

Ref.: NADOMALTA/AIMS

- vs -

**Justin Farrugia (ID. 80805L)
(Athlete affiliated with Overseas Rugby Union
Football Club)**

Disciplinary Proceedings under National Anti-Doping Regulations namely Legal Notice 104 of 2021 of the Laws of Malta (hereafter referred to as “ADR”).

This is an Issued Decision made by Authority for Integrity in Maltese Sport (AIMS) pursuant to Article 6 of Chapter 626 of the Laws of Malta. It concerns an accusation of Anti-Doping Rule Violation (“ADRV”) committed by Mr Justin Farrugia contrary to the ADR.

Preliminaries:

1. NADOMALTA was the National Anti-Doping Organisation (“NADO”) for sport in Malta at the time of the alleged violation. In accordance with ADR Art.7 of LN 104 of 2021, NADOMALTA is responsible for conducting result management.
2. Mr Justin Farrugia (hereafter referred to as “the Athlete”) is a 32-year-old rugby player affiliated with Overseas Rugby Union Football Club.
3. Overseas Rugby Union Football Club is a registered team with the Malta Rugby Football Union.
4. The Athlete was subject to the jurisdiction of the National ADR and bound to comply with these ADR.
5. On 5th February 2022, NADOMALTA Doping Control Personnel collected an in-competition, urine Sample from the Athlete.
6. Assisted by a NADOMALTA Doping Control Officer in attendance, the Athlete split the urine sample into two separate bottles which were given reference numbers A7056742 (the ‘A Sample’) and B7056742 (the ‘B Sample’).
7. Both Samples were transported to the World Anti-Doping Agency (‘WADA’) accredited laboratory in Austria, the Seibersdorf Labor GmbH (the ‘Laboratory’).
8. The Laboratory analysed the A Sample in accordance with the procedures set out in WADA’s International Standard for Laboratories.
9. Analysis of the A Sample returned an Adverse Analytical Finding (hereafter referred to as “AAF”) for Oxymetholone.
10. Oxymetholone is prohibited and is classified as “Anabolic Androgenic Steroid” (S1) in the 2022 World Anti- Doping Agency Prohibited List and therefore classified as a non-Specified Substance which is prohibited at all times (in and out of competition).
11. NADOMALTA conducted the initial review regarding the AAF as per WADA International Standard for Result Management Art 5.1.1 and concluded that:
 - i. The Athlete did not have a Therapeutic Use Exemption.

- ii. All procedures were carried out in harmony with the International Standard for Testing and Investigation or International Standard for Laboratories and thus there were no departures from these International Standards.
12. On 11th April 2022, NADOMALTA sent the Athlete a notification letter (the 'Notice'). The Notice confirmed the imposition of a Provisional Suspension and formally notified the Athlete, in accordance with ADR Article 7, that he may have committed an ADRV pursuant to ADR Article 2(1) (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample) and an ADRV pursuant to ADR Article 2(2) (Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method). The Athlete was given the option of the B Sample analysis and lab documentation package, an explanation of the related consequences, the option of a provisional hearing and the opportunity to provide an explanation to this AAF.
13. On 18th April 2022, the Athlete replied to the Notice, however his explanation did not justify the use of the prohibited substance and was not accepted by the Anti-Doping Commission.
14. On 9th May 2022, NADOMALTA proceeded with issuing the Athlete a Charge Letter in accordance with per Art.7 of the World Anti-Doping Agency Code International Standards for Result Management, 2021 (hereafter referred to "ISRM"). The Charge Letter asserted the commission of ADRVs pursuant to Article 2(1) (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample) (the 'Charge') and Article 2(2): "Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method". The athlete was given the opportunity to provide Substantial Assistance as set out under Article 10(7)(a)(i), to seek to enter a case resolution as set out under Art. 10(8)(b) or to request a fair hearing.

