

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF
THE ENGLAND AND WALES CRICKET BOARD**

Before:

Christopher Quinlan KC
Professor Brian Lunn
Blondel Thompson

BETWEEN:

The Cricket Regulator

Anti-Doping Organisation

and

Christopher Wright

Respondent

DECISION OF THE NATIONAL ANTI-DOPING PANEL

A. INTRODUCTION

1. Pursuant to Article 5.3 of the National Anti-Doping Panel ('NADP') 2021 Procedural Rules ('the Procedural Rules') the Panel was appointed by the President to hear and determine anti-doping proceedings brought by England and Wales Cricket Board ("the ECB") against Chris Wright ("the Respondent").

2. The ECB is the national governing body for the sport of cricket in England and Wales. It has delegated authority for Results Management in anti-doping matters such as these proceedings from UK Anti-Doping (“UKAD”).
3. On 4 December 2023, the ECB established the Cricket Regulator. It is the body within the ECB which has become responsible, on behalf of the ECB, for the enforcement of certain ECB rules and regulations, including the ECB Anti-Doping Rules (“the ADR”).
4. Chris Wright (“the Respondent”) is employed by Leicestershire County Cricket Club (“Leicestershire CCC”) as a professional cricketer. He is a Cricketer for the purposes of the ADR. Jurisdiction was accepted.
5. On 13 December 2023, the Cricket Regulator charged the Respondent with two Anti-Doping Rule Violations (“ADRVs”) under ADR Articles 2.1 and 2.2. On 16 January 2024, the Respondent admitted both charges. These proceedings concerned sanction.
6. The in-person hearing was held on 1 May 2024 and was attended by:

The Cricket Regulator

Ross Brown, Onside Law, Partner for the Cricket Regulator (in-person)

Cricket Regulator: David Lewis, Director (remote) and James Fuller, Anti-Doping and Illicit Drugs Programme Manager (remote)

UKAD (as observers): Ailie McGowan, Lawyer and Tom Middleton, Head of Case Management (in-person)

The Respondent

Chris Wright

Craig Harris, Furnival Chambers, Counsel for Mr Wright (in-person)

Charlie Mulraine, PCA Head of Personal Development & Welfare (in-person)

NADP Secretariat

Alisha Ellis, Case Manager

Eleanor Stocker, Case Manager, observer

7. This document constitutes our final reasoned decision, reached after due consideration of the evidence, submissions and the Arbitral Awards placed before us.

B. ANTI-DOPING RULE VIOLATION

8. On 2 September 2023, under Mission Order TO-2517074435, UKAD Doping Control Personnel collected a urine Sample from the Respondent Out-of-Competition. Assisted by the UKAD Doping Control Officer in attendance, the Respondent split the urine Sample (“the Sample”) into two separate bottles which were given reference numbers A1191412 (the “A Sample”) and B1191412 (the “B Sample”).

9. Both samples were transported to a World Anti-Doping Agency (“WADA”) accredited laboratory, namely the Drug Control Centre, King’s College London. The A Sample was analysed in accordance with WADA’s International Standard for Laboratories. Analysis of the A Sample returned an Adverse Analytical Finding (“AAF”) for ostarine.

10. Ostarine is listed under section S1.2 of the 2023 WADA Prohibited List as an “Other Anabolic Agent”. It is a non-Specified Substance that is prohibited at all times.

11. The Respondent did not have a Therapeutic Use Exemption (“TUE”) in place for ostarine.

12. The ECB notified the Respondent of the AAF on 19 October 2023 in accordance with ADR Article 7.2.3 and informed him that he may have committed an ADRV under ADR Article 2.1 and/or Article 2.2. He was thereby provisionally suspended and invited to provide an explanation.

13. On 25 October 2023 the Respondent asked for the B Sample to be analysed. This took place in accordance with WADA’s International Standard for Laboratories. Analysis of the B Sample also returned an AAF for ostarine.

14. On 28 November 2023, the Respondent provided a written response (“the Response”). Therein he said he could not - at that time - explain the AAF. He said he had not intentionally ‘doped’ or been reckless or negligent. He said he would conduct further investigations and provide any further explanation as and when he was able.

15. ADR Article 2.1 provides:

“The Presence of a Prohibited Substance or its Metabolites or Markers in a Cricketer’s Sample”

16. ADR Article 2.2 provides:

“Use or Attempted Use by a Cricketer of a Prohibited Substance or a Prohibited Method, unless the Cricketer establishes that such Use or Attempted Use is consistent with a Therapeutic Use Exemption granted in accordance with Article 4.3.”

