

Issued Decision

UK Anti-Doping and Robert Myring-Thomson

Disciplinary Proceedings under the United Kingdom Athletics Anti-Doping Rules

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to United Kingdom Athletics' Anti-Doping Rules ('UKA ADR'). It concerns two Anti-Doping Rule Violations ('ADRVs') committed by Mr Robert Myring-Thomson contrary to the UKA ADR.

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

Jurisdiction and Applicable Rules

1. The International Association of Athletics Federations ('IAAF') is the International Federation governing the sport of athletics on an international basis.
2. Rule 30 of the IAAF Anti-Doping Rules ('IAAF ADR') states:
 - 30.1 The Anti-Doping Rules shall apply to the IAAF, its Members and Area Associations and to Athletes, Athlete Support Personnel and other Persons who participate in the activities or Competitions of the IAAF, its Members and Area Associations by virtue of their agreement, membership, affiliation, authorisation or accreditation.
 - 30.2 All Members and Area Associations shall comply with the Anti-Doping Rules and Regulations. The Anti-Doping Rules and Regulations shall be incorporated either directly, or by reference, into the rules or regulations of each Member and Area Association and each Member and Area Association shall include in its rules the procedural regulations necessary to implement the Anti-Doping Rules and Regulations effectively (and any changes that may be made to them). The rules of each Member and Area Association shall specifically provide that all Athletes, Athlete Support Personnel and other Persons under its jurisdiction shall be bound by the Anti-Doping Rules and Regulations, including the results management authority set out in such rules.
3. United Kingdom Athletics ('UKA') is the National Governing Body for the sport of athletics in the United Kingdom and a "Member" for the purposes of the IAAF ADR. In accordance with IAAF ADR Rule 30, UKA has adopted the IAAF ADR via Article 2.1 of the UKA ADR:
 - 2.1 UKA hereby adopts the IAAF Anti-Doping Rules (as amended from time to time) as its anti-doping rules subject to UKA's specific amendments and supplemental rules as to management and enforcement set out below.

4. Article 4 of the UKA ADR sets out that:

4.1 These Rules shall apply to and shall bind all Athletes, Athlete Support Personnel and other persons under the jurisdiction of UKA (as derived from the IAAF) even if any such Athletes, Athlete Support Personnel or other persons have not signed and returned a form of acknowledgement and agreement as envisaged by Rule 30.3 of the IAAF Anti-Doping Rules. Those to whom these Rules apply include:

- a) all Athletes and Athlete Support Personnel who are members of, or licensed by UKA and/or member or affiliate organisations of UKA (including any clubs, teams, associations or leagues);
- b) all Athletes and Athlete Support Personnel participating in such capacity in Events, Competitions and other Athletics activities organised, convened or authorised by UKA or any of its member or affiliate organisations (including any clubs, teams, associations or leagues), wherever held; and
- c) any other Athlete or Athlete Support Personnel who, by virtue of a contractual arrangement or otherwise, is subject to the jurisdiction of UKA for the purposes of anti-doping.

5. At an interview with a UKAD representative on 13 March 2017, Mr Myring-Thomson confirmed he was an Athlete and member of Guildford and Godalming Athletics Club.

6. Therefore, Mr Myring-Thomson is, and was at all material times, subject to the UKA ADR.

7. Under the UKA ADR, International-Level Athletes are those Athletes in the Registered Testing Pool established at an international level by the IAAF ('the IRTP') or who compete in International Competition (as defined by the IAAF ADR).

8. National-Level Athletes are defined as those athletes who are not categorised as International Level Athletes under the IAAF ADR, but are nevertheless subject to Testing as part of UKAD's anti-doping procedures, or who otherwise fall under the jurisdiction of UKA. National-Level Athletes may also be part of the National Registered Testing Pool ('NRTP') or the Domestic Registered Testing Pool.

9. Mr Myring-Thomson is not part of the IRTP and does not compete in International Competition. He is therefore a National-Level Athlete for these purposes.

10. Rule 37.2 of the IAAF ADR states:

In the case of an International-Level Athlete, the results management process shall be conducted by the IAAF Anti-Doping Administrator and, in all other cases, it shall be conducted by the relevant person or body of the Athlete or other Person's National Federation.

