

IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF THE RUGBY FOOTBALL LEAGUE

Before:

David Casement KC (Chair)
Professor Peter Sever
Christian Scotland-Williamson

BETWEEN:

UK Anti-Doping

Anti-Doping Organisation

and

Jake Maizen

Respondent

DECISION OF THE NATIONAL ANTI-DOPING PANEL

Preliminary

1. On 20 September 2024 UK Anti-Doping (“UKAD”) issued a Charge Letter to Jake Maizen, the Player, setting out two charges. UKAD alleged that the Player had committed two Anti-Doping Rule Violations (“ADRVs”) under the 2021 UK Anti-Doping Rules (“ADR”), namely a breach of ADR Article 2.1 in that the Prohibited Substance cocaine and its Metabolite benzoylecgonine were present in a urine Sample provided by

the Player on 28 July 2024. UKAD also alleged a further breach of ADR Article 2.2 namely that the Player used cocaine at or after 11:59 pm on 27 July 2024 such that the ingestion was In-Competition.

2. The Player admits the breach of ADR Article 2.1 but denies a breach of ADR Article 2.2. In respect of both charges the Player seeks to mitigate the starting point of a four-year period of Ineligibility on a number of bases but ultimately seeks to reduce it to one month following successful completion of a Substance Abuse treatment course approved by UKAD. The matter was referred to the National Anti-Doping Panel (“NADP”) for determination.
3. The Chair for the Tribunal was appointed by Kate Gallafent KC, President of the NADP on 20 January 2025. Christian Scotland-Williamson and Professor Peter Sever were appointed to the Tribunal on 20 March 2025.
4. Agreed directions were given by the Chair on 29 January 2025 and a hearing was held in London in person on 11 April 2025. The Player was represented by Christopher Saad of Counsel and UKAD was represented by Paul Renteurs of Counsel. Those attending the hearing in addition to the Tribunal were:

On behalf of Mr Maizen

Mr Christopher Saad, Counsel to Mr Maizen

Ms Ellie Horan, Counsel

Mr Jake Maizen, the Player

Professor Pascal Kintz, witness on behalf of Mr Maizen (attending remotely)

Ms Angelique Richardson, Associate Solicitor on behalf of Mr Maizen

On behalf of UKAD

Mr Paul Renteurs, Counsel for UKAD

Mr James Laing, Lawyer, UKAD

Professor David Cowan, witness on behalf of UKAD

Ms Nirupar Uddin, Head of Case Management, UKAD (observer)

Ms Georgina Pollard, Lawyer, UKAD (observer)

Ms Grace Hartley, Legal Officer, UKAD (observer)

NADP Secretariat

Alisha Ellis, Senior Case Manager (Maternity Cover)

Background

5. On Sunday 28 July 2024 Jake Maizen, who is a rugby league player, was tested In-Competition at a match between Sheffield Eagles RLFC and Whitehaven RLFC. With the assistance of the Doping Control Officer (“DCO”), the Player split the urine Sample into two separate bottles which were given reference numbers A1189540 (the “A Sample”) and B1189540 (the “B Sample”).
6. Both Samples were transported to the World Anti-Doping Agency (“WADA”) accredited laboratory in London. The A Sample was analysed in accordance with the procedures set out in WADA’s International Standard for Laboratories. Analysis of the A Sample returned an Adverse Analytical Finding (“AAFs”) for cocaine and its Metabolite benzoylecgonine. The Laboratory Test Report dated 16 August 2024 stated, *“Estimated concentration of cocaine is 82 ng/mL and benzoylecgonine is 1.073 µg/MI [1,073 ng/mL].”*
7. Cocaine is listed under section S6.A of the 2024 WADA Prohibited List as a Stimulant. It is a non-Specified Substance that is prohibited In-Competition only. Pursuant to Article 4.2.3 of the World Anti-Doping Code (“the Code”), cocaine is also specifically identified as a Substance of Abuse in the 2024 WADA Prohibited List.

