

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF
THE BRITISH BOXING BOARD OF CONTROL**

Before:

Robert Englehart KC
Blondel Thompson
Professor Brian Lunn

BETWEEN:

UK Anti-Doping

Anti-Doping Organisation

and

Krzysztof Glowacki

Respondent

DECISION OF THE NATIONAL ANTI-DOPING PANEL

INTRODUCTION

1. We were appointed as the Tribunal to determine a charge brought by UK Anti-Doping (“UKAD”) against Mr Krzysztof Glowacki. He was a Polish professional boxer who contested a cruiserweight bout against Richard Riakporhe in Manchester on 21 January 2023 under the auspices of the British Boxing Board of Control (“BBBoC”). That body

has adopted the Anti-Doping Regulations (“ADR”) and has appointed UK Anti-Doping Limited as the Anti-Doping Organisation responsible for Results Management.

2. We held a video conference hearing on 31 October 2023. Before us UKAD was represented by Ciaran Cronin. Mr Glowacki attended in person together with a friend who acted as interpreter. The day before the hearing Mr Glowacki had in fact requested an adjournment by email on the grounds that 31 October 2023 was a holiday in Poland, and he would not have connection to the internet. That application was refused, and happily he was able to attend.
3. These proceedings have taken an unsatisfactory course. Mr Glowacki did attend the directions hearing, again with a friend acting as interpreter, on 3 August 2023. He was apparently entirely co-operative throughout. Nevertheless, apart from the provision of a brief general denial of ever having taken any drug, Mr Glowacki failed to comply with any of the directions about filing evidence or providing written submissions. Notably, until the day of the hearing Mr Glowacki never mentioned what emerged at the hearing as the central point of his case, that is the possibility of a doctor in Poland having provided him with medical treatment incorporating steroids. He asked for time to provide medical evidence even though he had had ample time since the directions hearing to provide such evidence. Nevertheless, we agreed to consider any medical information which he were to furnish within the next three days before giving this our final Decision.

JURISDICTION

4. Since Mr Glowacki is not registered with the BBBoc as a professional boxer, it is right to record why he is subject to the ADR. In order to compete on 21 January 2023 Mr Glowacki was authorised by the Polish Boxing Union to box abroad. Then, on 19 January 2023 he was granted a Foreign Boxer Licence by the BBBoc. In his application Mr Glowacki expressly agreed to adhere to the Rules and Regulations of the BBBoc. Moreover, the bout against Mr Riakporhe was recognised and authorised by the BBBoc. Article 1.2.1 of the ADR explicitly provides that all Athletes like Mr Glowacki who take part in such events are subject to the ADR. In fairness to Mr Glowacki it is right to record

that he has never suggested that the ADR did not apply to him. In brief, we clearly do have jurisdiction as the Tribunal under the ADR Article 8.

THE CHARGES

5. Following a positive finding on analysis of a urine Sample provided by Mr Glowacki after the bout on 21 January 2023, he faced two charges under the ADR.
6. First, he was charged with an Anti-Doping Rule Violation under Article 2.1 of the ADR. That Article provides that an Adverse Analytical Finding of the presence of a Prohibited Substance or any of its metabolites in an Athlete's Sample is an Anti-Doping Rule Violation regardless of Fault or intent. It constitutes a contravention of the ADR in the nature of a strict liability offence.
7. Second, Mr Glowacki was also charged with a contravention of ADR Article 2.2, that is Use or Attempted Use of a Prohibited Substance. The allegation is that Mr Glowacki must have used a Prohibited Substance in order for it to have been detected in his urine. The two Charges are closely linked. Article 2.2, like Article 2.1, also provides that lack of Fault, negligence, or knowledge are not material for the purposes of the commission of an Anti-Doping Rule Violation. Use or Attempted Use is equally in the nature of a strict liability offence.

THE FACTUAL BACKGROUND

8. As noted above, Mr Glowacki was tested following the bout against Mr Riakporhe. His urine Sample was forwarded to the WADA accredited laboratory at King's College London. Analysis of the A Sample revealed the presence of boldenone, as well as a metabolite of boldenone. Boldenone is an anabolic androgenic steroid and is listed under section 1.1 of the WADA 2023 Prohibited List.

9. Boldenone is a non-Specified Substance prohibited at all times. Nevertheless, the evidence before us is that, despite being a Prohibited Substance, boldenone may be used to increase a boxer's physical power and strength or to speed up recovery from injury.
10. Following the laboratory report Mr Glowacki was notified on 6 April 2023 by UKAD that he may have committed an Anti-Doping Rule Violation. A Provisional Suspension was imposed upon him. The notification letter asked for a response and explained in the usual way that Mr Glowacki could have his B Sample analysed if he so chose. UKAD received no reply despite reminders in both English and Polish. Accordingly, on 2 June 2023 UKAD charged Mr Glowacki with Anti-Doping Rule Violations under ADR Articles 2.1 and 2.2.
11. The letter of charge provoked the following response from Mr Glowacki on 12 June 2023:

STATEMENT

"Dear UK Anti-Doping,

I am sending my statement in response to the information received on April 6, 2023.

