**ADRVs**”), namely “*Possession of a Prohibited Substance*”, “*Use or Attempted use of a Prohibited Substance*” and “*Trafficking or Attempted Trafficking of a Prohibited Substance*” pursuant to Regulations 21.2.6, 21.2.2 and 21.2.7 of World Rugby’s Anti-Doping Regulations. The Applicant (“**RFU**”) is the National Governing Body of Rugby Union in England.

Background

2. The Player is an English rugby union player who was first registered with the RFU in 2002. He was a highly successful player, playing at the top of the English game for several years. The Player's professional career ended in 2013, following which he played at a semi-professional and subsequently amateur level until 2020.
3. In September 2019, UK Anti-Doping ("**UKAD**"), the National Anti-Doping Organisation for the UK, received evidence from [REDACTED] Police of certain private Facebook messages between the Player and [REDACTED] in which the Player asked whether [REDACTED] had any 72iu Lilly pens.
4. 72iu Lilly pens contain the drug Humatrope, which is a Human Growth Hormone ("**hGH**"). hGH is prohibited at all times under section S2 of the World Anti-Doping Agency ("**WADA**") 2018 Prohibited List and is a non-Specified Substance.
5. On 8 July 2021, the Player participated in a remote interview with UKAD in which he was questioned about the Facebook messages. Thereafter, by letter dated 8 November 2021, UKAD provisionally suspended the Player and put him on notice that he may have committed a number of ADRVs.
6. The Player's lawyers produced a Response to the Notice letter dated 23 November 2021 denying that any ADRVs had been committed.
7. UKAD provided the RFU with notification of a case to answer on 23 November 2021. The Player was charged by the RFU by letter dated 2 December 2021.
8. The Player denied the Charges by letter dated 22 December 2021 stating that his position remained unchanged from his letter dated 23 November 2021.
9. A hearing took place on 6 May 2022 to determine the Charges. The Player attended the hearing and was represented by Nicholas Cotter of Counsel and Jonathon Enston of JMW Solicitors. The RFU were represented by Pippa Manby of Counsel.
10. On 20 May 2022, by decision of the National Anti-Doping Panel, the Player was found to have committed the following two ADRVs – (1) Attempted Use of a Prohibited

Substance and (2) Attempted Trafficking of a Prohibited Substance pursuant to World Rugby Regulation 21 (“**WRR 21**”).

11. Having found that the Player had committed the two offences, the Panel issued directions for the service of submissions in relation to sanctions. Pursuant to those directions, the RFU served its submissions on sanction on 27 May 2022. The Player served his submissions on sanctions on 7 June 2022. The parties agreed that the issue of sanction could be determined on the papers without a hearing.

Regulations

12. The period of Ineligibility for a violation of Use or Attempted Use of a Prohibited Substance is four years, unless the Player can demonstrate that the Anti-Doping Rule Violation was not “intentional” or where the Prohibited Substance is a Specified Substance (WRR 21.10.2.1). The Player bears the burden of proof in this regard on the balance of probabilities.

For the purposes of WRR 21.10.2.1 above, “intentional” is defined within WRR 21.10.2.3 as follows:

“As used in Regulations 21.10.2 and 21.10.3, the term “intentional” is meant to identify those Players who cheat. The term therefore requires that the Player or other Person engaged in conduct which he or she knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not intentional if the substance is a Specified Substance and the Player can establish that the Prohibited Substance was Used Out-of-Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered intentional if the substance is not a Specified Substance and the Player can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.”

13. The period of Ineligibility for a violation of Trafficking or Attempted Trafficking is a minimum of four years up to a lifetime depending upon the seriousness of the violation

(WRR 21.10.3.3).

The arguments

14. In light of the Panel's findings in its 20 May 2022 decision on liability, the Player did not seek to argue that his ADRVs were not intentional or that he is entitled to any Fault-based reduction. Therefore, the only issue between the parties was whether the Panel should impose a period of Ineligibility of more than four years.