8. On 22 August 2024 UKAD sent the Player a Notice Letter formally notifying him, in accordance with ADR Article 7.8.1, that he may have committed ADRVs pursuant to ADR Article 2.1 (presence of a Prohibited Substance or its metabolites or markers in an Athlete's Sample) and ADR Article 2.2 (Use of a Prohibited Substance). A Provisional Suspension was also imposed on the Player from that date.
9. On 30 August 2024 the Player provided an initial response (which was dated 28 August 2024) to the Notice Letter. In that letter he explained he had been socialising with friends in the evening of Friday 26 July 2024 during which he ingested 0.3 grams of cocaine between 20:30/21:30 and 23:30/00:00 as well as a large quantity of alcohol. In an email dated 3 September 2024 the Player explained that the last time he ingested cocaine prior to 26 July 2024 was in the early hours of 22 July 2024.
10. UKAD sought the opinion of Professor David Cowan in respect of the viability of the Player's factual account. Professor Cowan provided an expert report on 14 September 2024 in which he concluded that considering the estimated concentration of cocaine parent compound in the A Sample this would have required an *"impossibly large amount of cocaine"* to have been ingested at the time declared by Mr Maizen. Following consideration of Professor Cowan's report UKAD issued the Charge Letter on 20 September 2024.
11. On 30 September 2024 the Player wrote to UKAD in response (which was dated 29 September 2024) to the Charge Letter stating that he had spoken to friends who he was with on the evening of Friday 26 July 2024. He was therefore able to be more accurate about his consumption of cocaine and confirmed that he had in fact ingested approximately 1 gram of cocaine between 17:00 and 23:30. In an email dated 3 October 2024 the Player explained that he ingested between 2 and 2.5 grams of cocaine on 22 July 2024.
12. By email dated 6 October 2024 Professor Cowan confirmed that the additional information provided by the Player did not alter his opinion in particular that if the Player ingested cocaine during the window of time that he claimed he did it would have required an *"impossibly large amount"* to account for the estimated concentration of cocaine parent compound in the Sample. On 15 October 2024 UKAD invited the Player to provide

submissions that the In-Competition ingestion of cocaine, as alleged by UKAD but denied by the Player, was in a context unrelated to sport performance or to request that the matter be referred to the NADP.

13. On 24 October 2024 UKAD received correspondence from Lawrence Stephens solicitors that it was instructed and requesting an extension of time in which to reply. On 22 November 2024 Lawrence Stephens provided a revised response to the Charge Letter which confirmed that the Player admitted the breach of ADR Article 2.1 (presence) but denied the breach of ADR Article 2.2 (Use). The revised response included a report from Professor Pascal Kintz and requested the matter be referred to the NADP.
14. Prior to the reference to the NADP, UKAD obtained a further report from Professor Cowan which was shared with the Player's representatives on 13 December 2024.

The Rules

15. The following are the ADRs that are of particular relevance to these proceedings:

ADR Article 2.1 states:

“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

2.1.1 It is each Athlete’s personal duty to ensure that no Prohibited Substance enters their body. An Athlete is responsible for any Prohibited Substance or any of its Metabolites or Markers found to be present in their Sample. Accordingly, it is not necessary to demonstrate intent, Fault, negligence or knowing Use on the Athlete’s part in order to establish an Article 2.1 Anti-Doping Rule Violation; nor is the Athlete’s lack of intent, Fault, negligence or knowledge a valid defence to assertion that an Article 2.1 Anti-Doping Rule Violation has been committed.”

ADR Article 2.2

“2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method, unless the Athlete establishes that the Use or Attempted Use is consistent with a TUE granted in accordance with Article 4

2.2.1 It is each Athlete’s personal duty to ensure that no Prohibited Substance enters their body and that no Prohibited Method is Used. Accordingly, it is not necessary to demonstrate intent, Fault, negligence or knowing Use on the Athlete’s part in order to establish an Anti-Doping Rule Violation for Use of a Prohibited Substance or a Prohibited Method; nor is the Athlete’s lack of intent, Fault, negligence or knowledge a valid defence to an assertion that an Article 2.2 Anti-Doping Rule Violation of Use has been committed.”

ADR Article 2.2.4

2.2.4 Out-of-Competition Use of a substance that is only prohibited In-Competition is not an Article 2.2 Anti-Doping Rule Violation. If, however, an Adverse Analytical Finding is reported for the presence of such substance or any of its Metabolites or Markers in a Sample collected In-Competition, that may amount to an Article 2.1 Anti-Doping Rule Violation.

The term In-Competition is defined as:

“The period commencing at 11:59 p.m. on the day before a Competition in which the Athlete is scheduled to participate through the end of such Competition and the Sample collection process related to such Competition; provided, however, that WADA may approve, for a particular sport, an alternative definition if an International Federation provides a compelling justification that a different definition is necessary for its sport. Upon such approval by WADA, the alternative definition shall be followed by all Major Event Organisations for that particular sport.”

ADR Article 8.4.1 stipulates that the burden rests upon UKAD to establish the commission of the ADRVs charged to the comfortable satisfaction of the hearing panel.

ADR Article 10.2.4

“10.2.4 Notwithstanding any other provision in Article 10.2, where the Anti-Doping Rule Violation involves a Substance of Abuse:

(a) If the Athlete can establish that any ingestion or Use occurred Out-of-Competition and was unrelated to sport performance, the period of Ineligibility shall be three (3) months; provided that it may be further reduced to one (1) month if the Athlete satisfactorily completes a Substance of Abuse treatment program approved by UKAD. The period of Ineligibility established in this Article 10.2.4(a) is not subject to any reduction pursuant to Article 10.6.