As a boxer with more than 25 years of experience. a former two-time World Boxing Organization world champion in the junior heavyweight category up to 200 pounds, and a former Polish youth champion and Polish senior championship medalist in the super heavyweight category, I have always been guided by the highest standards of sports competition.

For me, the most essential values that influence the route of my professional career are the principles of fair play, attention to legitimate rivalry, transparency, and openness.

I declare that the allegations and concerns about my supposed usage of illegal doping substances are unfounded and false. I have never intentionally violated any doping rules in any way, shape, or form.

I am prepared to give all necessary documentation, analyses, and expert opinions from my professional team of doctors, preparation staff, and trainers to any anti-doping authority upon request.

*Yours sincerely,
Krzysztof Glowacki"*

Krzysztof Glowacki

12. Apart from the above, no further communication was received by UKAD from Mr Glowacki, and the charges were referred to the National Anti-Doping Panel (“NADP”) on 11 July 2023 under ADR Article 8. As noted above, on 3 August 2023 directions were given at a video link hearing attended by Mr Glowacki in person. Mr Glowacki did not subsequently comply with any of the directions other than to provide the following pursuant to a direction for him to provide a full response to the charges:

“In response to the information received on June 29, 2023, I am providing an additional statement.

In accordance with the choices stated in paragraph 5 of the Charge Letter, I am denying all the Violations.

What’s worth mentioning- the bout on 21 January 2023 against Richard Riakaporhe was the final one in my career, as I had decided to step down. I shall never fight again as a professional boxer.

Yours sincerely

Krzysztof Głowacki”

13. Other than the above, there was no further communication from Mr Glowacki until he appeared at the hearing before us. At the hearing before us he stated for the first time that prior to the bout on 21 January 2023 he had had a serious injury to his left hand. This had been treated by a doctor in Warsaw by the application of a patch. Mr Glowacki asked for more time to provide medical evidence. Despite the unsatisfactory way in which the matter had been raised, we informed Mr Glowacki that we would consider any further medical information which he were to provide within the next three days.

14. On 2 November 2023 Mr Glowacki forwarded a document which was wholly in Polish but appeared to be a letter from a clinic in Warsaw. Under Article 8.5 of the NADP Rules this document should have been accompanied by an official translation. Mr Glowacki was given until 7 November 2023 to provide an official translation, but on that day he emailed the NADP secretariat to say that an official translation would take several days to produce; he requested an extension. He was given a final extension

until midnight on 12 November 2023. However, in the event Mr Glowacki was able to provide an official translation late on 7 November 2023.

THE CASE FOR UKAD

15. For UKAD Mr Cronin called no live witnesses. He was content to rely on the documents and written evidence. In his submission the present was a straightforward case. The evidence clearly established that on 21 January 2023 both boldenone and its metabolite were in Mr Glowacki's system, and Mr Glowacki did not have any Therapeutic Use Exemption. Under ADR Article 2.1 the mere existence of a Prohibited Substance or its metabolite in an Athlete's system was sufficient to constitute an Anti-Doping Rule Violation. Furthermore, presence must have been preceded by Use. And both presence and Use constituted Anti-Doping Rule Violations irrespective of knowledge, Fault or intent.
16. In relation to sanction, we were reminded that boldenone is a non-Specified Substance. Therefore, under ADR Article 10.2 the period of Ineligibility is four years unless Mr Glowacki were able to establish that the Anti-Doping Rule Violation was not intentional as that term is defined in the ADR. The onus is on Mr Glowacki to establish lack of intent. We were reminded of the long line of cases in which it has been held that it would only be in a very rare case that lack of intention could be established without an Athlete demonstrating how a Prohibited Substance came to be in his or her system. Here, there were general denials of ever having taken a banned drug and protestations of being "clean". However, there was no satisfactory evidence as to how the boldenone entered Mr Glowacki's system.
17. As for the medical report submitted by Mr Glowacki, UKAD cited an open source search as showing that the drug referred to in the report was not boldenone but betamethasone. Thus, UKAD continued to maintain that Mr Glowacki has not shown how the boldenone had entered his system.
18. On the evidence UKAD invited us to impose a period of Ineligibility of four years as mandated by the ADR.

MR GLOWACKI'S CASE

19. As mentioned above, Mr Glowacki provided no evidence for the hearing before us. For his case we had no more than his general assertion of not having taken any banned substance. However, at the hearing he told us that he had had treatment at a clinic in Warsaw shortly before the bout against Mr Riakporhe. The treatment was for an injury to his left hand and had involved the application of a patch by the clinic. The treatment had been effective in clearing up the injury. The inference was that it may well have been this patch which had been responsible for the Prohibited Substance found in his urine.
20. The medical report issued by the Warsaw clinic recorded that on 16 January 2023 Mr Glowacki had attended the clinic complaining of pain in the metacarpophalangeal joint 111 of the left hand and some swelling of the joint. He was treated by an injection of one ampoule of diprophos to which a sterile dressing was applied. He was discharged with a recommendation of sparing use of the joint for 2-3 days and the application of ice cold compresses.
21. Mr Glowacki did not make any submissions on the basis of the medical report. He simply provided us with the report and was apparently content that we ourselves should consider how helpful it was.