17. On 13 December 2023, the Cricket Regulator charged the Respondent with two ADRVs in accordance with ADR Article 7.8.1.

18. On 16 January 2024, the Respondent admitted both charges, albeit *“inadvertently and unknowingly”*. He said he was making enquiries about the supplement he had used.

19. On 8 March 2024, the Respondent informed the Cricket Regulator that the AAF was caused by his use of a bilberry food supplement,¹ purchased from a Company Y², purchased online from the Amazon website. He said he was using the Bilberry Supplement before the Sample collection. His case is and was that the Bilberry Supplement was contaminated with ostarine.

20. Pursuant to Articles 7.9 of the Procedural Rules the Panel Chair conducted a Directions Hearing remotely via online facility Zoom on 22 February 2024.

21. In light of the facts summarised herein, which are not disputed, the Respondent’s admissions and the available evidence, we are comfortably satisfied that the Cricket Regulator has established each ADRV.

C. SANCTION

(1) Respondent’s case

¹ The name of the supplement has been anonymised to maintain its confidentiality. The product is referred to herein as the “Bilberry Supplement”.

² The name of the company has been anonymised to maintain its confidentiality.

22. For reasons explained in writing and orally, the Respondent's case was as follows:
- 22.1 The ADRVs were not intentional (for the purposes of ADR Article 10.2.1(a) and Article 10.2.3).
 - 22.2 He did not knowingly commit any ADRV (ADR Article 10.4).
 - 22.3 He bore No Significant Fault or Negligence for the ADRVs and the ostarine came from a Contaminated Product, so the otherwise applicable period of Ineligibility should be reduced (to a period of no Ineligibility but, in any event, a period of no more than two years Ineligibility, or somewhere between) (ADR Article 10.6.1(b) & 10.6.2).
 - 22.4 Alternatively, in reliance upon ADR Article 10.6.2, the period of Ineligibility should be reduced in any event (to no less than half of the period otherwise applicable).
 - 22.5 Any period of Ineligibility should take account of the time spent provisionally suspended (ADR Article 10.12.2).
23. In writing it was submitted that the Respondent could establish that he bore No Fault or Negligence for the ADRVs, so the otherwise applicable period of Ineligibility should be eliminated (ADR Article 10.5). That was not pursued before us. It was not pursued because, rightly in our view, the Respondent accepted he was at Fault; the issue was the extent of that Fault.
24. The Respondent served evidence in support of those propositions. He gave evidence during the hearing. His detailed witness statement stood as his 'evidence-in-chief' and he was questioned on behalf of the Cricket Regulator.
25. The Respondent is thirty-eight years of age. His case is that the cause of the AAF was a bilberry food supplement, which is distributed by Company Y. The batch he used was contaminated with ostarine. He was using that supplement in advance of and possibly on the day he provided the Sample.
26. The Respondent had been using blueberry and bilberry products for some time. Bilberry is a fruit closely related to blueberries. They are said to have health benefits. His first use of such a product was an over-the-counter purchase from Holland and Barrett of blueberry tablets in December 2022.

27. He purchased the Bilberry Supplement from Amazon website on 8 February 2023. Before purchase, he checked the ingredients to ensure it did not contain any prohibited substances. The label on the Bilberry Supplement packaging does not list ostarine, nor any other Prohibited Substance as an ingredient.
28. We saw images of the said label. The front of the packaging including assurances, which are clearly intended to inform users that the Supplement is pure and safe to use. Such assurances are worthless. The "Nutrition Facts" on the back of the packaging state that a serving size of 1 capsule contains "Bilberry 1000mg", which he said suggested that bilberry was the only ingredient within a capsule. The "Ingredients" are listed as: "*Bilberry Extract 10:1 Ratio, Rice Flour, Bovine Gelatine Capsule Shell*", the supplement coming in capsule form.
29. His use of the Bilberry Supplement fell away in Spring 2023. He said he was taking it regularly "*as of at least 28 August 2023*". He said he used it as "*a precautionary concern for my health, following the passing of a family member*".
30. He said he had always been careful to ensure he did not consume any Prohibited Substances. By way of example:
- 30.1 He used only medications which are provided to him by his cricket club doctor.
- 30.2 He checked the ingredients of medications and supplements to ensure that they do not list prohibited substances.
- 30.3 He did not use products as might be suggested for use or offered to him by other players.
31. In his witness statement he denied the ADRVs were intentional and that he was at Fault or negligent. In his case, the latter was not sustainable. In the alternative he submitted that his Fault or negligence was not significant.
32. Questioned by Mr Brown on behalf of the Cricket Regulator he accepted that he had received regular anti-doping education from the ECB. That education included warnings about the use and dangers of supplements. He accepted he did not visit Company Y's website to research the Bilberry Supplement or at all. He also said that he did not check Bilberry Supplement on the Informed Sport website.