(b) If the ingestion, Use or Possession occurred In-Competition, and the Athlete can establish that the context of the ingestion, Use or Possession was unrelated to sport performance, the ingestion, Use or Possession shall not be considered Intentional for purposes of Article 10.2.1 and shall not provide a basis for a finding of Aggravating Circumstances under Article 10.4.”

Issues

16. The issues before the Tribunal can be distilled as follows:
 - 16.1 Has UKAD discharged its burden of proving to the comfortable satisfaction of the Tribunal that the Player ingested cocaine In-Competition so as to prove a breach of ADR Article 2.2.
 - 16.2 For the purposes of the admitted breach of ADR Article 2.1, has the Player discharged his burden of proving on the balance of probabilities that he did not ingest cocaine In-Competition and therefore comes within the provisions of ADR Article 10.2.4.
 - 16.3 For the purposes of the admitted breach of ADR Article 2.1, has the Player discharged his burden of proving on the balance of probabilities that the ingestion of cocaine was unrelated to sporting performance and therefore comes within the provisions of ADR Rule 10.2.4.

Evidence

17. The starting point for the evidence is the Laboratory Test Report dated 16 August 2024 stated, *“Estimated concentration of cocaine is 82 ng/mL and benzoylecgonine is 1.073 µg/MI [1,073 ng/mL].”* UKAD placed great weight upon WADA’s “Guidance Note for Anti-Doping Organisations: Substances of Abuse under the 2021 World Anti-Doping Code” which provides that:

“The following situations should be considered likely to correspond to an In-Competition Use of cocaine:

- *Presence of cocaine parent compound as an estimated urinary concentration above (>) 10 ng/mL; [regardless of the presence of benzoylecgonine (BZE)] or*
- *Presence of BZE (main metabolite of cocaine) at a urinary concentration above (>) 1000 ng/mL combined with the presence of cocaine parent compound between (≥) 1 ng/mL and (≤) 10 ng/mL.”*

As UKAD pointed out this should be construed only as guidance however it nevertheless submitted that UKAD regarded it as significant that the level of cocaine reported in the Player’s Sample is eight times higher than that in the WADA note.

18. The Player gave evidence at the hearing. He freely admitted that for a long period of time he had abused cocaine. He has sought and is getting help to deal with his problem after receiving the Notice Letter and has now stopped using cocaine. He impressed the Tribunal as a reliable witness who sought to assist the Tribunal to the best of his ability given the issues he faced at the time. He confirmed that it was rare for him to take cocaine even two days before a game (i.e. the Friday) and he definitely would not take cocaine on the day of a game. When asked about his knowledge of the ADR at the time of the Sample collection he said he had received education and believed taking cocaine on the day of a game (i.e. a Sunday) would lead to a long ban. He thought the same would apply to taking cocaine the day before a game (i.e. the Saturday). He was adamant he did not ingest cocaine on the Sunday. He was equally adamant he did not ingest cocaine on the Saturday.

19. The Tribunal was greatly helped by having two eminent experts giving evidence namely Professor Cowan and Professor Kintz. The helpful written evidence of Professor Cowan was to the effect that ingestion of cocaine on the Friday night could not on its own explain the level of cocaine and its Metabolite in the Player's Sample taken on the Sunday given the half-life of cocaine. To produce the readings in the Sample, the Player would have needed to ingest an impossibly large amount of cocaine which would be much greater than that admitted by the Player and which would have been lethal even for someone who was a frequent user. Professor Kintz opined in his report that the ingestion on the Friday evening evidenced by the Player could have given rise to the readings in his Sample especially if there was a second ingestion on the Saturday such as cocaine being on the Player's face.
20. In his oral evidence Professor Cowan was helpful in exploring with the Tribunal the variables at play in respect of the ingestion of cocaine which included not only quantity but also purity. His evidence was to the effect that, at higher levels of purity than might normally be supplied in the UK, with ingestion of such on the Friday evening the Player could have achieved the levels obtained in his Sample. Professor Kintz agreed with that. Professor Cowan and Professor Kintz also agreed that if there was a combination of ingestion on the Friday evening as contended by the Player as well as a small amount of environmental contact on Saturday night which could be as little as 6mg, that could have produced the readings on the Sunday. Professor Kintz explained that the second incident could have been as simple as the Player touching something that was exposed to cocaine including putting his hand in his pocket. As Professor Kintz put it "*6mg is nothing.*" This second supposed ingestion of cocaine, whether deliberate or accidental through the environment late on Saturday at say 23:00, could have produced the levels in the Player's Sample.
21. Proving a charge to the level of comfortable satisfaction is a standard of proof above the civil standard of the balance of probabilities but not as high as the criminal standard of beyond reasonable doubt. The Tribunal is unanimous in its finding that UKAD has failed to prove to the comfortable satisfaction of the Tribunal that the Player ingested cocaine In-Competition. UKAD's case was essentially based upon the assertion that if the ingestion on the Friday evening was the Player's only exposure to cocaine before he