DISCUSSION

22. There is unchallenged evidence from an unimpeachable source that Mr Glowacki's urine Sample contained boldenone and a metabolite of boldenone. There is no doubt that boldenone is an anabolic androgenic steroid and is listed as such under section 1.1 of the WADA 2023 Prohibited List. In these circumstances, we are entirely satisfied that there was an Anti-Doping Rule Violation under ADR Article 2.1. Article 2.1.2 provides in material part:

“Proof of any of the following to the standard required by Article 8.4.1 is sufficient to establish an Article 2.1 Anti-Doping Rule Violation:

(a) An Adverse Analytical Finding of the presence of a Prohibited Substance or any of its Metabolites or Markers in the Athlete’s A Sample, where the Athlete waives analysis of the B Sample and so the B Sample is not analysed.”

23. Similarly, the natural inference from the presence of the Prohibited Substance is that Mr Glowacki must have used it, and there was no evidence to dispel the inference. Use is also an Anti-Doping Rule Violation under ADR Article 2.2. Article 2.2.3 provides:

“The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. For an Article 2.2 Anti-Doping Rule Violation to be committed, it is sufficient that the Athlete Used or Attempted to Use a Prohibited Substance or Prohibited Method.”

24. It is not suggested that Mr Glowacki held any Therapeutic Use Exemption. Accordingly, both the Anti-Doping Rule Violations alleged are established.

25. We must also consider whether these were intentional Anti-Doping Rule Violations within the meaning of the ADR. This is material because for the purposes of boldenone ADR Article 10.2.1 provides:

“... the period of Ineligibility shall be four (4) years where:

(a) The Anti-Doping Rule Violation does not involve a Specified Substance or a Specified Method, unless the Athlete or other Person can establish that the Anti-Doping Rule Violation was not intentional.”

Boldenone being a non-Specified Substance, it would be for Mr Glowacki to satisfy us that the ingestion of boldenone was not intentional (as that term is defined in Article 10.2.3). The difficulty for Mr Glowacki is that, leaving aside the medical report which we discuss below, he provides no more than a bare denial of ever having ingested any banned drug. There is abundant authority for the proposition that it would only be in an exceptional case that a Tribunal could find that ingestion was not intentional where the Athlete does not even establish how the Prohibited Substance came to be in his or her system. For domestic authority we need do no more than refer to the appeal decisions

in the seminal case of *UKAD v Buttifant* SR/NADP/508/2016 and in *UKAD v Ohuaregbe* SR/300/2019. There are also numerous CAS decisions to the same effect.

26. We therefore turn to consider the medical report put forward by Mr Glowacki. This demonstrates an injection of diprophos on 16 January 2023. However, this is of no assistance in establishing how boldenone came to be in Mr Glowacki's system. The constituent of diprophos is betamethasone. This is drug which does in fact appear on the WADA 2023 Prohibited List at S9 as a glucocorticoid prohibited In-Competition. It is, however, quite different from boldenone which is listed at S1 as an anabolic androgenic steroid prohibited at all times.

27. For the reasons set out above, we must conclude that Mr Glowacki has failed to demonstrate how the boldenone came to be in his system. There are no exceptional circumstances. We are, therefore, driven to conclude that Mr Glowacki has not satisfied us that his ingestion of boldenone was not intentional. His mere protestation is insufficient. It accordingly follows that Mr Glowacki has to be subject to a four year period of Ineligibility.

CONCLUSION

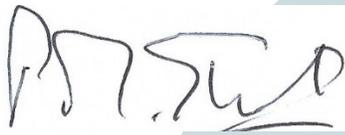
28. In summary, our decision is as follows:

1. Mr Glowacki has committed two Anti-Doping Rule Violations, pursuant to ADR Articles 2.1 (Presence) and 2.2 (Use); and
2. He is to be subject to a period of Ineligibility of four years.

Mr Glowacki has been subject to Provisional Suspension since 6 April 2023. There is no evidence before us that he has not observed this Provisional Suspension. Accordingly, his four year period of Ineligibility will run from 6 April 2023 and expire at midnight on 5 April 2027.

RIGHT OF APPEAL

29. 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 within 21 days of receipt of this decision. Pursuant to ADR Article 13.4.2(b), any appeal should be filed at the National Anti-Doping Panel, located at Sport Resolutions, 1 Paternoster Lane, London, EC4M 7BQ (resolve@sportresolutions.com).



Robert Englehart KC
Chair, on behalf of the Panel
London, UK
21 November 2023

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