

BEFORE THE NEW ZEALAND RUGBY UNION INCORPORATED ANTI-DOPING JUDICIAL COMMITTEE

BETWEEN

**DRUG FREE SPORT NEW ZEALAND
Applicant**

AND

**ISAIA WALKER-LEAWERE
Respondent**

DECISION ON ANTI-DOPING VIOLATION

Judicial Committee: Helen Morgan, Chair
Dr Deborah Robinson
Henry Moore

Registrar: Rebecca Giordano

1. The Applicant (**DFSNZ**) has brought Anti-Doping Rule Violation (**ADRV**) proceedings against the Participant alleging breaches of the Sports Anti-Doping Rules 2023 (**SADR**).
2. These breaches are:
 - a. Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample (Rule 2.1 SADR)
 - b. Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method (Rule 2.2 SADR)
3. The Participant has admitted both ADRVs.
4. The committee has received the following:
 - a. Submissions of Counsel for Participant dated 17 July 2023; and
 - b. Joint memorandum of Counsel regarding sanction dated 28 July 2023.

Background

5. The background has been helpfully set out by Counsel for the Participant in their submissions of 17 July 2023, being:
 - a. The Participant played rugby for the Hurricanes, against the Fijian Drua, in Fiji, on Saturday 6 May 2023. In the course of that game, he received two Yellow Cards, and was therefore issued a Red Card and sent from the field.
 - b. As a result of his Red Card, the Participant was required to go through the SANZAAR Super Rugby Pacific Judicial Process, where his case was initially considered by the SANZAAR Foul Play Review Committee. That occurred on Monday, 8 May 2023. The result of that process was that no suspension or further sanction was imposed, and the Participant was cleared to play.
 - c. Two nights later, on Wednesday 10 May 2023, the Participant joined some non-rugby playing friends for the evening. The intention was for the evening to be a "wind down" following everything that had occurred over the previous few days. In the course of that evening, the Participant smoked some marijuana with his friends.
 - d. The Participant smoked the marijuana recreationally.
 - e. When the Participant was selected for Anti-Doping Testing the following Saturday (13 May 2023) he did not even think about the fact that he had smoked some marijuana some 3 days ago. He no longer felt affected by the marijuana, and he had not consumed it in any way associated with his sport.
 - f. When the Participant received notice of his AAF he immediately recalled smoking marijuana on the Wednesday night following his game in Fiji.

Agreed facts / Submissions

6. The joint memorandum records the following agreed facts as between DFSNZ and the Participant:
 - a. At all material times, the Participant was registered with New Zealand Rugby (**NZR**) and was bound by the SADR.
 - b. The Participant was selected for testing on 13 May 2023. The "A" sample obtained confirmed an adverse analytical finding for the presence of 11-nor-delta-9-tetrahydrocannabinol-9-carboxylic acid (a metabolite of THC) (**THC**), which exceeded the decision limit of 180 ng/ml (**AAF**). THC is a specified substance, prohibited in-competition under class S8 - Cannabinoids on the World Anti-Doping Code International Standard

Prohibited List 2023 (**Prohibited List**).

- c. The Participant had not declared the use of marijuana on his doping control form.
- d. On 3 July 2023, DFSNZ applied for provisional suspension of the Participant.
- e. On 5 July 2023 the Participant, through representatives at the New Zealand Rugby Players Association advised NZR of his acceptance of the test result and the provisional suspension.
- f. The Participant was provisionally suspended as a result of his ADRV from 5 July 2023 (**Provisional Suspension**).
- g. The AAF resulted from recreational consumption of marijuana, some three days prior to the Participant being tested.
- h. The consumption of the Prohibited Substance occurred out of competition and was unrelated to sports performance.
- i. As a result, the appropriate period of ineligibility will be three months from the date of the Provisional Suspension.

Rule 10.2.4.1

- 7. The joint memorandum sets out the Participant:
 - a. Attended an appointment on 12 July 2023 with Mr Jamie Addison, a member of DAPAANZ-Drug and Alcohol Practitioners Association Aotearoa and a Registered AOD/PG Practitioner; and
 - b. Is completing a treatment programme recommended by Mr Addison, consisting of five further treatment sessions of which two have been completed and the remainder are expected to be completed by 18 August 2023 (**Treatment Programme**).
- 8. DFSNZ approves the Treatment Programme and is satisfied it is appropriate for the purposes of this Rule.
- 9. The Treatment Programme completion extends beyond a one-month period from the date of the Provisional Suspension. As a result, of this the joint memorandum sets the following proposal:
 - a. On the condition that the Participant will and does complete the Treatment Programme, the sanction is reduced to 1 month ineligibility and the period of ineligibility shall provisionally end on 5 August 2023;
 - b. This matter shall be adjourned until 28 August 2023;
 - c. As soon as possible after 18 August 2023 (but by no later than 25 August 2023), counsel for the Participant is to confirm to the Committee and DFSNZ that the Participant has completed the Treatment Programme and provide a certificate or other proof of completion;
 - d. If, after receiving the confirmation, DFSNZ determines that the Participant has satisfactorily completed the Treatment Programme, the period of ineligibility will be confirmed as 1 month and will have been served, and this proceeding will be at an end; but
 - e. If DFSNZ determines that the Participant has not satisfactorily completed the Treatment Programme, or if the Participant fails to provide the confirmations required, then a three-