11. Rule 5 of the UKA ADR states:

Without prejudice to its rights under Rule 5.2 below, UKA appoints the NADO to undertake Testing on Athletes in the UK. UKA may at any time appoint the NADO to carry out the results management process (including the presentation of the case at any hearing) in accordance with IAAF Rule 30.5 [...]. A copy of the existing notice of delegation to the NADO of 14th December 2009, which is currently in force, is at Schedule 3 of these Rules.

12. Schedule 3 of the UKA ADR states:

With effect from today (Monday 14 December 2009) UKA appoints UK Anti-Doping (UKAD), which is the successor National Anti-Doping Organisation to the Drug-Free Directorate of UK Sport, to carry out the results management process in respect of any adverse analytical finding, atypical finding or other alleged anti-doping rule violation on behalf of UKA. For the avoidance of doubt, the results management process includes the presentation of the case at any hearing on behalf of UKA; and Delegation of the results management process to UKAD will continue for an indefinite period. Notice of any revocation of this delegation will be published on the UKA website.

13. UKAD, as the National Anti-Doping Organisation ('NADO'), therefore has authority to conduct results management in relation to any alleged violation of the UKA ADR by a National-Level Athlete.

Background and Facts

14. On 20 February 2017, UK Border Force intercepted and seized a package with reference RF16/2909 ('the Package'). The Package contained an estimated quantity of 100 tablets of Stanozolol and was addressed to Mr Myring-Thomson's home.

15. Stanozolol is an exogenous anabolic androgenic steroid listed under s1.1a of the World Anti-Doping Agency ('WADA') 2017 Prohibited List.

16. On 13 March 2017, Mr Myring-Thomson was interviewed by a UKAD representative in relation to the Package. During interview, Mr Myring-Thomson admitted ordering the product contained in the Package online for his personal use, knowing that the product contained in the Package was or contained a Prohibited Substance.

17. By letter dated 31 March 2017, amended by a further letter of 23 May 2017, UKAD issued Mr Myring-Thomson with a Notice of Charge for two alleged ADRVs namely the Attempted Use of a Prohibited Substance, contrary to IAAF ADR Rule 32.2(b) and the Possession of a Prohibited Substance contrary to IAAF ADR Rule 32.2(f) ('the Charges'). The Notice of Charge set out the relevant facts and the applicable Consequences. The letter of 31 March 2017 also imposed a Provisional Suspension on Mr Myring-Thomson, effective from that date.

Admission and Consequences

18. IAAF ADR Rule 32.2 provides that the following shall constitute an ADRV:

(b) Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method.

[...]

(f) Possession of a Prohibited Substance or Prohibited Method.

19. On 25 May 2017, Mr Myring-Thomson formally accepted the Charges and the applicable Consequences.

20. IAAF ADR Rule 38.4 provides:

38.4 The Athlete may elect to forego a hearing by acknowledging in writing a violation of these Anti-Doping Rules and accepting Consequences consistent with Rule 40. Where an Athlete accepts Consequences consistent with Rule 40 and no hearing occurs, the Member shall nevertheless ratify the Athlete's acceptance of Consequences by a decision of its relevant body and send a copy of such decision to the IAAF within 5 working days of the decision being made. A decision by a Member arising from an Athlete's acceptance of Consequences under these Anti-Doping Rules may be appealed in accordance with Rule 42.

21. This Decision is issued pursuant to IAAF ADR Rule 38.4 without a hearing on the basis of the admission of the Charges and acceptance of the Consequences by Mr Myring-Thomson.

22. IAAF ADR Rule 40.8(d) states:

(d) **Additional Rules for Certain potential Multiple Violations**

(i) For the purposes of imposing sanctions under Rule 40.8, an anti-doping rule violation will only be considered a second violation if it can be established that the Athlete or other Person committed the second anti-doping rule violation after the Athlete or other Person received notice pursuant to Rule 37 or after reasonable efforts were made to give notice of the first anti-doping rule violation; if this cannot be established, the violations shall be considered together as one single first violation and the sanction imposed shall be based on the violation that carries the more severe sanction.

23. Mr Myring-Thomson received notice of both Charges simultaneously and so the Charges fall to be considered together as one single first ADRV. The sanction to be imposed is to be based on the violation carrying the more severe sanction, pursuant to IAAF ADR Rule 40.8(d)(i) above.

