

INTERNATIONAL RUGBY BOARD

IN THE MATTER OF A DOPING OFFENCE BY SAM CHALMERS

**BEFORE A BOARD JUDICIAL COMMITTEE APPOINTED PURSUANT TO IRB
REGULATION 21**

Judicial Committee

Christopher Quinlan QC (England, Chairman)

Dr Stephen Targett (Qatar)

Clint Readhead (South Africa)

Appearances and Attendances:

International Rugby Board

Ben Rutherford Legal Counsel, International Rugby Board ('IRB')

David Ho, Anti-Doping Manager, IRB

Ross Blake, Anti-Doping Administrator, IRB

The Player

Sam Chalmers

Craig Chalmers, Player's father and representative

Richard McGhee, SRU International and Regulatory and Technical Executive

Heard: 28 August 2013 (by way of telephone conference call)

DECISION OF THE BOARD JUDICIAL COMMITTEE

A. INTRODUCTION

1. Sam Chalmers ('the Player') is a member and player of Scotland Rugby Union (the "Union"). He was tested out-of-competition on 13 May 2013 while in camp with the Union's Under 20s squad preparing for the IRB Junior World Championships 2013 ("the Tournament"). The Player's urine sample was sent to the World Anti-Doping Agency ('WADA')

accredited laboratory at the Drug Control Centre, King's College London. His sample contained metabolites of methandienone and stanozolol.

2. Methandienone and stanozolol are both listed in Section S1.1a Anabolic Androgenic Steroids in WADA's 2013 List of Prohibited Substances. Section 1 substances are not Specified Substances. The WADA Prohibited List is incorporated as Schedule 2 to IRB Regulation 21 ('Reg. 21'). Section 17 of the Terms of Participation for the Tournament set out the Anti-Doping Programme applicable to the Tournament, based upon Reg. 21 modified for the Tournament ('TADP'). Additionally, Schedules 3a and 3b to both detail the provisions relating to Therapeutic Use Exemptions ("TUEs").
3. Dr J. Preston Wiley (Canada) undertook a Preliminary Review in accordance with Reg. 21.20.1. He determined that that an anti-doping rule violation may have been committed in contravention of Reg. 21.2.1.
4. The Player was notified by the IRB of his Adverse Analytical Finding via the Scottish Rugby Union ("the Union") by letter dated 11 June 2013. He was provisionally suspended pursuant to Reg. 21.19.1 from that date.
5. On 13 June 2013 the Player sent an email Richard McGhee, SRU International and Regulatory and Technical Executive, confirming receipt of the said letter of 11 June 2013. Therein he admitted the anti-doping rule violation.
6. Pursuant to Reg. 21.21.1 and 21.21.2 we (Christopher Quinlan QC [Chairman], Dr Stephen Targett and Clint Readhead comprise the Board Judicial Committee ('BJC') appointed to consider this alleged anti-doping rule violation.

7. Having read and considered the relevant documentation and at the request of Mr Ho, on 29 July 2013 the Chairman issued directions pursuant to Reg. 21.21.6.

B. THE HEARING BEFORE THE BJC

8. The hearing took place by telephone conference call on 28 August 2013. At the conclusion of the hearing, we announced that we would promulgate our decision in writing as soon as practicable. This is our Decision and the reasons for it.

Anti-Doping Violation

9. The TADP and IRB Anti-Doping Regulations, more particularly Regulation 21 set out both the framework under which all players can be subjected to Doping Control and the procedures for any alleged infringement. Regulation 21 and the TADP adopt the mandatory provisions of the WADA Code. Reg. 21 is based upon the twin principles of personal responsibility and strict liability for the presence of Prohibited Substances or use of Prohibited Methods.

10. Reg 21.2 provides:

“Players or other persons shall be responsible for knowing what constitutes an anti-doping violation and the substances and methods which have been included on the Prohibited List. The following constitutes anti-doping rule violations:

2.1 The presence of a Prohibited Substance or its Metabolites or Markers in a Player’s Sample

(a) It is each Player’s personal duty to ensure that no Prohibited Substance enters his body. Players are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples...”

11. At the outset of the hearing on 28 August 2012, the Player accepted he had committed an anti-doping rule violation.
12. The facts of the anti-doping rule violation are in short compass. Both substances were detected in a sample collected at approximately 20.17 on 13 May 2013 as an out-of-competition test in Edinburgh, Scotland prior to the Player's intended participation in the Junior World Championship 2013. The Player declared on the doping control form a number of substances but not Pro-SD.
13. The Player's A-sample (A1105984) was sent to the WADA accredited laboratory at the Drug Control Centre, King's College London. His sample was analysed and contained
 - a. 17-epimetendienone and 17 β -methyl-5 β -androst-1-ene-3 α ,17 α -diol, consistent with the administration of methandienone.
 - b. 3'-hydroxystanozolol, consistent with the administration of stanozolol.
14. Methandienone and stanozolol are listed in Section S1.1a Anabolic Androgenic Steroids WADA Code. Each is a prohibited substance listed in WADA's 2013 List of Prohibited Substances and Appendix 2 to Reg. 21.
15. The IRB notified the Player of this adverse analytical finding by letter dated 11 June 2103 . In his email response on 13 June the Player said:

"Dear Sir/Madam,

Following your letter informing me of my positive urine test.[sic] I am writing to let you know that I had taken a pill called Pro SD for around 2 weeks exactly before I was randomly tested when I was called up to train with the Scotland Under 20's World Cup rugby Squad. I feel that honesty is the best policy and I think the only way I can cope with this.,[sic] as I have been stupid, naive, desperate and I totally regret my actions. I am mortified and embarrassed with the whole situation and feel I have not only let myself down but my club and family as well. When the season finished a friend of mine who isn't involved with rugby told me about it and I stupidly took 2 weeks supply of it. This is totally out of character for me, but understand I

have made a huge mistake. I only took it for the two weeks & did not feel or see any gains, but it did make me feel a bit unwell possibly a reaction to my insulin I was taking as well. I have always struggled to put on weight because of my medical conditions. I have been anaphylactic from the age of 2 and I have had type 1 diabetes since I was 14. Growing up in Melrose rugby has been my life for 19 years and the thought of the consequences of my naivety is just awful ,I don't know what I will do. I told them last night and they are very shocked. I have studied coaching for the last 2 years at college, so this may not only affect my rugby, but my work as well. I am a good person, with a good nature and can supply references if need be to back this up. I totally regret what has happened and will communicate with you fully and truthfully throughout the process. I am willing to assist in any anti drugs campaign if needed Once again I totally regret my naivety & stupidity. Please note I am due to go to Australia to visit family on the 26th June and come back on the 20th August, please advise me what I should do."

16. In light of the Player's admission and the other relevant evidence, the BJC is comfortably satisfied that the IRB discharged its burden and established that the Player committed an anti-doping violation contrary to Reg 21.2.1.

17. It is the Player's first such violation.

18. In consequence the central issue for the BJC is sanction.

Sanction

Regulatory Scheme

19. Reg 21.22.1 provides:

"The period of Ineligibility imposed for a violation of Regulation 21.2.1 (Presence of Prohibited Substance or its Metabolites or Markers), Regulation 21.2.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) and Regulation 21.2.6 (Possession of Prohibited Substances and Methods) shall be as follows, unless the conditions for eliminating or reducing the period of Ineligibility, as provided for in Regulations 21.22.3, 21.22.4, 21.22.5, 21.22.6, 21.22.7 and/or 21.22.8 or the conditions for increasing the period of Ineligibility, as provided in

*Regulation 21.22.9, are met:
First violation: Two years."*

20. Reg. 21.22.4 provides for the elimination or reduction of a period of ineligibility where the Player can establish how the prohibited substance entered his system and that he bears no fault or negligence.

21. Reg. 21.22.5 provides for the elimination or reduction of a period of ineligibility (in this case to not less than 12 months) where the Player can establish how the prohibited substance entered his system and that he bears no significant fault or negligence.

Evidence and submissions

22. In advance of the hearing the BJC received and read the following documents and materials

a. IRB

- i. Chronology, Doping Control Form, the Certificate of Analysis, the Preliminary Review report from Dr Preston Wiley and correspondence between the IRB and the Player.
- ii. IRB Anti-Doping Handbook
- iii. Particulars of Evidence dated 14 August 2013.
- iv. Written Submissions dated 23 August 2013 accompanied by two appendices

b. The Player

- i. In addition to his email of 13 June, an email from his father Crag Chalmers dated 23 August 2013
- ii. References from
 1. Jim Telfer, Head Coach Melrose Wasps
 2. Robert Chrystie, Lead Lecturer Rugby Performance Course, Edinburgh College.
 3. Mike Dalgetty, Director of Rugby, Melrose RFC

23. We heard from the Player and his father. The latter played rugby union for Scotland and the British and Irish Lions with distinction. He advised his son to seek a hearing so we were better able to understand the Player's history, his struggles and how and why he committed the anti-doping rule violation. He addressed us as a former professional player but principally as a father. He was cogent but also realistic; he spoke with feeling but was not sentimental. We are grateful to him.
24. Craig Chalmers emphasised that he did not condone his son's behaviour, and said he was "disappointed in him". The Player has lived and breathed rugby all his life. He was a "fussy" eater who found it difficult to gain weight and was the 'least developed in his peer group". He was not in Scotland when the Player took the Pro-SD and he did not seek his advice as he said he should have done.
25. His son was a "good player". He has played a "couple of senior games for Melrose" but is a Second XV player. He has not been able to make the step up to the Scotland age squads. He said the SRU coaches repeatedly told him he was not being selected because he was not sufficiently "physically developed". He felt his son felt "pressure" to follow him. He was called up to the Scotland U20s squad the day he was tested. He invited us to have regard to the human side of the case.
26. The Player agreed with all his father had said on his behalf. He told us that rugby "is my life". He said his life had been "destroyed" by what he said was the 'worst decision of [his] life".
27. As to the circumstances of his taking the Pro-SD, he maintained the account in his 13 June email. Ben Rutherford and members of the BJC questioned him. He took no advice from anyone before taking the Pro-SD nor did he carry out any research or checks. He took it because the person from whom he got it said he was taking it and the Player could see that he

