

BEFORE THE NEW ZEALAND RUGBY UNION JUDICIAL COMMITTEE

No. 15/18

BETWEEN

DRUG FREE SPORT NEW ZEALAND

Applicant

AND

BLAKE ROFF

Respondent

DECISION ON APPLICATION AND SANCTIONS

Dated 12 February 2019

Judicial Committee: Barry Paterson QC, Chair
Dr Ian Murphy
Ben Castle

Counsel: David Bullock for applicant
Michael Smyth for respondent

Registrar: Stuart Doig

1. The applicant (DFSNZ) has brought an application alleging that the respondent, Mr Roff, committed two anti-doping violations under the provisions of the Sports Anti-Doping Rules 2014 (SADR 2014).
2. The application alleged breaches of:
 - (a) Rule 3.2 SADR 2014 – Use or Attempted Use of a Prohibited Substance;
 - (b) Rule 3.6 SADR 2014 – Possession of a Prohibited Substance.
3. Mr Roff in a statement has admitted purchasing Clenbuterol in breach of Rule 3.6 but denies breaching Rule 3.2 of SADR 2014. As the sanction for a breach of Rule 3.6 is the same as the sanction for a breach of both Rules 3.6 and 3.2, DFSNZ has decided not to further pursue the allegation under Rule 3.2. Both parties agree that this decision by DFSNZ is not otherwise to be construed as concession in respect of the allegation under Rule 3.2.
4. Counsel for the parties have filed a joint memorandum advising that the parties have agreed that it will be open to and appropriate for this Committee to impose upon Mr Roff a sanction for a Period of 2 years' Ineligibility. The parties have waived the right to a hearing.

Facts

5. The facts admitted by Mr Roff is that in December 2014, while he was bound by SADR 2014, he purchased 10 millilitres of Clenbuterol from a website trading under the name of NZ Clenbuterol. Mr Roff does not accept that he used the Clenbuterol and said that his intention in purchasing the product was to assist with the asthma condition from which he suffers and was not to enhance his sporting performance. It was purchased in the offseason.

The Sanction


6. The prescribed sanction for the violation admitted, namely possession of the Clenbuterol, is a Period of Ineligibility of 2 years (Rule 14.2 SADR 2014).
7. Mr Roff does not seek to utilise any of the provisions of SADR 2014 to have this Period of Ineligibility reduced. He accepts that there is no reason to

reduce the Period of Ineligibility under Rule 14.5. (the rule which allows for a reduction if there has not been fault or significant fault or negligence). and DFSNZ accepts that there is no reason to increase the Period of Ineligibility under Rule 14.6.

8. The Period of Ineligibility would normally commence from the date of the hearing but is backdated to the date of a provisional suspension order if one has been made. In this case Mr Roff was provisionally suspended on 29 November 2018.
9. The parties agree, however, that Mr Roff is entitled to a further period of backdating for substantial delay under the provisions of Rule 14.9.1 SADR 2014. This submission is appropriately made in view of previous decisions of both this Committee and the Sports Tribunal of New Zealand. There have been substantial delays which have not been the fault of Mr Roff.
10. Although Mr Roff did admit to possession of Clenbuterol, the parties accept that he is not entitled to receive a further credit of backdating under the provisions of Rule 14.9.2 of SADR 2014.(which allows a period of backdating for a prompt admission of a violation) He participated in rugby after he had the application served on him and it is accepted that this disentitles Mr Roff to a further backdating.
11. It is appropriate therefore, that the backdating be for a period of six months from the date of the provisional suspension order.
12. The violation under Rule 3.6 SADR 2014 having been admitted, Mr Roff's sanction is a Period of Ineligibility for 2 years commencing on 29 May 2018.
13. During the Period of Ineligibility, Mr Roff is prohibited from participating in any capacity in a *Competition* or activity (other than authorised anti-doping education or rehabilitation programs) authorised or organised by any *Signatory* or *Signatory's* member organisation, or other member organisation of a *Signatory's* member organisation, or in *Competition* authorised or organised by any professional league or any *International* or *National-level Event Organisation* or any elite or national-level sporting activity funded by a governmental agency.

14. Under the provisions of Rule 5.2.3 of the New Zealand Rugby Union Anti-Doping Regulations (26 July 2012), Mr Roff is entitled to have the finding and/or sanction referred to a Post-Hearing Review Body.

Dated 12 February 2019


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Barry Paterson QC
Chairman, Judicial Committee