

Issued Decision

UK Anti-Doping and Kevin McDine

Disciplinary Proceedings under the Anti-Doping Rules of the Darts Regulation Authority

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the Darts Regulation Authority ('DRA') Anti-Doping Rules (the 'ADR'). It concerns a violation of the ADR committed by Mr Kevin McDine and records the applicable Consequences.

Capitalised terms used in this Decision shall have the meaning given to them in the ADR unless otherwise indicated.

Background and Facts

1. The DRA is a governing body for the sport of professional darts in the United Kingdom. UKAD is the National Anti-Doping Organisation for the United Kingdom. The DRA has adopted the UK Anti-Doping Rules as its own Anti-Doping Rules (the 'ADR').
2. Mr McDine is a 33-year-old professional darts player. At all material times in this matter Mr McDine was subject to the jurisdiction of the DRA and bound to comply with the ADR. Pursuant to the ADR, UKAD has results management responsibility in respect of all players subject to the jurisdiction of the DRA.
3. On 27 November 2017, UKAD collected four urine Samples from Mr McDine In-Competition at the World Championship PDPA Qualifier event at Arena MK, Stadium Way, Bletchley, Milton Keynes, MK1 1ST.
4. Assisted by the Doping Control Officer, Mr McDine split the urine Samples into eight separate bottles, each one of the four Samples being split into two bottles (an 'A Sample' and a 'B Sample').
5. All Samples were transported to the Drug Control Centre, King's College London, a World Anti-Doping Agency ('WADA') accredited laboratory ('the Laboratory'). The A Sample of the first urine Sample and the A Sample of the fourth urine Sample were analysed in accordance with Article 5.2.2.5 of WADA's International Standard for Laboratories ('ISL') and Article G.4.11 of WADA's International Standard for Testing and Investigations ('ISTI'), which specify that where three or more Samples are collected during the same Sample Collection Session, the Laboratory shall prioritise and analyse the first and last Samples collected. The Laboratory analysed the first and last A Samples collected from Mr McDine in accordance with the procedures set out in the ISL.

6. The Laboratory detected benzoylecgonine in both A Samples analysed. Benzoylecgonine is a metabolite of cocaine.
7. Cocaine is classified as a non-Specified Stimulant under section S6a of the WADA 2017 Prohibited List. The presence of cocaine and / or its metabolites is prohibited In-Competition only.
8. Mr McDine did not have a relevant Therapeutic Use Exemption.
9. On 21 December 2017, UKAD issued Mr McDine with a Notice of Charge ('the Charge') and provisionally suspended him from participating in any Competitions, Events or other activities organised, convened, authorised or recognised by the DRA, and from participating in any other World Anti-Doping Code-compliant sport. The Charge alleged the commission of an Anti-Doping Rule Violation ('ADRV') pursuant to ADR Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample).

Admission and Consequences

10. Mr McDine has admitted committing an ADRV in violation of ADR Article 2.1.
11. ADR Article 2.1 provides as follows:

The following constitute Anti-Doping Rule Violations:

- 2.1 **Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample, unless the Athlete establishes that the presence is consistent with a TUE granted in accordance with Article 4**

12. ADR Article 10.2 provides as follows:

- 10.2 **Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of a Prohibited Substance and/or a Prohibited Method**

The period of Ineligibility for an Anti-Doping Rule Violation under Article 2.1, 2.2 or 2.6 that is the Athlete'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 ... can establish that the Anti-Doping Rule Violation was not intentional.

.....

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

13. Pursuant to ADR Article 8.3.2, for the purposes of ADR Article 10.2.1(a) it is for Mr McDine to establish, on a balance of probability, that his Use of cocaine was not intentional.
14. The meaning of 'intentional' for these purposes is set out in ADR Article 10.2.3 as follows:

10.2.3 As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those Athletes ... who cheat. The term, therefore, requires that the Athlete ... 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.*

[Emphasis Added]

15. Mr McDine admitted the ADRV and asserted that his Use of cocaine was Out-of-Competition in a context unrelated to sport performance, and thus not intentional as that term is defined under the ADR. Mr McDine explained that he had ingested cocaine nasally on the evening and night of Saturday 25 November 2017, in the context of having also consumed a significant amount of alcohol throughout the evening with friends. Mr McDine said that he ceased his Use of cocaine at approximately 23.00 on Saturday 25 November 2017.
16. Out-of-Competition is defined by the ADR as "any period which is not In-Competition". In-Competition is defined by the ADR as follows:

Unless provided otherwise in the rules of the International Federation for the sport in question or the ruling body of the Event in question, the period commencing 12 hours before a Competition in which the Athlete is scheduled to participate through to the end of such Competition and the Sample collection process related to such Competition.