24. IAAF ADR Rule 40.2 provides for the Consequences to be imposed for ADRVs contrary to IAAF ADR Rules 32.2(b) and 32.2(f):

Ineligibility for Presence, Use or Attempted Use or Possession of a Prohibited Substance or a Prohibited Method

40.2 The period of Ineligibility imposed for a violation of Rules 32.2(a) (Presence of a Prohibited Substance or its Metabolites or Markers), 32.2(b) (Use or Attempted Use of a Prohibited Substance or Prohibited Method) or 32.2(f) (Possession of a Prohibited Substance or Prohibited Method) shall be as follows, subject to potential reduction or suspension pursuant to Rules 40.5, 40.6 or 40.7:

(a) The period of Ineligibility shall be four years where:

(i) 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;

- (ii) the anti-doping rule violation involves a Specified Substance and it can be established that the violation was intentional
 - (b) If Rule 40.2(a) does not apply, the period of Ineligibility shall be two years.
- 25. The ADRVs committed by Mr Myring-Thomson each concerned the same Non-Specified Substance, and so the applicable period of Ineligibility is four years, unless Mr Myring-Thomson can establish that his commission of the ADRVs was not intentional. For these purposes, the meaning of 'intentional' is set out in IAAF ADR Rule 40.3:
 - 40.3 As used in Rules 40.2 and 40.4, 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. (...)
- 26. Mr Myring-Thomson has admitted ordering the product contained in the Package for his own personal use, knowing that the product contained in the Package was or contained a Prohibited Substance, and has not sought to argue that he acted without the necessary intention. The period of Ineligibility to be imposed is therefore four years, pursuant to IAAF ADR Rule 40.2(a)(i).
- 27. IAAF ADR Rule 40.7 allows for reductions in the applicable period of Ineligibility in certain circumstances. Rule 40.7(c) states:
 - (c) **Prompt Admission of an Anti-Doping Rule Violation after first being confronted with a violation sanctionable under Rule 40.2 or Rule 40.4(a)**

An Athlete or other Person potentially subject to a four-year sanction for a first anti-doping rule violation under Rule 40.2 or Rule 40.4(a) (Evading or Refusing Sample Collection or Tampering with Doping Control), by promptly admitting the anti-doping rule violation after first being confronted, and also upon the approval and at the discretion of both WADA and the IAAF, may receive a reduction in the period of Ineligibility down to a minimum of two years, depending on the severity of the violation and Athlete or other Person's degree of Fault. Prompt admission shall be strictly enforced and shall mean no later than the deadline given by the IAAF Anti-Doping Administrator to provide a written explanation for an anti-doping rule violation under these Rules and, in all events, following notification of a violation, before the Athlete competes again. (...)
- 28. UKAD considers Mr Myring-Thomson's admission to the Charges to be a prompt admission for the purposes of IAAF ADR Rule 40.7(c).
- 29. UKAD has therefore considered the severity of the ADRVs and Mr Myring-Thomson's degree of Fault, to determine whether any reduction in the period of Ineligibility is appropriate.
 - A. Severity of the Anti-Doping Rule Violations*
- 30. ADRVs contrary to IAAF ADR Rule 32.2(b) (Attempted Use of a Prohibited Substance) and Rule 32.2(f) (Possession of a Prohibited Substance) are by their nature very serious, particularly when involving a powerful anabolic steroid. UKAD has therefore not exercised its discretion to reduce the period of Ineligibility on the basis of the severity of Mr Myring-Thomson's violations.

B. Fault

31. Fault is defined in the IAAF ADR as follows:

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 career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Rule 40.6.

32. Also relevant is IAAF ADR Rule 32(b)(i):

- (i) It is each Athlete's personal duty to ensure that no Prohibited Substance enters his body and that no Prohibited Method is Used.

33. As noted at paragraph 26 above, Mr Myring-Thomson ordered the product contained in the Package for his own personal use, knowing that the product was or contained a Prohibited Substance. WADA, UKAD and the IAAF agree that Mr Myring-Thomson should not be afforded a reduction in the period of Ineligibility based on his degree of Fault.

