

**IN THE MATTER OF PROCEEDINGS
BROUGHT UNDER THE ANTI-DOPING
RULES OF BRITISH WEIGHT LIFTING**

Before:

Charles Hollander QC (Chairman)

Prof Gordon McInnes

Carole Billington-Wood

BETWEEN:

UK ANTI-DOPING ('UKAD')

Anti-Doping Organisation

- and -

SHILA PANJAVI

Respondent

DECISION

Introduction

1. This is the decision of the National Anti-Doping Panel in *UKAD v Shila Panjavi*.
2. Ms Shila Panjavi is a talented and experienced weightlifter, having participated in the sport since the age of 8; she has been National or British champion at every age group and was the British Senior Champion in her weight class in 2015, which she retained in June 2016. Shortly after the 2016 British Championships, Ms Panjavi had also been invited to join the UK Sport World Class Performance Programme.
3. On 12 June 2016, a Doping Control Officer ('DCO') collected a urine sample from Ms Panjavi In-Competition. Assisted by the DCO, Ms Panjavi split the sample into two separate bottles which were given reference numbers A1128203 (the 'A Sample') and B1128203 ('the B Sample').
4. Both samples were transported to the World Anti-Doping Agency ('WADA') accredited laboratory in London, the Drug Control Centre, Kings College London (the 'Laboratory'). The Laboratory analysed the A Sample in accordance with the procedures set out in WADA's International Standard for Laboratories.
5. Analysis of the A Sample returned an Adverse Analytical Finding for 3'-hydroxystanozolol (a metabolite of stanozolol) ('the AAF'). Stanozolol is classified under S1.1a of the WADA 2016 Prohibited List for exogenous anabolic androgenic steroids. It is a Non-Specified Substance and is prohibited at all times.
6. By letter dated 8 July 2016, UKAD issued Ms Panjavi with a Notice of Charge for the commission of an Anti-Doping Rule Violation pursuant to ADR Article 2.1 due to the presence of 3'-hydroxystanozolol in the A Sample (the 'Charge'). In ADR Article 2.1 cases the presence itself of a Prohibited Substance in a Sample is taken as proof that the violation occurred, pursuant to ADR Article 2.1.3.
7. The matter came before the Tribunal for an oral hearing on 25 January 2017. The only witness to give oral evidence before the Tribunal was Ms Panjavi. There was written evidence from Professor David Cowan and Mr Nick Wojek on behalf of

UKAD and a statement from Dr Kamran Nanavazadeh, dermatologist, on behalf of Ms Panjavi.

Ms Panjavi's initial response

8. On 27 July 2016, Ms Panjavi discussed the contents of the Charge and provided her initial response to Mr Tony Jackson of UKAD by telephone. During that conversation Ms Panjavi alluded to taking a number of different supplements that she had acquired from BodyPower Expo on 14 May 2016. She said she acquired approximately 100 different free samples of supplements, which included pre workout drinks, multi-vitamins and other supplements and informed Mr Jackson that between 14 May and 12 June, she had ingested approximately 20 of those supplements. Ms Panjavi also stated that she acquired Vitamin B and Vitamin E vials from Iran when she visited and that she injected herself with these vitamins in her buttock. She informed Mr Jackson that she had a lot of friends who were weightlifters in Iran and who also take these vitamins as well as vitamin B12. Ms Panjavi stated that she was surprised at the finding of 3'-hydroxystanozolol in the A Sample. She informed Mr Jackson that she was due to travel to Iran the following day and that she would provide a written response to the Charge before her departure. Ms Panjavi did not mention any prior medical treatment for angioedema or any previous prescriptions for stanozolol during that conversation with Mr Jackson.
9. By e-mail of 27 July 2016, Ms Panjavi provided her written response to the Notice of Charge and confirmed the details provided to Mr Jackson by phone earlier that day. In her written response, Ms Panjavi admitted to the Presence of 3'-hydroxystanozolol in the A Sample and waived her right to have the B-Sample analysed.
10. On 28 July 2016 Ms Panjavi travelled to Iran for a number of weeks. By e-mail of 9 September 2016, Ms Panjavi contacted UKAD and confirmed that she was seeking legal advice in relation to this matter and that she would respond by 19 September 2016. On 9 September 2016, Mr Kevin Carpenter confirmed that he was instructed to act on Ms Panjavi's behalf and on 19 September 2016, provided a Formal Response to UKAD.