(2) Cricket Regulator's case

33. For reasons it explained the Cricket Regulator's position was, in summary, as follows:

33.1 It accepted that the Respondent had discharged the burden upon him to prove that the ADRVs were not intentional due to them being caused by a supplement that contained ostarine. As such, the starting point for any period of Ineligibility should be two years.

33.2 The Cricket Regulator acknowledged that the Respondent may be able to establish No Significant Fault or Negligence and so receive a reduction in his period of Ineligibility.

33.3 Any period of Ineligibility should commence from the date the Respondent was provisionally suspended, namely 19 October 2023.

34. The Cricket Regulator's case, for reasons advanced in its questioning of the Respondent and in submissions was that there was a "*credible argument that his degree of Fault was significant*". If we were satisfied that his fault was not significant then its case was that the Respondent's Fault was still high and merited only a small reduction from two years.

D. DECISION

(1) Intentional

35. Ostarine is a non-Specified Substance. Therefore, the starting point is a period of Ineligibility of four years (ADR Article 10.2.1). If the Respondent can establish on the balance of probabilities that the ADRVs were not intentional, the starting point for his sanction will reduce to two years (ADR Articles 10.2.1.(a) and 10.2.2).

36. ADR Article 10.2.3 defines intentional thus:

"As used in Articles 10.2 and 10.3, the term 'intentional' is meant to identify those Cricketers or other Persons who engage 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 that is prohibited In-Competition only shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Cricketer 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 Cricketer can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.”

37. Notwithstanding the Cricket Regulator’s concession in this respect, it remains a matter for us to determine whether the Respondent has discharged the burden upon him.

38. The Respondent’s evidence is that he was using the Bilberry Supplement in the period leading up to the positive test. That was not challenged. It is supported by his contemporaneous diary entries at the time. He declared his use of the said on the Doping Control form.

39. The Respondent instructed Professor Pascal Kintz of X-Pertise Consulting to conduct testing of the Bilberry Supplement (and other supplements he was using) to see if any of them contained ostarine. So far as the Bilberry Supplement is concerned, he sent the following:

39.1 The opened packet of the Bilberry Supplement, that he had been using. The imagery is a little blurred, but it is sufficiently clear to identify that the batch number of the supplement sent by the Respondent and received by Professor Kintz were the same.

39.2 An unopened packet of the Bilberry Supplement, with a different batch number.

39.3 A hair Sample for Testing.

40. Professor Kintz provided several reports, each of which was accompanied by a statement of truth. His reports can be summarised thus:

40.1 Professor Kintz randomly selected and tested four Bilberry capsules from the opened supplement package used by the Respondent. Each of the four capsules tested positive for ostarine at amounts of 60ng/g, 40ng/g, 400ng/g and 260ng/g.

40.2 Using the same methodology, Professor Kintz tested four capsules from the second bilberry supplement with a different batch number. The tests were negative.

40.3 Professor Kintz conducted further tests in respect of the two batches. From the original, 100 mg of the powder was diluted in 10 ml of methanol, in order to prepare a solution at 10 g/l. This solution was positive for ostarine. The same test on powder from the alternate batch produced a negative result for ostarine.

40.4 Professor Kintz tested the hair Sample and ostarine was not detected. In his expert opinion the *“results demonstrate that the donor had not been repetitively exposed to ostarine between early August and the end of October 2023”*, the period during which the positive Sample was provided.

40.5 Professor Kintz observed that there *“was no evidence that the capsules from both batches have been manipulated before I have received them. I did not see fingerprints on the capsules. I did not see any traces of powder on the gelatin that could indicate opening by a third subject.”*

41. None of that evidence was challenged by the Cricket Regulator, for good reason. It instructed Professor David Cowan – a highly respected and experienced expert in this field - to comment on Professor Kintz’s methodology, his findings, and the Respondent’s case. He did not take issue with any of the methodology or findings and found the Respondent’s case was “plausible”.

42. Professor Cowan also considered the possibility that the Bilberry Supplement had become contaminated with ostarine after the packet had been opened. He concluded that *“since Professor Kintz opened each capsule and analysed only the contents then, in my opinion, it would be extremely difficult to open each capsule, add the appropriate minute amount of ostarine to it, and reclose the capsule”*.

