

Issued Decision

UK Anti-Doping and Adam Hoskins

Disciplinary Proceedings under the Anti-Doping Rules of the Welsh Rugby Union

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the Anti-Doping Rules (the 'ADR') of the Welsh Rugby Union ('WRU'). It concerns a violation of the ADR committed by Mr Adam Hoskins 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 WRU is the national governing body for the sport of rugby union in Wales. UKAD is the National Anti-Doping Organisation for the United Kingdom.
2. Mr Hoskins is a 23-year old rugby union player who played for Merthyr RFC. At all material times Mr Hoskins was subject to the jurisdiction of the WRU 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 WRU.
3. On 3 January 2020, UKAD collected an In-Competition urine Sample from Mr Hoskins following a match between Ebbw Vale RFC and Merthyr RFC at Eugene Cross Park in Ebbw Vale. The Sample was separated into two bottles which were given the reference numbers A1152995 (the 'A Sample') and B1152995 (the 'B Sample').
4. Both Samples were transported to the World Anti-Doping Agency ('WADA') accredited laboratory, the Drug Control Centre, King's College London (the 'Laboratory'). The Laboratory analysed the A Sample in accordance with the procedures set out in WADA's International Standard for Laboratories. The analysis returned an Adverse Analytical Finding ('AAF') for benzoylecgonine (a metabolite of cocaine).
5. Cocaine is listed under section S6a (Stimulants) of the WADA 2020 Prohibited List as a Stimulant. It is a non-Specified Substance that is prohibited In-Competition only.
6. Mr Hoskins did not have a Therapeutic Use Exemption.
7. On 3 February 2020 UKAD issued Mr Hoskins with a Notice of Charge and a Provisional Suspension. The Notice of 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

8. ADR Article 2.1 states 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

9. On 12 February 2020 Mr Hoskins formally admitted committing an ADRV pursuant to ADR Article 2.1 in his substantive response to the Notice of Charge.

10. ADR Article 10.2 states 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 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) *[...]*

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

11. With regards to the meaning of 'intentional', ADR Article 10.2.3. states as follows:

10.2.3 As used in 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 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.

12. ADR Article 10.2.1(a) therefore provides that since cocaine is a non-Specified Substance that is prohibited In-Competition only, the period of Ineligibility shall be four years, unless Mr Hoskins can establish on the balance of probability that his violation of ADR Article 2.1 was not intentional. If Mr Hoskins can establish that his ingestion of cocaine took place Out-of-Competition in a context unrelated to sport performance, his ADRV shall not be considered intentional and the period of Ineligibility shall be two years.
13. In admitting the ADRV, Mr Hoskins explained that his ingestion of cocaine was not intentional as contemplated by ADR Article 10.2.1(a). Mr Hoskins asserts that on the evening of 28 December 2019 (six nights before Sample collection) he was with friends at a social gathering where he started drinking and taking cocaine.
14. On the basis of the account provided by Mr Hoskins, UKAD sought an opinion from Professor David Cowan OBE, former Director of the Laboratory. Professor Cowan considered Mr Hoskins's account and confirmed that, in his professional opinion, Mr Hoskins' account of his ingestion of cocaine was in keeping with Out-of-Competition use.
15. In light of Professor Cowan's opinion, UKAD accepts the account given by Mr Hoskins and is satisfied that Mr Hoskins did not act intentionally, as that term is defined in ADR Article 10.2.3. That is, Mr Hoskins' Use of cocaine, on the balance of probabilities, took place Out-of-Competition in a context unrelated to sport performance. The period of Ineligibility to be applied in these circumstances is two years.
16. The period of Ineligibility can be reduced if Mr Hoskins can establish that he acted with No Significant Fault or Negligence in accordance with ADR Article 10.5.2. ADR Article 10.5.2 states as follows:

10.5 Reduction of the period of Ineligibility based on No Significant Fault or Negligence

10.5.1 [...]

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 or elimination as provided in 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...

17. Fault is defined in the 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 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.

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

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.

19. UKAD has considered Mr Hoskins' responses and representations in full. UKAD's position in respect of ADR Article 10.5.2 is that Mr Hoskins has not established that he bore No Significant Fault or Negligence for his ADRV. Therefore, no reduction to Mr Hoskins's period of Ineligibility has been applied.
20. Mr Hoskins accepts that the period of Ineligibility to be applied is therefore two years.

Commencement of period of Ineligibility

21. ADR Article 10.11 requires that the period of Ineligibility starts on the date Ineligibility is accepted or otherwise imposed where there is no hearing.
22. However, ADR Article 10.11.2 allows for the period of Ineligibility to start as early as the date of Sample Collection (in Mr Hoskins's case, 3 January 2020) where there is a timely admission of the ADRV.
23. Mr Hoskins was charged on 3 February 2020 and formally admitted the ADRV on 12 February 2020.
24. UKAD considers this to be a timely admission and therefore ADR Article 10.11.2 applies. As such, the period of Ineligibility is therefore deemed to have commenced on 3 January 2020 and will expire at midnight on 2 January 2022.

Status during Ineligibility

25. During the period of Ineligibility, in accordance with ADR Article 10.12.1, Mr Hoskins shall not be permitted to participate in any capacity in any Competition, Event or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened, authorised or recognised by:
- a. The WRU or any body that is a member of, or affiliated to, or licensed by the WRU;
 - b. Any Signatory;
 - c. Any club or other body that is a member of, or affiliated to, or licensed by a Signatory or a Signatory's member organisation;
 - d. Any professional league or any international-level or national-level Event organisation; or
 - e. Any elite or national-level sporting activity funded by a governmental agency.
26. Mr Hoskins may return to train with a team or to use the facilities of a club or other member organisation of the WRU or a Signatory's member organisation during the last two months of his period of Ineligibility (i.e. from midnight on 2 November 2022) pursuant to ADR Article 10.12.4(b).

Summary

27. For the reasons given above, UKAD has issued this Decision in accordance with ADR Article 7.7.4 and records that:
- a. Mr Hoskins has committed an ADRV pursuant to ADR Article 2.1;
 - b. A period of Ineligibility of two years is imposed pursuant to ADR Article 10.2.2;
 - c. Acknowledging the timely admission pursuant to ADR Article 10.11.2, the period of Ineligibility is deemed to have commenced on 3 January 2020 and will expire at midnight on 2 January 2022; and
 - d. Mr Hoskins's status during the period of Ineligibility shall be as detailed in ADR Article 10.12.
28. Mr Hoskins, the WRU, World Rugby and WADA have a right to appeal against this decision or any part of it in accordance with ADR Article 13.4.
29. This Issued Decision will be publicly announced via UKAD's website in accordance with ADR Articles 8.4.3 and 14.1.2.

19 June 2020