15. As to this:

- a. The RFU accepts that there is no direct evidence that the Player was attempting to target or sell or otherwise supply any particular individuals within sport. The RFU also accepts that the Player's actions did not involve multiple substances or that he was operating over a significant period of time or that his conduct was an organized business or distribution network. The RFU therefore accepts that an eight year ban as was applied in *UKAD v Dean Colclough* (30 June 2014) would be unduly harsh.
- b. The RFU submits however that a five year ban would be appropriate in this case relying on the following:
 - i. The Player was well educated on his anti-doping responsibilities.
 - ii. hGH is a Class C drug, the supply and possession of which is prohibited by criminal law. The Player's attempt to obtain hGH has already been subject to police investigation.
 - iii. The Player is an ex-professional player who was no doubt held in high regard by his teammates. He would have been expected to set high standards on and off the pitch for less experienced players to follow.

16. The Player submits that the period of Ineligibility for Attempted Use should be limited to four years for the following reasons:

- a. The Attempted Use was limited in nature in terms of duration and requests;

- b. The Attempted Use did not involve multiple substances
- c. The Attempted Use was not close to actual completion;
- d. The Attempt was not made while the Player was a professional payer at the highest levels of the game and the breach arose at a time when the Player was not involved in elite rugby.

17. As regards the attempted trafficking, the Player submitted that the period of ineligibility should be limited to four years for the following reasons:

- a. The Attempted Trafficking was limited in nature in terms of duration and requests;
- b. The Attempted Trafficking did not involve multiple substances
- c. The Attempted Trafficking was not directed at players or other sports

[REDACTED]

- e. The Player's attempt, unlike the case of *RFU v Wilmott* (2 June 2015)– did not involve the seizure of any banned substances and clearly involved an Attempt to procure far less amounts
- f. Unlike the *Wilmott* case, the Player's conduct did not involve the use of innocent third parties. Further the Attempted Trafficking in the *Wilmott* case was far more advanced and involved a large number of items.
- g. The Player has an unblemished anti-doping record.

Analysis

18. Both parties have acknowledged that while the Panel may wish to consider the sanctions imposed by other UKAD OFFICIAL hearing panels in comparable cases, the decision in a particular case necessarily depends on the specific facts and circumstances of that case.

19. The RFU has accepted that the Player should be given credit for the period of Provisional Suspension served since 8 November 2021.
20. The Player was notified of the charges at the same time. Accordingly, they are to be treated as a single Anti-Doping Rule Violation.
21. The Panel does not consider there are grounds for imposing a period of Ineligibility of more than four years. The Panel accepts and agrees with the Player's submissions that (i) the Attempted Use and Attempted Trafficking were limited in nature and did not involve multiple substances; (ii) the Attempted Use was not close to actual completion and did not, on the evidence before the Panel, extend beyond the private messages exchanged between the Player and [REDACTED]; (iii) in contrast to the *Wilmott* case, the Attempted Trafficking did not involve the seizure of any banned substances or large quantities of banned substances; (iv) also in contrast to the *Wilmott* case, the present case did not involve the use of innocent third parties and was far less advanced than the scheme in *Wilmott*; and (v) the Attempted Trafficking was not directed at other players or other sports and nor did either the Attempted Use or Attempted Trafficking take place during a period in which the Player was involved in elite or professional rugby.

The Decision

22. For the reasons set out above, the Panel decides that the Player is to be subject to a period of Ineligibility of 4 years commencing on 8 November 2021 and ending at midnight on 7 November 2025.

Right of Appeal

23. In accordance with Article 13.5 of the NADP Procedural Rules any party who wishes to appeal must lodge a Notice of Appeal with the NADP Secretariat, located at Sport Resolutions, 1 Paternoster Lane, London, EC4M 7BQ (resolve@sportresolutions.com), within 21 days of receipt of this decision.



Michelle Duncan

On behalf of the Panel

London UK

22 June 2022



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