Ms Panjavi's evidence

11. The Formal Response, and subsequent witness statement of Ms Panjavi did not seek to rely on the explanation she had given to Mr Jackson but gave a different explanation for the presence of stanozolol. We set out below the account Ms Panjavi gave in her witness statement, supplemented by the evidence she gave before the Tribunal.
12. Ms Panjavi is of Iranian heritage and travels back to Iran regularly (for the past three years she has gone every year). On her trip in 2015, following hiking in the mountains, she developed a condition which caused her foot to swell and gave her considerable pain. As a result, she visited a local doctor in an emergency, who diagnosed her with angioedema and prescribed stanozolol (a steroid medication) to treat it. The doctor spoke to her in Kurdish, but she did not understand the doctor very well. The doctor prescribed Ms Panjavi with medication but she did not know what the medication was. She took the medication for 10 days and the injury healed. He gave her 10 tablets (one a day) for the course plus a further 10 for emergency use in future.
13. In April 2016, two months prior to the competition at which Ms Panjavi was tested, the swelling re-appeared. Having 10 tablets left over from the previous prescription, she took the tablets that were left to reduce the swelling.
14. Her most recent trip to Iran was from 28 July 2016 to 23 August 2016. During this trip she once again went hiking in the mountains and afterwards the same swelling occurred. Ms Panjavi states that when she returned to her hometown of Mahabad on 6 August 2016 she visited the same doctor who had previously assessed her in August 2015, Dr Nanavazadeh, this time accompanied by her father who was able to translate so that she could understand him. She was prescribed the same medication as before and this was when her father realised that she had been given stanozolol in 2015, the remainder of which she had ingested in April 2016.
15. A Witness Statement from Dr Nanavazadeh, Dermatologist of the Iranian Society of Dermatology clinic in Mahabad confirms that. Ms Panjavi was brought to Dr Nanavazadeh's clinic on 1 August 2015 experiencing "*incredible pain in her right foot*"; Dr Nanavazadeh diagnosed Ms Panjavi with angioedema and "*submitted her*

stanazolol [sic] for 10 days" and "prescribed her with 20 tablets for emergency"; On 6 August 2016 Ms Panjavi revisited Dr Nanavazadeh's clinic after hiking with her family with the same condition as before and Dr Nanavazadeh "prescribed stanazolol [sic] for her as it had worked previously".

16. Ms Panjavi said it was only at this time did she realise that stanozolol had been prescribed to her and that it was a banned substance.
17. Ms Panjavi confirmed that she competed in the British Championships on 12 June 2016 in the women's 58kg class where she placed first and retained her title as British Champion. She provided a Sample to UKAD, but did not list the medication taken in April for her foot in Section 25 of the DCF as she had taken it more than 7 days prior to the competition.
18. Ms Panjavi says she visited her GP as soon as she returned to London after her 2016 Iran visit, but that her GP did not know what stanozolol was.

UKAD's evidence

19. UKAD obtained Witness Statements from Mr Nick Wojek, Head of Science and Medicine at UKAD and Professor David Cowan OBE, Director of the Drugs Control Centre, Kings College London. Neither gave oral evidence.
20. Mr Wojek says that the human body does not naturally produce stanozolol. He explains that stanozolol can be administered by intra-muscular injection or ingested orally, and that there are no licenced preparations containing stanozolol available in the UK. He says that an athlete in the UK would be highly unlikely to obtain a TUE to authorise use of stanozolol for treatment of any type of angioedema because it is an unlicensed medicine in the UK, it is highly likely to produce an additional enhancement to performance beyond what might be anticipated by a return to the athlete's normal state of health following treatment and because alternative medications exist to treat angioedema. Mr Wojek also details why stanozolol has desirable performance enhancing qualities for an Athlete in a sport such as weightlifting.

21. Professor Cowan comments on Ms Panjavi's explanation that the medication prescribed to her in August 2015 and ingested over a period of 10 days from around the second week in April 2016 was the cause of the AAF for 3'-hydroxystanozolol in the A Sample collected on 12 June 2016. Specifically, Professor Cowan considered "whether ingestion of 10 stanozolol tablets in the manner described by the Athlete (daily) from around the second week in April 2016 could explain the finding of 3'-hydroxystanozolol in the Sample collected from the Athlete on 12 June 2016 and whether this explanation is consistent with the concentration of 3'-hydroxystanozolol detected in the Sample.

"6. I will assume that each tablet contained 10 milligrams of stanozolol. Although larger amounts may be present in stanozolol tablets available on the illicit market, the usual maximum initial dose for the treatment of an acute attack of hereditary angio-oedema is 10 milligrams daily.

7. I will also assume that the time from the last ingestion of stanozolol to the time that the sample was collected was of the order of 50 days.