was tested, that was incapable of producing the level in the Player's Sample and therefore the only sensible explanation was that he deliberately ingested cocaine on the Sunday. That ignored a number of possibilities outlined in the written expert evidence as well as other possibilities discussed in the evidence that were equally if not more plausible. Further ingestion of cocaine by the Player, accidental or otherwise, on the Saturday evening was at least as plausible as ingestion of cocaine on the Sunday. The charge based upon the alleged breach of ADR Article 2.2 is therefore dismissed.

22. The Tribunal is also satisfied on the balance of probabilities that it is more likely than not that the Player ingested approximately 1 gram of cocaine during the Friday evening, as admitted, and then on Saturday evening he ingested cocaine, by way of accidental exposure, through the environment. The evidence of Professor Kintz, with which Professor Cowan agreed, was that following the incident on the Friday it would have taken very little cocaine to be ingested on Saturday evening, consistent with it being environmental exposure, to achieve the levels in the Player's Sample. As Professor Kintz explained, in an environment where cocaine is being used, small amounts can remain on the face, the hair or even on clothing. This further exposure to cocaine on the Saturday would be more than sufficient to explain the levels in the Player's Sample and is also consistent with the Player's evidence, which the Tribunal accepts, that he did not deliberately ingest cocaine on the Saturday or Sunday. Given the timetable of events on the Sunday in preparation for the game, including travelling, the Tribunal finds it is more likely than not that the Player ingested cocaine, accidentally through the environment, on the Saturday. The consequence of that finding is that the Player comes within ADR Article 10.2.4.

23. The Tribunal accepts UKAD's submission that the burden is on the Player to establish on the balance of probabilities how the Prohibited Substance entered his system. The Player also carries the burden of proving that the ingestion was not related to sporting performance. The Tribunal is satisfied that the Player has discharged the burden of proof on him on the balance of probabilities on both matters. The Player's Use of cocaine over a long period was not disputed and no other means of ingestion other than those referred to above were canvassed in the evidence. The issue came down to timing of that

ingestion. The Tribunal accepts the Player's Use of cocaine was for social or personal reasons and it was not seriously suggested that it related to sporting performance.

Consequences

24. The Player admitted the ADRV which is the breach of ADR Article 2.1, namely the presence of cocaine and its Metabolite in his Sample. The Tribunal accepts, on the balance of probabilities, the Player's contention that his ingestion of cocaine was not related to sporting performance and that the cocaine was not ingested In-Competition.
25. The ADR provide that the period of Ineligibility for a breach of ADR Article 2.1 in respect of ingesting cocaine that was not In-Competition and was not related to sporting performance is three months but that may be reduced to one month if the Player successfully completes a Substance of Abuse treatment program approved by UKAD. A three-month period of Ineligibility is already spent given that the Tribunal directs that that the Player shall be credited with the period his Provisional Suspension. However, the Player may still choose to undertake and complete the program.

Conclusion

26. The Player admitted an ADRV namely a breach of ADR Article 2.1 for the presence of a Prohibited Substance namely cocaine, its metabolites or markers.
27. The Player proved on the balance of probabilities he did not ingest cocaine In-Competition and that his ingestion of cocaine was not related to sporting performance.
28. The Player is hereby subject to a period of Ineligibility of three months commencing from the date of this decision. However, the Tribunal directs that the Player shall be given full credit for the period of his Provisional Suspension which commenced on 22 August 2024: ADR Article 10.13.2. The effect of this is that the period of Ineligibility is already spent. In the event that the Player successfully completes a Substance Abuse treatment program approved by UKAD that period of Ineligibility will be reduced to one month.

29. The Player was charged with an ADRV namely a breach of ADR Article 2.2 for the Use of a Prohibited Substance namely cocaine In-Competition. That charge is dismissed.

Right of Appeal

30. In accordance with ADR Article 13.5 of the NADP Procedural Rules any party who wishes to appeal must lodge a Notice of Appeal with the Court of Arbitration for Sport within 21 days of receipt of this decision.

31. Pursuant to ADR Article 13.4 2(a), the Appeal should be filed to the Court of Arbitration for Sport ("CAS"), located at Palais de Beaulieu Av. des Bergières 10, CH-1004 Lausanne, Switzerland (procedures@tas-cas.org), in accordance with Article 13 ADR and ADR Article 13.7.1.



David Casement KC
Chair, on behalf of the Panel
London, UK
02 May 2025

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