34. The period of Ineligibility has therefore not been reduced pursuant to IAAF ADR Rule 40.7(c).

Disqualification of Results and Ineligibility

35. IAAF ADR Rule 40.11 states:

11. Except as provided below, the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived or there is no hearing, on the date the Ineligibility is accepted or otherwise imposed.

- (b) **Timely Admission:** where the Athlete promptly admits the anti-doping rule violation in writing after first being confronted (which means no later than the date of the deadline given to provide a written explanation in accordance with these Anti-Doping Rules or the Anti-Doping Regulations and, in all events, before the Athlete competes again), 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 Rule is applied, the Athlete or other Person shall serve at least one-half of the period of Ineligibility going forward from the date the Athlete or other Person accepted the imposition of a sanction, the date of a hearing decision imposing a sanction or the date the sanction is otherwise imposed. This Rule shall not apply where the period of Ineligibility has already been reduced under Rule 40.7(c).

36. Mr Myring-Thomson has made a timely admission for the purposes of IAAF ADR Rule 40.11(b). The period of Ineligibility to be imposed on Mr Myring-Thomson is therefore deemed to have commenced on 20 February 2017, and will expire at midnight on 19 February 2021.

37. During the period of Ineligibility, Mr Myring-Thomson's status is governed by IAAF ADR Rule 40.12(a) which states as follows:

- 12(a) **Prohibition against Participation during Ineligibility:** no Athlete or other Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in any Competition or activity (other than in authorised anti-doping education or rehabilitation programmes) which is authorised or organised by the IAAF or any Area Association or Member (or any Club or other member organisation of a Member) or Signatory (or Signatory's member or a club or other member organisation of a Signatory's member), or in Competitions authorised or organised by any professional league or any international or national-level Competition organisation or any elite or national-level sporting activity funded by a governmental agency. The term "activity" for the purpose of this Rule includes without limitation participating in any capacity, including as an Athlete, coach or other Athlete Support Personnel in a training camp, exhibition or practice or other activity organised by the Athlete's Member (or any Club or other member organisation of a Member) or by a Signatory (for example, a national training centre) as well as participating in administrative activities such as serving as an official, director, officer, employee or volunteer of any organisation referred to in this Rule. An Athlete or other Person subject to a period of Ineligibility of more than four years may, after completing four years of the period of Ineligibility, participate as an Athlete in local sport events not sanctioned or otherwise under the jurisdiction of a Code Signatory or member of a Code Signatory, but only so long as the local sport event is not at a level that could otherwise qualify such Athlete or other Person directly or indirectly to compete in (or accumulate points towards) a national championship or international competition, and does not involve the Athlete or other Person working in any capacity with Minors. An Athlete or other Person subject to a period of Ineligibility shall remain subject to Testing.

38. IAAF ADR Rule 40.14 states:

Return to Competition following Ineligibility

14. As a condition to regaining eligibility at the end of a specified period of Ineligibility, an Athlete or other Person must comply with the following requirements:
- (a) **Repayment of Prize Money:** the Athlete must repay any and all prize and appearance money that he has received in relation to performances in Competitions from the date of the Sample collection that resulted in an Adverse Analytical Finding or other anti-doping rule violation, or from the date of the commission of any other anti-doping rule violation, going forward; and
- (b) **Reinstatement Testing:** the Athlete must, during any period of Provisional Suspension or Ineligibility, make himself available for Out-of-Competition testing by the IAAF, National Federation and any other organisation having authority to conduct Testing under these Anti-Doping Rules, and must, if requested, provide current and accurate whereabouts information for such purpose. Where an International-level Athlete has been rendered Ineligible for two years or more, a minimum of three reinstatement tests must be conducted at the Athlete's cost. The IAAF shall be responsible for the conduct of the reinstatement tests, in accordance with the Anti-Doping Rules and Regulations, but tests by any competent Testing body may be relied upon by the IAAF to satisfy this requirement, provided the Samples collected have been analysed by a WADA-accredited laboratory. The results of all reinstatement tests, together with copies of the

relevant doping control forms, must be sent to the IAAF prior to the Athlete returning to competition. If any reinstatement Testing carried out pursuant to this Rule results in an Adverse Analytical Finding or other anti-doping rule violation, this will constitute a separate anti-doping rule violation and the Athlete will be subject to disciplinary proceedings and further sanction, as appropriate.