8. Considering the assumptions given in paragraphs 6 and 7 above, it is my opinion that the explanation provided by the athlete is not consistent with the adverse analytical finding.

22. We assumed that Professor Cowan reached this conclusion because of the long period of time between the alleged taking of the steroid and the test on 12 June. We asked Professor Cowan to clarify. He commented as follows:

"Stanozolol is an anabolic steroid that may be injected or taken by mouth. When taken by mouth it is absorbed into the body and eliminated either as stanozolol or as a metabolite, which is a chemical modification by the body of the administered substance. In this case, the metabolite 3'-hydroxy-stanozolol was detected. Typically this metabolite is detectable for about a week in a urine sample after oral administration of 10 milligram of stanozolol.

Since the time interval from last admitted administration of stanozolol is of the order of 50 days and the metabolite identified in the urine sample collected from the athlete is one that has a detection time of around 7 days, it is my opinion that the statement provided by the athlete does not explain the adverse analytical finding."

He also supported this with data taken from academic materials.

23. As Professor Cowan was not available on the day of the oral hearing, this response came in after the hearing. We gave Ms Panjavi an opportunity to comment on it.

The UK Anti-Doping Rules

24. The applicable sanction for violations of ADR Article 2.1 is governed by ADR Article 10.2 which states that:

“10.2 The period of Ineligibility for an Anti-Doping Rule Violation under Article 2.1, 2.2 or 2.6 that is the Athlete’s or other Person’s first anti-doping offence shall be as follows, subject to potential reduction or suspension pursuant to Article 10.4, 10.5 or 10.6:

10.2.1 The period of Ineligibility shall be four years where:

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

b) The Anti-Doping Rule Violation involves a Specified Substance and UKAD can establish that the Anti-Doping Rule Violation was intentional.

10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two years.

25. Ms Panjavi has been charged with a violation of ADR Article 2.1 for the Presence of a Non-Specified Substance. Under ADR Article 10.2.1(a), the mandatory sanction is a period of Ineligibility of four years, unless Ms Panjavi can establish that she did not act intentionally.

26. The meaning of ‘intentional’ is set out in ADR Article 10.2.3. It states:

10.2.3 As used in ADR Articles 10.2 and 10.3, the term “intentional” is meant to identify those Athletes or other Persons who cheat. The term, therefore, requires that the Athlete 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 Athlete 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 Athlete can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.

27. UKAD submits that in order to show that she did not act intentionally, Ms Panjavi must establish how the 3'-hydroxystanozolol came to be present in the A Sample.
28. In the event that the Tribunal is satisfied that Ms Panjavi has not acted intentionally such that the mandatory period of Ineligibility is reduced to two years, then Ms Panjavi may also seek a reduction of that period down to a minimum of one year based on No Significant Fault or Negligence pursuant to ADR Article 10.5.2 which prescribes:

10.5.2. Application of No Significant Fault or Negligence beyond the Application of Article 10.5.1:

In an individual case where Article 10.5.1 is not applicable, if an Athlete or other Person establishes that he/she bears No Significant Fault or Negligence, then (subject to further reduction under Article 10.6) the otherwise applicable period of Ineligibility may be reduced based on the Athlete's or other Person's degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than eight years.

29. No Significant Fault or Negligence is also defined in the ADR as follows:

No Significant Fault or Negligence:

The Athlete or other Person establishing that his or her Fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relation to the Anti-Doping Rule

Violation. Except in the case of a Minor, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his/her system.

30. The definition of No Significant Fault or Negligence (at paragraph 72 supra) provides that the Tribunal should take into account the criteria for No Fault or Negligence (set out below) in order to determine whether Ms Panjavi has acted with No Significant Fault or Negligence:

No Fault or Negligence:

The Athlete or other Person establishing that he or she did not know or suspect, and could not reasonably have known or suspected, even with the exercise of utmost caution, that he or she had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Minor, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his/her system.

31. In determining whether Ms Panjavi has acted with No Significant Fault or Negligence, the Tribunal should also take into account the following definition of Fault:

Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or other Person is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.5.1 or 10.5.2.

