

Introduction

1. The respondent, Mr Robertson, has admitted violations of the Sports Anti-Doping Rules 2015 (SADR). The violations admitted are:
 - (a) from 10 February 2015 and at various times thereafter, Mr Robertson was in possession of Clenbuterol, a prohibited substance under the 2015 prohibited list, in breach of SADR 2.6;
 - (b) at various times from about 15 February 2015, Mr Robertson used Clenbuterol, a prohibited substance under the 2015 prohibited list in breach of SADR 2.2.
2. At a procedural directions hearing on 1 November 2017, Mr Robertson was advised that he should consider whether or not to take legal advice on whether there would any avenues which could lead to his potential sanction being modified. At that hearing timetable orders were made to enable Mr Robertson to file and serve a witness statement and/or written submissions on or before 13 November 2017. At the same hearing, the matter was set down for a substantive hearing on 7 December 2017 with a decision to be made nearer that date as to the form and time of the hearing.
3. Mr Robertson did not take legal advice nor did he file written statements or submissions. There was a hearing by telephone on 7 December 2017 and again he refused to make submissions. His attitude was if you do the crime you take the punishment.
4. He was asked during the hearing whether he wished to apply for backdating because of a timely admission which he had made. His reply was that if the Committee thought it was fair, it should apply.
5. Mr Robertson did not provide details of his playing history. He was at the time of the violations a registered member of the Waikato University Rugby Club. Evidence from DFSNZ was that his playing history included New Zealand U20s in 2010 and 2011 and the NZ Sevens (HSBC Sevens World Series) in 2011/2012. When questioned at the hearing he acknowledged that he had played a few games for the Waikato representative team including a Ranfurly Shield challenge.

6. Mr Robertson said that he had taken Clenbuterol to lose weight so he would feel better of himself. He became aware of the way to purchase Clenbuterol through his gym. He had attended seminars and knew that Clenbuterol was banned in sport.
7. Mr Robertson is no longer playing rugby and was not a registered rugby player in the current season.

Sanction

8. The sanction to be imposed under SADR is a four^{year} period of Ineligibility commencing from the date of provisional suspension (Mr Robertson was provisionally suspended on 3 November 2017). 7005

Timely Admission

9. Mr Robertson was first advised by DFSNZ of the allegations against him in a telephone conversation with a member of DFSNZ on 8 September 2017. There was an exchange of emails on that day concluding with an email from Mr Robertson which contained the following:

I Glen Robertson admit to the charges laid against me regarding the purchase and use of the banned substance Clenbuterol. The banned substance I purchased as used was not in the intention of enhancing my sports performance, as at that time I was not pursuing further honours through sport. The immediate purchase and use of the banned substance was for personal reasons. I hope this helps anyone who is dealing with this case.

10. DFSNZ has conceded that Mr Robertson is entitled under SADR 10.11.2 to a backdating of the start of the period of Ineligibility because of his timely and frank admission. This Committee agrees.
11. In the circumstances, the Committee considers that the period of Ineligibility should start six months earlier.

Delay


12. The Committee has decided in two recent cases, namely *DFSNZ v Berry* No 1/17 and *DFSNZ v Qauqau* No. 2/17 that in respect of applications brought as a result of information supplied by Medsafe, there should be a

three month adjustment to the starting date. This adjustment should also be made in respect of Mr Robertson.

Sanction

13. Before adjustments are made for the timely admission and the delay, the SADR provides for a sanction of four years to commence from 3 November 2017 being the date of the provisional suspension. When the adjustments are made for the timely admission (six months) and delay (three months), the starting date is to be 3 February 2017. Mr Robertson is therefore sanctioned with a period of Ineligibility for a period of four years from 3 February 2017.
14. Under the terms of the SADR, Mr Robertson 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 Robertson 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 21 December 2017


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Barry Paterson QC
Chairman, Judicial Committee