43. Professor Cowan was asked about whether there was an alternative explanation for the positive test of the Respondent. Professor Cowan confirmed that the Respondent taking a pharmacologically effective dose of ostarine in specific circumstances was such an explanation but, partly in light of the hair testing of Professor Kintz, *“he had no reason to suggest that this is a likely alternative”*.

44. The Bilberry Supplement is supplied by Company Y. The sole director, and the majority shareholder, is Mr X. He informed the Cricket Regulator that the batch used by the Respondent was no longer available. Mr X also informed the Cricket Regulator that the third party which manufactured the supplement, did not have any of that batch available.

45. On the available evidence we are satisfied to the requisite standard that the source of the ostarine and the cause of AAF was the contaminated Bilberry Supplement which the

Respondent ingested. The unchallenged expert evidence is compelling. To that we add the following:

45.1 There is no other possible source of the ostarine and therefore cause of the AAF on the evidence before us.

45.2 We accept his evidence that he did not intentionally or to his knowledge ingest or otherwise use ostarine.

46. For those reasons we were satisfied on the balance of probabilities that the Respondent's ADRVs were not intentional.

47. The appropriate sanction is therefore two years unless the Respondent is able to establish his Fault or negligence was not significant.

(2) No Significant Fault or Negligence

48. ADR Article 10.6.1 (b) provides:

“10.6 Reduction of the Period of Ineligibility based on No Significant Fault or Negligence

10.6.1 Reduction of the Period of Ineligibility for Specified Substances, Specified Methods or Contaminated Products, or in the case of Protected Persons or Recreational Players for violations of Articles 2.1, 2.2 or 2.6.

All reductions under Article 10.6.1 are mutually exclusive and not cumulative.

[...]

(b) Contaminated Products

In cases where the Cricketer or other Person can establish both No Significant Fault or Negligence and that the detected Prohibited Substance came from a Contaminated Product (other than a Substance of Abuse), then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility and, at a maximum, two years of Ineligibility, depending on the Cricketer or other Person's degree of Fault.”

49. Contaminated Product is defined as *“A product that contains a Prohibited Substance that is not disclosed on the product label or in the information available in a reasonable Internet*

search". Given our findings in respect of the source of the ostarine, we are satisfied the Bilberry Supplement was a Contaminated Product for the purposes of ADR Article 10.6.1(b).

50. Comment 66 in the WADA Code relating to Article 10.6.1.2 states:

"It should be further noted that Athletes are on notice that they take nutritional supplements at their own risk. The sanction reduction based on No Significant Fault or Negligence has rarely been applied in Contaminated Product cases unless the Athlete has exercised a high level of caution before taking the Contaminated Product. In assessing whether the Athlete can establish the source of the Prohibited Substance, it would, for example, be significant for purposes of establishing whether the Athlete actually Used the Contaminated Product, whether the Athlete had declared the product which was subsequently determined to be contaminated on the Doping Control form."

51. We note in passing that the Respondent did declare his use of the Bilberry Supplement on the relevant Doping Control form.

52. As for the meaning and application of No Significant Fault or Negligence we were reminded of and considered:

Dylan Scott v The International Tennis Federation, CAS 2018/A/5768

Hans Knauss v FIS, CAS 2005/A/847

The International Tennis Federation v Richard Gasquet, CAS 2009/A/1926 and 1930

Jose Paolo Guerrero v FIFA and WADA v FIFA and Guerrero, CAS 2018/A/5546

Maria Sharapova v The International Tennis Federation, CAS 2016/A/4643

Marin Cilic v The International Tennis Federation, CAS 2013/A/3327

Mauricio Fiol Villaneuva v Federation Internationale De Natation, CAS 2016/A/4534

Sara Errani v The International Tennis Federation, CAS 2017/A/5301

WADA v Hardy & USADA, CAS 2009/A/1870

WADA v Ihab Abdelrahman, CAS 2017/A/5036

WADA v International Weightlifting Federation and Yenny Fernanda Alvarez Caicedo, CAS 2016/A/4377

53. In *Knauss* the CAS Panel observed that the standard “must not be set excessively high”³.

In *Sharapova* it was said:

