

1. The applicant, Drug Free Sport New Zealand (DFSNZ) has brought anti-doping rule violation proceedings against the respondent, Jacob Nield.
2. The allegations against Mr Nield are that he committed the following anti-doping rule violations:
 - (a) Mr Nield was in possession of Clenbuterol, a prohibited substance under both the Prohibited List 2014 and the Prohibited List 2015 between 29 October 2014 and 28 February 2015.
 - (b) During the period from 31 October 2014 until 28 February 2015, Mr Nield used Clenbuterol.
3. The alleged violations in part occurred during the currency of the Sports Anti-Doping Rules 2014 (SADR 2014) and the Sports Anti-Doping Rules 2015 (SADR 2015).
4. Mr Nield has responded to the applications through a lawyer in the United States, Mr Bezzant, by an email on 28 November 2015 saying that he wished to enter an "early guilty plea". Mr Bezzant subsequently advised that Mr Nield would abide by this Committee's decision and did not wish to have any further input.
5. As a consequence this Judicial Committee set the matter down for hearing on 26 January 2018 but advised Mr Nield that if he changed his position he was entitled to file submissions and/or appear at the hearing. This appearance could have been by conference call.
6. In accordance with his prior intimation, Mr Nield did not appear on the conference call nor was he represented.
7. DFSNZ did adduce evidence in support of its allegations but in view of Mr Nield's acceptance of the violations, it is not necessary to analyse that evidence.

Sanctions

8. As the violations occurred in part after 1 January 2015, the sanction provisions contained in SADR 2015 are applicable. Under SADR 2015 10.2.1, the period of Ineligibility for the offences is 4 years.
9. Although Mr Nield did not make any submissions, DFSNZ accepts that this Committee is entitled to consider whether there are applicable grounds to backdate the commencement date of the period of Ineligibility. It accepts that Mr Nield made a timely admission under SADR 2015 10.11.2 and that on the basis of other recent cases may be entitled to have the period of Ineligibility backdated by six months.
10. DFSNZ also accepts, that if the Committee takes the same position as it has taken in recent cases, Mr Nield would be entitled to a three month backdating period because of the delay. DFSNZ does not accept that the Judicial Committee is correct in backdating the commencement date for delays.
11. In an earlier decision this Committee did allow three months' backdating because of delay. Subsequently it has seen a decision of the Sports Tribunal of New Zealand where the matter was also considered and where the period of Ineligibility was backdated for ten months because of a timely admission and delay. The ten month period was not apportioned between the timely admission and delay. However, this Committee believes that there should be consistency in the decisions between the two bodies and therefore will backdate the starting point of the period of Ineligibility by four months for delay and six months for the timely admission.
12. Mr Nield was provisionally suspended on 5 December 2017. In the circumstances, the period of Ineligibility will commence from 5 February 2017.


Orders and Advice

13. The sanction imposed on Mr Nield is a period of Ineligibility for a period of 4 years from 5 February 2017.

14. Under the terms of the SADR 2015, Mr Nield may not during the period of Ineligibility participate in any capacity in a Competition or activity authorised or organised by any Signatory of the WADA Code or such Signatory's member organisation or a club 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.

15. Mr Nield is advised that under Rule 5.1.12 of the New Zealand Rugby Anti-Doping Regulations (2012) he has the right to request a review of this decision by the Post-Hearing Review Body.

Dated February 2018


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Barry Paterson QC
Chairman, Judicial Committee