- (c) Once the period of an Athlete's Ineligibility has expired, provided that he has complied with the requirements of Rule 40.14, he shall become automatically re-eligible and no application by the Athlete or his National Federation to the IAAF shall be necessary.

39. UKA ADR Rule 9.3 states:

- 9.3 The provisions relating to return to competition in Rule 40.14 of the IAAF Anti-Doping Rules apply to all Athletes except that the NADO shall be responsible for the conduct (but not the cost) of reinstatement Testing of any National Level Athlete.

40. Mr Myring-Thomson is a National Level Athlete bound by UKA ADR Rule 9.3.

41. The IAAF ADR were amended with effect from 3 April 2017 (the new IAAF Anti-Doping Rules are referred to herein as 'the '2017 IAAF ADR'). The effect of Rule 21.3 of the 2017 IAAF ADR is that the IAAF ADR as they were at the time that Mr Myring-Thomson committed the ADRV's apply to this case. Notwithstanding this general position, Rule 21.3(iii) of the 2017 IAAF ADR expressly recognises that the principle of *lex mitior* may be applied as appropriate.

42. Pursuant to the principle of *lex mitior*, and with the agreement of UKAD and the IAAF, Mr Myring-Thomson need not satisfy the specific requirement of UKA ADR 9.3 that he pay for the reinstatement tests that he is required to undergo as a condition of regaining eligibility.

43. The remaining requirements of IAAF ADR Rule 40.14(b) remain in force and do apply to Mr Myring-Thomson. Accordingly, to regain eligibility at the end of his period of Ineligibility, Mr Myring-Thomson must undergo a minimum of three reinstatement tests, make himself available for Out-of-Competition testing by the IAAF, UKA and any other organisation having authority to conduct Testing under the IAAF ADR, and must, if requested, provide current and accurate whereabouts information for such purpose.

44. Pursuant to Rule 21.3 of the 2017 IAAF ADR, Mr Myring-Thomson continues to be bound by IAAF ADR Rule 40.14(a) and Rule 40.14(c) in their entirety.

45. Mr Myring-Thomson may return to train with a team, or to use the facilities of a club, or other member organisation of a Member (including UKA) or Signatory, during the last two months of his period of Ineligibility (i.e. from midnight on 19 December 2020) pursuant to IAAF ADR Rule 40.12(b).

46. Mr Myring-Thomson, UKA, the IAAF and WADA each have a right of appeal against this Decision or any part of it in accordance with IAAF ADR Rule 42.

47. The conclusion of these proceedings on the terms set out above will be publicly announced via UKAD's website after any appeal period has expired and no appeal has been filed, or after any appeal has been finalised.

Summary

48. For the reasons given above, UKAD has issued this Decision, which records that:

- Mr Myring-Thomson has committed two ADRVs specifically the Attempted Use of a Prohibited Substance, contrary to IAAF ADR Rule 32.2(b) and the Possession of a Prohibited Substance contrary to IAAF ADR Rule 32.2(f);
- pursuant to IAAF ADR Rule 40.8(d)(i) the two violations are considered as one ADRV for the purposes of imposing a sanction;
- this constitutes Mr Myring-Thomson's first ADRV, and a period of Ineligibility of four (4) years is imposed pursuant to IAAF ADR Rule 40.2(a)(i);
- due to Mr Myring-Thomson's timely admission, under IAAF ADR Rule 40.11(b), the period of Ineligibility is deemed to have commenced on 20 February 2017 and will end at midnight on 19 February 2021;
- Mr Myring-Thomson's status during the period of Ineligibility shall be as detailed in IAAF ADR Rule 40.12(a). He may only return to train with a team or to use the facilities of a club or other member organisation of a Member (including UKA) or Signatory during the last two months of his period of Ineligibility (i.e. from midnight on 19 December 2020) pursuant to IAAF ADR Rule 40.12(b); and
- pursuant to UKA ADR Rule 9.3, in order to regain eligibility, Mr Myring-Thomson must comply with the requirements set out at IAAF ADR 40.14, save that while he must undergo a minimum of three reinstatement tests, he need not pay for that reinstatement testing as required by UKA ADR Rule 9.3.

12 September 2017