looked “physically bigger”. He inferred that development was through his use of the product and followed suit. He thought it was a “testosterone pill”. He bought it from the website the screenshot of which is Appendix 2 to the IRB submission. On that website it is described as a “highly anabolic designer supplement, suited for users looking for explosive gains in size and strength”. He used it for two weeks, it made him feel unwell and he saw no physical changes. He did not declare it on the doping control form because he had a “suspicion it was not legal”.

28. He said he had never received any anti-doping education. In an email sent on 23 August Richard McGhee said:

“I have received the email below from Craig Chalmers following the final IRB submission. I can confirm that Sam was not a regular U20 squad member and was only called up to train with the squad on this one occasion. As you know he was also not included in the final Junior World Cup squad. As such he did not benefit from the training and resources which were provided to the regular squad members.”

29. The testimonials from Jim Telfer, Robert Chrystie and Mike Dalegty spoke of the Player in glowing terms. They record his commitment, integrity, loyalty and leadership qualities. It is worth, we think, repeating here what Jim Telfer said:

“A nicer young man you couldn't wish to meet - well mannered, fiercely loyal and very popular. He also showed excellent leadership qualities and often he was captain of the team.

He has a slight frame which belies his bravery on the field and this apparent disregard for the consequences has sometimes resulted in him being injured. Like many of his peer group in the Melrose area, Sam lives for rugby and it seems so out of character for him to become involved in taking banned substances.

There is so much pressure on young players now in rugby to develop physically in a very short time frame if they want to play at the highest level and Sam is under additional pressure because his father Craig played for Scotland and the Lions.

I have not spoken to him recently as he has been in Australia during the summer but I am sure that he realises how serious his plight is and will be full of remorse for being so stupid and easily led.”

C. DECISION

30. We have considered all the material put before us, both orally and in writing. This is the Player's first violation. The starting point is a period of ineligibility for two years unless he can satisfy us on the balance of probabilities a basis within Reg. 21 for the elimination or reduction of that period of ineligibility.

31. On the facts of this case Regulation 21.22.4 does not apply.

32. We considered carefully whether Reg. 21.22.5 applies. We are prepared to accept his account of the circumstances in which he took Pro-SD and that this was the source of the methandienone and stanozolol. However, even accepting that to be proved, we are comfortably satisfied that the Player failed to establish he was not significantly at fault or negligent. He did not suggest, in terms, that he was not. On his own account he took Pro-SD thinking it was a "testosterone pill" in the hope it would help him gain bulk. The blunt truth is that he sought chemical assistance to gain weight. He carried out no research or advice and accepted the risks in doing so. He was entirely at fault and as he candidly accepted, he accepts the consequences.

33. In light of the Player's failure to establish any basis for the elimination or reduction of the period of ineligibility, the sanction for his anti-doping rule violation committed on 13 May 2013 by reason of the presence in his urine sample of methandienone and stanozolol is fixed: it is a period of ineligibility of two years, commencing on the date his provisional suspension took effect, namely 11 June 2013. The period of ineligibility runs until midnight on 10 June 2015.

34. The meaning of Ineligibility is as provided in Reg. 21.22.13A(i) provides:

"No Player or Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a Match and/or

Tournament (international or otherwise) or activity (other than authorised anti-doping education or rehabilitation programmes) authorised or organised by the Board or any member Union or Tournament Organiser. Such participation includes but is not limited to coaching, officiating, selection, team management, administration or promotion of the Game, playing, training as part of a team of squad, or involvement in the Game in any other capacity in any Union in membership of the IRB.”

35. During the hearing the Player offered to participate in any anti-doping education programme. That was to his credit. However, his experience is a salutary warning to any person tempted to take what is sometimes described as a “shortcut”. The only thing cut short is this young man’s rugby career.

Appeal

36. This decision is final, subject to a Post Hearing Review Body (Reg.21 25) and, if applicable, an appeal to the Court of Arbitration for Sport (Reg. 21 26). In this regard, attention is directed to Reg. 21.24.1, which sets out the process for referral to a Post Hearing Review Body, including the time within which the process must be started.

Costs

37. We make no order for costs.



Christopher Quinlan QC

Chairman

Bristol, England

3 September 2013