32. Since Fault is defined as any breach of duty, the Tribunal must consider the following duties that Ms Panjavi was subject to under the ADR and obliged to comply with at all times in assessing whether her degree of Fault was significant:

1.3 Core Responsibilities

1.3.1 It is the personal responsibility of each Athlete:

(a) To acquaint him/herself, and to ensure that each Person (including medical personnel) from whom he/she takes advice is acquainted, with all of the requirements of these Rules, including (without limitation) being aware of what constitutes an Anti-Doping Rule Violation and of what substances and methods are on the Prohibited List;

(b) to comply with these Rules in all respects;

(c) to take full responsibility for what he/she ingests and uses;

(d) to carry out research regarding any products or substances which she intends to ingest or Use (prior to such ingestion or Use) to ensure compliance with these Rules; such research shall, at a minimum, include a reasonable internet search of (1) the name of the product or substance, (2) the ingredients/substances listed on the product or substance label, and (3) other related information revealed through research of points (1) and (2);

(e) to ensure that any medical treatment he/she receives does not infringe these Rules

Discussion

33. The starting point is that the burden of proof lies on the Athlete to show that her conduct was not "intentional." It is only if the Athlete can satisfy that burden can the Tribunal reduce the period of ineligibility below four years. We direct ourselves in this regard in accordance with the decision of the National Anti-Doping Appeal Panel in *UKAD V Buttifant* dated 7 March 2016, where the Appeal Tribunal held that in any normal case it was necessary for the Tribunal to be satisfied as to how

the prohibited system entered the system of the athlete before there could be a reduction in the period of disqualification from the four year starting point.

34. On Ms Panjavi's own evidence, the last tablet she took prior to the test was in April 2016. The Tribunal pressed her on this and she confirmed the date. That means that on her own case, the last tablet was taken at least 50 days prior to the test. It would be a matter of great surprise for stanozolol taken at least 50 days prior to the test to remain in the body that long. Prof Cowan's evidence confirmed that the presence of stanozolol in the positive test on 12 June was not consistent with taking 10 tablets the last of which was taken 50 days before the test.
35. But, quite apart from Prof Cowan's evidence, we were simply not satisfied that Ms Panjavi's explanation was true. There were a number of features of the Athlete's explanation which caused us considerable disquiet:
 - (a) An athlete who fails a test and who has not acted intentionally can be expected to rack their brains in an effort to try to identify what might have led to the positive result. Although Ms Panjavi claims to have taken a course of ten tablets without any understanding as to what they contained as recently as April 2016, her evidence is that this never occurred to her as an explanation until her visit to Iran in August 2016, and indeed did not mention them in the explanation she gave to Mr Jackson in July 2016. Yet in her explanation to Mr Jackson she did mention vitamins which she obtained from Iran which she said that she and her friends took.
 - (b) There was no physical evidence of the original 20 tables she says were prescribed in 2015; she says they were provided to her in a bag without packaging and says she ingested them all.
 - (c) She does not seem to have sought medical assistance in England when the problem recurred in April 2016 although the repetition of the condition would have caused her considerable pain and no doubt anxiety.
 - (d) There was no physical evidence of the 10 tablets she says she was prescribed in August 2016 although by that stage it must have been obvious to her that it was of the utmost importance to retain some form of physical

evidence of the tablets: she could have asked for extra (for emergency or otherwise) or kept back one to prove her case.

- (e) Although the doctor is said to have prescribed an extra 10 “emergency” tablets in 2015 (when there was no particular reason to think the condition would recur) he did not prescribe any extra tablets in 2016 (when there was reason to think the condition would recur because it had now occurred three times within a year) at a time when it was particularly important to retain some physical evidence of the tablets.
- (f) In August 2016, Ms Panjavi says she became aware for the first time that she had been prescribed a steroid. It is surprising that she nevertheless says she then ingested 10 further tablets of the steroid without question as to whether it was appropriate for her to do so (admittedly, she was suspended at that time).
- (g) On her own evidence Ms Panjavi showed no concern at taking unidentifiable and unidentified medication although she made clear she had undertaken anti-doping education as part of the England Talent team.

36. Taking into account both these matters and the evidence of Professor Cowan, the Tribunal have reached the clear conclusion that Ms Panjavi has not satisfied the burden of proof on her and we are not satisfied that the AAF was caused in the way she alleged. The Tribunal does do not accept her explanation for the finding of stanozolol in her body.

37. In such circumstances the issue of “No Significant Fault” does not arise.

38. It was argued for Ms Panjavi that the Tribunal could reduce the suspension under WADA 10.6.3 because of her prompt admission. This does not arise in the light of our findings above, but in any event 10.6.3 requires the approval of and discretion of WADA and UKAD and thus does not arise unless and until such approval and discretion are given which is not this case.

Alleged breach of the Provisional Suspension

39. Just as we were about to publish our Decision, UKAD wrote to the Tribunal asking us to consider whether the Athlete was in breach of the Provisional Suspension by training in her father's gym. In consequence, publication of this Decision was delayed to allow submissions to be received on this issue.