“However, in the Panel’s opinion, the “bar” should not be set too high for a finding of NSF. In other words, a claim of NSF is (by definition) consistent with the existence of some degree of fault and cannot be excluded simply because the athlete left some “stones unturned”. As a result, a deviation from the duty of exercising the “utmost caution” does not imply per se that the athlete’s negligence was “significant”; the requirements for the reduction of the sanction under Article 10.5.2 of the TADP can be met also in such circumstances. It is in fact clear to this Panel (as noted in CAS 2013/A/3327, §§74-75) that an athlete can always read the label of the product used or make Internet searches to ascertain its ingredients, cross-check the ingredients so identified against the Prohibited List or consult with the relevant sporting or anti-doping organizations, consult appropriate experts in anti-doping matters and, eventually, not take the product. However, an athlete cannot reasonably be expected to follow all such steps in each and every circumstance. To find otherwise would render the NSF provision in the WADC meaningless.”⁴

54. In *Cilic*, standard precautions are said to be or to include:

“The athlete could always (i) read the label of the product used (or otherwise ascertain the ingredients), (ii) cross-check all the ingredients on the label with the list of prohibited substances, (iii) make an internet search of the product, (iv) ensure the product is reliably sourced and (v) consult appropriate experts in these matters and instruct them diligently before consuming the product.”⁵

55. In *Cilic* the CAS Panel described three categories of Fault as follows:

55.1 “*light*” Fault at zero to eight months,

55.2 “*normal*” Fault at eight to sixteen months, and

55.3 “*considerable*” Fault at sixteen 16 to twenty-four months⁶.

³ §7.3.5.

⁴ §84.

⁵ §74(a)

⁶ §70.

56. The CAS Panel in *Cilic* continued:

*“In order to determine into which category of fault a particular case might fall, it is helpful to consider both the objective and the subjective level of fault. The objective element describes what standard of care could have been expected from a reasonable person in the athlete’s situation. The subjective element describes what could have been expected from that particular athlete, in light of his personal capacities.”*⁷

57. The three categories were reduced to two by the CAS Panel which decided *Errani* with “*light*” Fault being 0-12 months and “*normal*” Fault being 12 to 24 months⁸.

58. Those cases are illustrative. There has been a new incarnation of the World Anti-Doping Code (in 2021) since *Errani* was decided.

59. Marin Cilic’s level of Fault was considered to require a four months’ Ineligibility; Ms Sharapova’s a period of fifteen months. All such cases are fact specific.

(3) The Respondent’s degree of Fault

60. The Respondent accepted he was at Fault. We must assess the degree or extent of that Fault. In doing so we considered with care all of the evidence, both in writing and during the hearing. We have also had regard to the written evidence and the submissions.

61. The Respondent’s objective failure or Fault is:

61.1 He did not research the Bilberry Supplement on the Informed Sport website. Had he have done he would not have found it as ‘certified’ for use.

61.2 He did not consult with experts at his club or beyond as to whether the Bilberry Supplement was ‘safe’ to use. He could have sought advice from the Leicestershire CCC team doctor, the ECB, UK Anti-Doping, or any other medical professional that he had access to in advance of using the Bilberry Supplement (or, indeed, any supplement).

61.3 He did not research Company Y’s website.

⁷ §71.

⁸ §194.

62. On this latter point, if one accesses Company Y's website today one can find, with some exploration (it is not on the homepage), a warning in bold:

"Company Y's products are "NOT suitable" for athletes subject to anti-doping testing and recommending such athletes consider Informed Sport batch tested and certified products [sic]."

63. There is also general advice on the use of supplements by athletes, followed by a link to the Informed Sport website with this advice **"Visit the Informed Sport website to check whether supplements have been batch-tested."**

64. We did not have a witness statement from Mr X. In email correspondence he was asked by the Cricket Regulator when the webpage containing those warnings went live. He replied:

"I'm afraid I don't have a date for that page going live. That iteration of the website went live back in May/June '22 and it would have been sometime around that date. It may be possible that it was live prior to this, but don't have any more information unfortunately."

65. Therefore, it is clear that with research on Company Y's website, one can discover that the Bilberry Supplement is not suitable for athletes such as the Respondent and is not Informed Sport approved. The evidence is that this information was available on the Company Y website from around May/June 2022. Therefore, it is likely, that the said information would have been available to the Respondent had he searched for it when he was purchasing and/or ingesting the Bilberry Supplement.

66. The Cricket Regulator submitted that the Respondent was at Fault in that he could have had the Bilberry Supplement tested prior to using it. While that is theoretically correct, it does not accord with the realities of the circumstances of this Respondent and indeed most athletes.

