

Issued Decision

UK Anti-Doping and Rhys Pugsley

Disciplinary Proceedings Under the Anti-Doping Rules of the Rugby Football League

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the Rugby Football League ('RFL') Anti-Doping Rules (the 'ADR'). It concerns an anti-doping rule violation committed by Mr Rhys Pugsley ('Mr Pugsley') contrary to the ADR.

Capitalised terms used in this Decision shall have the meaning given to them in the ADR unless otherwise indicated.

Background and Facts

1. The RFL is a governing body for the sport of Rugby League in the United Kingdom. UKAD is the National Anti-Doping Organisation ('NADO') for the United Kingdom.
2. Mr Pugsley is a 22 year-old Rugby League player. At all material times he was subject to the jurisdiction of the RFL and bound to comply with the ADR. Pursuant to the ADR, UKAD was empowered to conduct Doping Control and Results Management, as those terms are used in the ADR, in respect of all athletes subject to the jurisdiction of the RFL.
3. On 22 April 2014, Mr Pugsley provided an Out-of-Competition Sample to UKAD pursuant to the ADR. That Sample returned an Adverse Analytical Finding for metabolites of methandienone.
4. By Issued Decision dated 7 July 2014 UKAD recorded that Mr Pugsley had therefore committed a violation of ADR Article 2.1 and that a period of Ineligibility of 2 years had been imposed from 15 May 2014 until midnight on 14 May 2016.
5. Mr Pugsley remained subject to the jurisdiction of the RFL and bound to comply with the ADR during the period of Ineligibility, including to submit to any Testing conducted pursuant to the ADR.
6. On 8 February 2016, UKAD collected an Out-of-Competition Sample from Mr Pugsley pursuant to the ADR ('the Sample').
7. The Sample was submitted to the Drug Control Centre, King's College London, a World Anti-Doping Agency ('WADA') accredited laboratory ('the Laboratory') for analysis. On 1 March 2016, the Laboratory reported to UKAD an Adverse Analytical Finding ('the Finding') for Nandrolone.
8. Nandrolone is classified in section 1.1(a) of the WADA 2015 Prohibited List (Exogenous Anabolic Androgenic Steroids). It is a Prohibited Substance, classified as a Non-Specified substance and is prohibited at all times (both In-Competition and Out-of-Competition).
9. Mr Pugsley does not have, nor has he ever held, a Therapeutic Use Exemption ('TUE') in respect of Nandrolone.

10. On 3 March 2016, UKAD issued Mr Pugsley with a Notice of Charge ('the Charge') for the presence of Nandrolone in the Sample. The Charge related to the commission of an anti-doping rule violation pursuant to ADR Article 2.1 (the Presence of a Prohibited Substance in the Sample). The Charge explained the facts relied upon in support of the allegation, the details of the Charge, the procedure for analysis of the B Sample and the Consequences of an admission or proof of the anti-doping rule violation.
11. Mr Pugsley has admitted the violation set out in the Charge and this Decision records the Consequences to be applied in respect of that violation.

Admission and Consequences

12. ADR Article 2 provides that:

The following constitutes an Anti-Doping Rule Violation:

- 2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample, unless the Athlete establishes that the presence is consistent with a TUE granted in accordance with Article 4.

13. Mr Pugsley has admitted committing an anti-doping rule violation as specified in ADR Article 2.1.

14. ADR Article 10.2 provides:

- 10.2 Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of Prohibited Substances and/or a Prohibited Method.

The period of Ineligibility for an Anti-Doping Rule Violation under Article 2.1, 2.2 or 2.6 that is the Athlete's or other Person's first anti-doping offence shall be as follows, subject to the potential reduction or suspension pursuant to Article 10.4, 10.5 or 10.6:

10.2.1 The period of Ineligibility shall be four years where:

- (a) The Anti-Doping Rule Violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the Anti-Doping Rule Violation was not intentional.
- (b) The Anti-Doping Rule Violation involves a Specified Substance and UKAD can establish that the Anti-Doping Rule Violation was intentional.

10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two years.

15. This is Mr Pugsley's second anti-doping rule violation.

16. ADR Article 10.7.1 states:

10.7.1 For an Athlete's or other Person's second Anti-Doping Rule Violation, the period of Ineligibility shall be the greater of:

- (a) six months;
- (b) one-half of the period of Ineligibility imposed for the first Anti-Doping Rule Violation without taking into account any reduction under Article 10.6; or

- (c) twice the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation, without taking into account any reduction under Article 10.6.
17. Application of ADR Article 10.7.1 therefore requires UKAD to assess Mr Pugsley's violation as if it was his first violation in order to determine the period of Ineligibility that should be imposed.
18. The Finding concerns Nandrolone which is a Non-Specified substance. Pursuant to ADR Article 10.2.1(a) Mr Pugsley shall therefore be subject to a period of Ineligibility of 4 years unless he can demonstrate that his violation was not intentional.
19. As regards the meaning of 'intentional', ADR Article 10.2.3 states:
- 10.2.3 As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those Athletes or other Persons who cheat. The term, therefore, requires that the Athlete or other Person engaged in conduct which he or she knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and manifestly disregarded that risk. An Anti-Doping Rule Violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.
20. Mr Pugsley has confirmed that he does not seek to demonstrate that his violation was not intentional. Treated as a first violation, the period of Ineligibility to be imposed is therefore 4 years.
21. Pursuant to ADR Article 10.7.1(c), that period of Ineligibility shall be doubled such that the period of Ineligibility to be imposed for Mr Pugsley's violation is therefore 8 years ('the Consequences').
22. ADR Article 7.7.4 provides:
- 7.7.4 In the event that UKAD withdraws the Notice of Charge, or the Athlete or other Person admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by UKAD (or is deemed to have done so in accordance with Article 7.7.1), neither B Sample analysis nor a hearing is required. Instead, UKAD shall promptly issue reasoned decision confirming the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences, shall send notice of the decision to the Athlete or other Person and to each Interested Party, and shall Publicly Disclose the decision in accordance with Article 8.4.
23. Mr Pugsley admits the anti-doping rule violation charged and accepts the Consequences.
24. UKAD therefore records that a period of Ineligibility of 8 years is hereby imposed pursuant to ADR Article 10.7.1(c) and this Decision is issued pursuant to ADR Article 7.7.4.