40. UKAD sent us a series of screenshots showing Ms Panjavi lifting weights in Stars for the Future Weightlifting Club, which is owned by her father. British Weightlifting has confirmed that this is an affiliated club.

41. The Provisional Suspension is explained by UK Anti-Doping Article 7.9.6:

"An Athlete or other Person who is subject to a Provisional Suspension may not, during the period of Provisional Suspension participate in any capacity... in any Competition, Event or other activity organised, convened, authorised or recognised by the NGB or by any body that is a member of, or affiliated to, or licensed by the NGB."

42. By Article 10.11.3, time during the Provisional Suspension is only credited against a ban if it "has been respected by the Athlete." So the potential sanction is to provide that in whole or in part the Provisional Suspension does not count towards the period of the ban.

43. In *Hosseinpoor v UKAD* the Tribunal said at [106]:

"The Panel does not agree that training is not serious, or not as serious as competing. The Respondent is correct when it states that training in breach of a ban is cheating."

That was a wrestling case. Mr Hosseinpoor was apparently told that he could use the weights area and gym facilities but could not use the wrestling facilities or train with the club: [32].

44. Where does the boundary lie? Mr Hosseinpoor admitted posing with other wrestlers on a wrestling mat in the gym: [30] "Using the wrestling facilities or training with the club" was said to involve a breach but using the gym or weights did not. Mr Hosseinpoor was specifically told that whilst ineligible, he could not mentor, instruct his club, team or other athletes in any other way.

45. We think this correctly sets out the distinction as to what is and is not permissible. The rule prohibits participation in any “activity organised, convened, authorised or recognised by the affiliated club...” “Training” is an unspecific expression and it is important to understand what it means. It seems to us that the rule is not intended to prohibit a suspended athlete merely from using a gym or weights, whether that occurs at an affiliated club or not. But it does prohibit any form of group activity. Thus participating in a class or training session *with others* is a breach. So whether using the gym and weights constitutes a breach depends on whether it is done solo as an individual pursuit or as part of an activity in conjunction with others. We think this distinction is consistent with the *Hosseinpour* case.

46. It is relevant to remember that successful athletes, such as Ms Panjavi, will be regarded as role models for their peers. It is not appropriate for suspended athletes to participate in group activity, such as training, and to do so undermines the purpose of the ban.

47. Thus we interpret the obligation not to

“participate in any capacity.... in any ... activity organised, convened, authorised or recognised by the NGB or by any body that is a member of, or affiliated to, or licensed by the NGB”

as prohibiting any activity organised or authorised by an affiliated club which involves any group interaction. This would include attending classes, training in conjunction with others, sparring, mentoring, coaching, instructing, and assisting, or promoting the club but would not include individual activity in the gym, exercising or using weights carried out solo.

48. We therefore have to determine whether a breach of the Provisional Suspension has taken place. Ms Panjavi submits that she should not be penalised for doing at her father’s club what she could do in any gym simply because it is an affiliated club. She says she has been exercising rather than training. By that we understand her to mean that she has been exercising alone, rather than as part of a group.

49. We have looked closely at the screenshots which represent the evidence on this issue. Although it is possible to identify when they were posted, it is not clear when they were taken. Nor is it entirely clear whether Ms Panjavi is participating in group activity or simply lifting weights with others around her.
50. By a small margin, we have reached the conclusion that we are not satisfied to the applicable standard of proof that Ms Panjavi has breached the Provisional Suspension. We think there is just enough doubt as to whether what Ms Panjavi has been shown to be doing falls on the wrong side of the line identified in our analysis above to justify that conclusion. However, nothing in our comments should be taken as in any way undermining the importance of suspended athletes complying strictly with the terms of the Provisional Suspension.

Conclusion

51. For the reasons set out above, the Tribunal unanimously makes the following decision:
- (a) The Anti-Doping Rule Violation under Article 2.1 of the ADR has been established
 - (b) As Ms Panjavi failed to establish that the Anti-Doping Rule Violation was not intentional, the period of Ineligibility is four years
 - (c) The allegation of breach of the Provisional Suspension is not proved
 - (d) Pursuant to ADR Article 10.11.3 credit must be given against the total period of Ineligibility for Ms Panjavi's Provisional Suspension which commenced on 8 July 2016. Accordingly the period of Ineligibility will run until midnight 7 July 2020.
52. In accordance with ADR Article 13 the parties may appeal against this decision by lodging a Notice of Appeal according to the applicable time limits.

Charles Hollander

**Charles Hollander QC
For the Tribunal
02.03.17**





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