month period of ineligibility will be confirmed, and the Participant will be subject to a further two months suspension commencing on 28 August 2023.

Findings

10. The Committee accepts the Participant's admission and as such the findings of the Committee relate to sanction only. The Committee has been greatly assisted by the joint memorandum between DFSNZ and the Participant and commends them for their efforts in this.

11. SADR rule 4.2.3 defines Substances of Abuse as follows:

For purposes of applying Rule 10, Substances of Abuse shall include those Prohibited Substances which are specifically identified as Substances of Abuse on the Prohibited List because they are frequently abused in society outside of the context of sport.

12. THC is recorded as a Substance of Abuse on the Prohibited List

13. SADR sets out the following relevant definitions:

Competition: A single race, match, game or singular sport contest. For example, a basketball game or the finals of the Olympic 100-metre race in athletics. For stage races and other sport contests where prizes are awarded on a daily or other interim basis the distinction between a *Competition* and an *Event* will be as provided in the rules of the applicable International Federation.

Out-of-Competition: Any period which is not *In-Competition*

In-Competition: The period commencing at 11:59 p.m. on the day before a *Competition* in which the *Athlete* is scheduled to participate through the end of such *Competition* and the *Sample* collection process related to such *Competition*. Provided, however, *WADA* may approve, for a particular sport, an alternative definition if an International Federation, provides a compelling justification that a different definition is necessary for its sport; upon such approval by *WADA*, the alternative definition shall be followed by all *Major Event Organisations* for that particular sport.

14. The Participant is a professional rugby player and as a result, "in competition" for the Participant would be from 11.59pm on the day before a rugby match through to the end of that match. The match in question occurred on 13 May 2023 and the Participant's ingestion of the Substance of Abuse occurred on 10 May 2023.

15. The Participant's breach involved a Substance of Abuse taken out of competition.

16. The Participant is involved in a Treatment Programme, which is approved by DFSNZ, but this will not be completed until 18 August 2023.

Sanction

17. As a result of the findings, the Participant's breach falls under SADR rule 10.2.4, being:

Notwithstanding any other provision in Rule 10.2, where the anti-doping rule violation involves a *Substance of Abuse*:

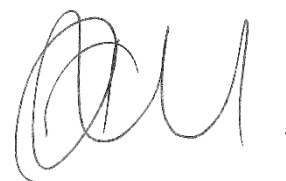
10.2.4.1 If the *Athlete* can establish that any ingestion or *Use* occurred *Out- of-Competition* and was unrelated to sport performance, then the period of *Ineligibility* shall be three months *Ineligibility*.

10.2.4.1 In addition, the period of *Ineligibility* calculated under this Rule may be reduced to one month if the *Athlete* or other *Person* satisfactorily completes a *Substance of Abuse* treatment program

approved by DFSNZ. The period of *Ineligibility* established in this Rule 10.2.4.1 is not subject to any reduction based on any provision in Rule 10.6.

18. As such the Participant's period of ineligibility is three months but is reduced to one month by and upon the competition of the Treatment Programme.
19. The one-month period of ineligibility would end on 5 August 2023. In the circumstances, such date is to be conditional upon the following:
 - a. The Participant completing the Treatment Programme by 18 August 2023;
 - b. The Participant providing proof of completion in the form of a third-party confirmation/certificate, to the Committee and DFSNZ by 23 August 2023; and
 - c. DFSNZ confirming to the Committee by 25 August 2023 they are satisfied with the Participant's completion of the Treatment Programme.
20. In the event the conditions under paragraph 19 above are satisfied, then the Participant will have served his period of ineligibility and this matter at an end.
21. Should the conditions not be satisfied then the three-month period of ineligibility will be confirmed as the sanction against the Participant, with one-month having been served and a further two-month suspension will start on 25 August 2023 to end on 25 October 2023.
22. This matter is adjourned until 28 August 2023.

Dated 4 August 2023



Helen Morgan
Chair, NZ Rugby Anti-Doping Judicial Committee