17. The World Championship PDPA Qualifier that Mr McDine competed in commenced at midday (12:00) on Monday 27 November 2017. The In-Competition window therefore began at midnight (00:00) on Sunday 26 November 2017.

18. The explanation given by Mr McDine was assessed by the Laboratory. The Adverse Analytical Findings ('AAFs') in respect of both A Samples analysed were found to be consistent with that explanation.
19. UKAD has not received any other evidence in relation to Mr McDine's cocaine Use that led to the AAFs to demonstrate that the Use was anything other than as he described it. UKAD therefore accepts that Mr McDine's Use of cocaine was Out-of-Competition in a context unrelated to sport performance, and thus was not intentional as that term is defined at ADR Article 10.2.3.
20. In accordance with ADR Article 10.2.2 the period of Ineligibility to be applied in these circumstances is therefore two (2) years.
21. Mr McDine has not sought to further reduce the period of Ineligibility on any other basis.
22. Pursuant to ADR Article 10.2.2, a period of Ineligibility of two (2) years is therefore imposed.
23. UKAD issues this Decision pursuant to ADR Article 7.7.4.
24. ADR Article 7.7.4 provides:
 - 7.7.4 In the event that UKAD withdraws the Notice of Charge, or the Athlete or other Person admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by UKAD (or is deemed to have done so in accordance with Article 7.7.1), neither B Sample analysis nor a hearing is required. Instead, UKAD shall promptly issue a reasoned decision confirming the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences, shall send notice of the decision to the Athlete ... and to each Interested Party, and shall Publicly Disclose the decision in accordance with Article 8.4.

Commencement of the Period of Ineligibility

25. ADR Article 10.11.2 provides as follows:

10.11.2 Timely Admission:

Where the Athlete ... promptly (which means, in any event, before he/she competes again) admits the Anti-Doping Rule Violation after being confronted with it by UKAD, the period of Ineligibility may start as early as the date of Sample collection or the date on which another Anti-Doping Rule Violation last occurred. In each case, however, where this Article is applied, the Athlete ... shall serve at least one-half of the period of Ineligibility going forward from the date the Athlete ... accepted the imposition of a sanction, the date of a hearing decision imposing a sanction, or the date the sanction is otherwise imposed.

This Article shall not apply where the period of Ineligibility has already been reduced under Article 10.6.3.

26. Mr McDine has made a timely admission for the purposes of ADR Article 10.11.2. Therefore, the period of Ineligibility imposed on Mr McDine shall be deemed to have started on the date of Sample collection i.e. on 27 November 2017 and will expire at midnight on 26 November 2019. Mr McDine has been Provisionally Suspended since the Charge was issued on 21 December 2017.
27. During the period of Ineligibility, in accordance with ADR Article 10.12.1, Mr McDine shall not be permitted to participate in any capacity in a Competition, Event or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened, authorised or recognised by:
 - the DRA or any body that is a member of, or affiliated to, or licensed by the DRA;
 - any Signatory;
 - any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory's member organisation;
 - any professional league or any international or national-level Event organisation; or
 - any elite or national-level sporting activity funded by a governmental agency.
28. Mr McDine may return to train with a team or to use the facilities of a club or other member organisation of the DRA or a Signatory's member organisation during the last two months of his period of Ineligibility (i.e. from midnight on 26 September 2019) pursuant to ADR Article 10.12.4(b).
29. In accordance with ADR Article 9.1 Mr McDine's result in the World Championship PDPA Qualifier event at Arena MK is Disqualified with all resulting Consequences.
30. Mr McDine did not compete in any other DRA authorised Events between Sample collection on 27 November 2017 and the start of the Provisional Suspension on 21 December 2017.
31. Mr McDine, the DRA and WADA each have a right of appeal against this Decision or any part of it in accordance with ADR Article 13.4.
32. The disposition of these proceedings on the terms set out above will be publicly announced via UKAD's website in accordance with ADR Articles 8.4.3 and 14.1.2.

13 August 2018