67. That Fault is compounded by the extent of his anti-doping education. He is an experienced athlete who has received years of such education. In the 2023 education session, which he attended, there is a slide featuring the Informed Sport website and an explanation that a supplement being certified through the Informed Sport program means it has been tested for Prohibited Substances. Further, the associated lesson plan refers to an activity on

supplements that is to last for 20 minutes and contains phrases including “*All supplements come with significant risk and that no supplement is ‘safe’*”, “*it is the player’s responsibility to manage and mitigate risks with supplements and that they must have evidence of doing so for all products used*” and “*no supplement is safe and that ECB recommends alternatives (good food, hydration, sleep recovery) that do not come with risk*”. That subjective Fault exacerbates the objective.

68. The AAF was caused by a Contaminated Product in respect of which he took some precautions. He checked the ingredients on the label with the list of prohibited substances. The Bilberry Supplement was distributed by a reputable UK-based company, namely Company Y. Further, it was manufactured by a reputable UK-based company. The Bilberry Supplement appears to have been manufactured in accordance with appropriate manufacturing and food safety standards.

69. Further his Fault must, we think, be seen in the context of the nature of the product or supplement he purchased and then used. It was not a performance enhancing supplement, it was not protein or to aid recovery, he said. He bought and consumed a concentrated fruit supplement. It was not one classically purchased to enhance sporting performance. It is not a supplement aimed at (for example) bodybuilders, athletes or similar; it is not advertised as being capable of enhancing sporting performance. Furthermore, the Bilberry Supplement is of a type widely available, including from reputable health food shops. There is nothing about it which might put a user on notice as to a potential contamination risk. It was not unreasonable to consider it – as we accept he did - to be single-ingredient, concentrated fruit-based vitamin tablet.

70. Viewed in that proper context and when considering the steps he did take, the Respondent satisfied us to the requisite standard that his Fault was not significant. However, his Fault was not trifling either. As is clear from the foregoing he failed to take obvious steps, objectively expected of a professional athlete in his position with his level of education.

(4) Period of Ineligibility

71. The decisive criterion based on which the period of Ineligibility shall be determined within the applicable range of sanctions is Fault. While his Fault was not significant, it was not trifling.

72. In light of all the material in this case, as summarised above, the ADRVs are so serious as to justify a period of Ineligibility. We assess the Respondent's Fault to fall at the bottom of *Cilic* "normal" or towards the top of the *Errani* "light" range. In our judgement the appropriate and proportionate period to be one of nine months.

(5) Commencement

73. Mr Harris relied on ADR Article 10.12.1 which provides:

"10.12.1 Delays Not Attributable to the Cricketer or other Person

Where there have been substantial delays in the hearing process or other aspects of Doping Control and the Cricketer or other Person can establish that such delays are not attributable to the Cricketer or other Person, the period of Ineligibility may be deemed to have started at an earlier date, commencing as early as the date of last occurrence of the anti-doping rule violation (which, in the case of an Article 2.1 violation, would be on the date of Sample collection), taking into account any such period of delay. All competitive results achieved during the period of Ineligibility, including retroactive Ineligibility, shall be Disqualified."

74. He submitted that it should be backdated to the date the Sample was provided because of what he said was a substantial delay. When we asked, Mr Harris told us the Respondent continued playing cricket post provision of the Sample until the end of the 2023 season, namely the end of September. Mr Harris then acknowledged that the Respondent should not have that period credited against any period of Ineligibility.

75. There has not been substantial delay in this case. To delay something is the act of postponing, hindering, or causing something to occur more slowly than normal. The period between the taking of the Sample and notification of the AAF is entirely in keeping with our experience of the time necessarily taken. There was no delay in this case, still less substantial delay.

76. The period of Ineligibility will commence on the day the Respondent was provisionally suspended, namely 19 October 2023, since we understand he has not participated in sport since that date (ADR Article 10.12.2).

77. ADR Article 10.10 does not arise on the facts of this case.

F. SUMMARY

78. For the reasons set out the Panel:

78.1 Finds the ADRVs proved.

78.2 Imposes a period of Ineligibility of nine months.

78.3 Which the period of Ineligibility shall commence on 19 October 2023 and shall end at 23:59 on 18 July 2024.

G. RIGHT OF APPEAL

79. 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.

80. Pursuant to ADR Article 13.4.2(b), the Appeal should be filed to the National Anti-Doping Panel, located at Sport Resolutions, 1 Paternoster Lane, London, EC4M 7BQ (resolve@sportresolutions.com).



Christopher Quinlan KC
Chair, on behalf of the Panel
London, UK
21 May 2024



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