Admission and Consequences:

1. ADR Art. 2(1) provides that the following is an ADRV:
- "Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample"*
2. ADR Art. 2(2) provides:
- "Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method"*
3. On 30th May 2022, the Athlete responded to the Charge Letter and requested a case resolution agreement.
4. During the Case Resolution meeting held on 17th March 2023, the Athlete request a reduction in the sanction on the grounds that he was not aware of the prohibited substance and left his treatment in the care of his doctor. However, his request was turned down on the grounds of the strict liability principle. He was offered the option of a retroactive TUE. The Athlete was informed of the other result management options and the proposed consequences i.e. a. The period of ineligibility of 4 years as per Art. 10(2)(a); starting from the day of provisional suspension; b. Public disclosure of the disposition of the anti-doping matter including the sport, the anti-doping rule violated, the name of the Athlete or other Person committing the violation, the Prohibited Substance or Prohibited Method involved (if any) and the Consequences imposed as per Art. 14(3) of the Anti-Doping Regulations and that failure to hear from him by a set deadline will be deemed that he has waived his right to a hearing and admitted the ADRV(s) as well as accepted the Consequences set out by AIMS.
5. The Athlete did not challenge the proposed consequences nor request a hearing outlined in the case resolution agreement follow-up email dating 21st April 2023 by the deadline imposed.

6. Thus, NADOMALTA/AIMS deemed this as a waiver on part of the Athlete of the right to a hearing, an admission to the ADRV(s) as well as an acceptance of the Consequences set out by NADOMALTA/AIMS in the same follow-up email, in line with Art. 8(3)(b) of the Anti-Doping Regulations.
7. The Athlete was informed of the way forward if he fails to challenge the statements in the follow-up email.
8. NADOMALTA/AIMS proceeded according to Art. 8(3)(c) and Art. 8(3)(d) of the Anti-Doping Regulations.

Commencement of period of Ineligibility

1. ADR Art.10(13) requires that the period of Ineligibility starts on the date Ineligibility is accepted or otherwise imposed where there is no hearing.
2. The Athlete has been subject to a Provisional Suspension since the date of the Notice i.e. since 11th April 2022 and as far as NADOMALTA/AIMS is aware he has respected the terms of that Provisional Suspension. Therefore, affording the Athlete's credit for the time he has spent provisionally suspended, his period of Ineligibility starts from the date of the imposition of the provisional suspension (i.e. 11th April 2022).
3. Considerations of some delays were taken in the commencement of period of ineligibility as outlined in the following section.

Considerations

Taking into consideration:

1. That there were some delays in the result management procedure which cannot be attributed to the Athlete. Article 10(13)(a) gives leniency that the period of ineligibility may start "*at an earlier date commencing as early as the date of Sample collection*".

Conclusion

For the reasons given above, NADOMALTA/AIMS has issued this Decision in accordance with the ADR, and rules that:

1. Mr Justin Farrugia has breached the ADRVs pursuant to ADR Art.2(1) and Art.2(2).
2. The period of ineligibility of 4 years as per Art.10(2)(a) starting from the date of sample collection (i.e. 5th February 2022) as per Art. 10(13)(a) of the ADR is hereby being imposed.

Conditions

1. ADR Art.10(14)(a) stipulates that:

"No Athlete or other Person who has been declared Ineligible or is subject to a Provisional Suspension may, during a period of Ineligibility or Provisional Suspension, participate in any capacity in a Competition or activity (other than authorized anti-doping Education or rehabilitation programs) authorized or organized by any Signatory, Signatory's member Organisation, or a club or other member Organisation of a Signatory's member Organisation, or in Competitions authorized or organized 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."

2. A mandatory part of each sanction shall include automatic publication as per ADR Art.10(14)(c);
3. The Athlete shall, during the period of ineligibility remain subject to Testing as per ADR Art. 10(14)(a).

Violation of the Prohibition of Participation During Ineligibility or Provisional Suspension

1. ADR Art.10(14)(c) stipulates that:

“Where an Athlete or other Person who has been declared Ineligible violates the prohibition against participation during Ineligibility described in paragraph (a), the results of such participation shall be Disqualified and a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the original period of Ineligibility. The new period of Ineligibility, including a reprimand and no period of Ineligibility, may be adjusted based on the Athlete or other Person’s degree of Fault and other circumstances of the case. The determination of whether an Athlete or other Person has violated the prohibition against participation, and whether an adjustment is appropriate, shall be made by the Anti-Doping Organisation whose Results Management led to the imposition of the initial period of Ineligibility. This decision may be appealed under Regulation 13.”

Right to Appeal

The Athlete and all the Persons entitled to Appeal as outlined in ADR Article 13(2)(c), may log an appeal against this Decision or any part of it in accordance with ADR Art.13 by not later than 30/05/2023 as per ADR Art.13(6). Other appeal rights are outlined in the same article.

A copy of this decision is to be forwarded to SportMalta, WADA, Malta Rugby Football Union and the Malta Police Force.



Dr Luciano Busuttil - CEO AIMS

Date: 10/05/2023