Application of Article 10.6.3

25. ADR Article 10.6.3 provides:
- 10.6.3 Prompt admission of an Anti-Doping Rule Violation after being confronted with a Violation Sanctionable under Article 10.2.1 or Article 10.3.1:
- An Athlete or other Person potentially subject to a four-year sanction under Article 10.2.1 or Article 10.3.1 (for evading or refusing Sample Collection), may receive a reduction in the period of Ineligibility down to a minimum of two years, depending on the seriousness of the

violation and the Athlete's or other Person's degree of Fault by promptly admitting the asserted Anti-Doping Rule Violation after being confronted with it, upon the approval and at the discretion of WADA and UKAD.

26. Article 10.6.3 provides that Mr Pugsley 'may receive a reduction in the period of Ineligibility down to a minimum of two years' if he has made a prompt admission. Any reduction depends on 'the seriousness of the violation' and Mr Pugsley's 'degree of Fault'.
27. Mr Pugsley admitted the Anti-Doping Rule Violation (i.e., the Presence of Nandrolone in the Sample) after being confronted with it by UKAD. UKAD considers that Mr Pugsley has made a 'prompt admission' for the purposes of ADR Article 10.6.3, and therefore that ADR Article 10.6.3 is capable of application in this case.
28. UKAD has considered whether Mr Pugsley's sanction should be reduced under ADR Article 10.6.3, by reference to the seriousness of the violation and his level of Fault in the circumstances.
29. As regards the first criterion, UKAD has taken the view that this is the Athlete's second Anti-Doping Rule Violation for the presence of an anabolic steroid. This exacerbates the inherent seriousness of the violation such that UKAD places it at the highest end of seriousness. UKAD has therefore not exercised its discretion to reduce the period of Ineligibility on the basis of the seriousness of the violation.
30. As regards the second criterion, Fault is defined in the ADR as follows:

Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or other Person is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.5.1 or 10.5.2.

31. Mr Pugsley has declined to provide any further information or explanation beyond his admission of the Anti-Doping Rule Violation. UKAD has therefore been unable to assess his level of Fault in order to consider reducing the applicable period of Ineligibility.
32. The period of Ineligibility to be imposed therefore remains at eight (8) years, pursuant to ADR Article 10.7.1(c), as referred to above.

Disqualification of Results and Ineligibility

33. Mr Pugsley has been subject to a Provisional Suspension since the date of the Charge. ADR Article 10.11.3 provides:
- 10.11.3 Credit for Provisional Suspension of period of Ineligibility served:
- (a) Any period of Provisional Suspension (whether imposed or voluntarily accepted) that has been respected by the Athlete or other Person shall be credited against the total period of Ineligibility to be served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Athlete or other Person shall receive credit for such period of ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal. To get credit for any period of voluntary Provisional Suspension, however, the Athlete or other Person must have given written notice at the beginning of such period to UKAD (and UKAD shall copy that notice to each Interested Party) and have respected the Provisional Suspension.
34. The period of Ineligibility is therefore deemed to have commenced on 3 March 2016 and will expire at midnight on 2 March 2024.
35. During the period of Ineligibility, in accordance with ADR Article 10.12.1, Mr Pugsley shall not be permitted to participate in any capacity in a Competition, Event or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened, authorised or recognised by:
- the RFL or by any body that is a member of, or affiliated to, or licensed by the RFL;
 - any Signatory (as that term is defined in the ADR);
 - any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory's member organisation;
 - any professional league or any international- or national-level Event organisation; or
 - any elite or national-level sporting activity funded by a government agency
36. Mr Pugsley may return to train with a team or to use the facilities of a club or other member organisation of the RFL or a Signatory's member organisation during the last two months of his period of Ineligibility (i.e. from midnight on 2 January 2024) pursuant to ADR Article 10.12.4(b).
37. Mr Pugsley, the RFL, the RLIF and WADA have a right of appeal against this Decision or any part of it in accordance with ADR Article 13.4.
38. The disposition of these proceedings on the terms set out above will be publicly announced via UKAD's website media release after any appeal period has expired and no appeal has been filed, or any appeal has been finalised.

Summary

39. For the reasons given above, UKAD has issued this Decision, which records that:

- Mr Pugsley has committed an anti-doping rule violation pursuant to ADR Article 2.1;
- this is Mr Pugsley's second anti-doping rule violation;
- a period of Ineligibility of eight (8) years shall be the Consequences imposed pursuant to ADR Article 10.7.1(c);
- the period of Ineligibility is deemed to have commenced from 3 March 2016 and will end at midnight on 2 March 2024; and
- Mr Pugsley's status during the period of Ineligibility shall be as detailed in ADR Article 10.12.

16 June 2016