SPORT RESOLUTIONS (UK)

NATIONAL ANTI-DOPING PANEL

SR/NADP/78/2018

IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF THE SCOTTISH RUGBY UNION

Before:

Mark Hovell (Chair)

Michelle Duncan

Dr Terry Crystal

B E T W E E N:

UK ANTI-DOPING ***Anti-Doping Organisation***

and

TYRELL WILSON ***Respondent***

DECISION OF THE ANTI-DOPING TRIBUNAL

Introduction

1. The Applicant ("UKAD") is the National Anti-Doping Organisation in the UK and has jurisdiction to prosecute this case.

2. The Respondent, Mr Wilson (the "Player" or "Respondent") is an amateur rugby union player, from Scotland. Mr Wilson began his career playing for Wigtownshire RFC in 2009 before moving to Newton Stewart RFC, where he was registered when he provided a Sample in January 2018. As a licensed competitor of the Scottish Rugby Union (the "SRU") and a participant in competitions and other activities organised, convened, authorised or recognised by the SRU, he was at all times bound by and required to comply with the Anti-Doping Rules of the SRU (the "ADR").

3. Pursuant to the ADR, a urine sample was provided by the Player on 13 January 2018, In-Competition. This sample returned an Adverse Analytical Finding ("AAF") for:

- Methylenedioxymethamphetamine ("MDMA")

This is classified as a Specified stimulant under s.6(b) of the World Anti-Doping Agency ("WADA") Prohibited List 2018. It is a Specified Substance prohibited In-Competition only. As the sample was obtained In-Competition, the detection of MDMA amounted to an AAF.

4. On 9 February 2018, UKAD issued a Notice of Charge (the "Charge") in relation to the Player's alleged Anti-Doping Rule Violation ("ADRV").

5. The Player has been provisionally suspended since 9 February 2018. UKAD understand this to be the Player's first ADRV.

6. The Player responded to the Charge on 17 February 2018. The Player accepted the Charge and stated *"Whilst I do not deny talking* (sic) *ecstasy my reasons for doing so were entirely for recreational purposes …"*

7. Recognising the rights of Players to have a doping allegation determined by an independent and suitably qualified body, pursuant to Paragraph 10 of Part 21 of the SRU Domestic Regulations (the "Domestic Regulations"), this case was referred to the National Anti-Doping Panel ("NADP") for resolution, on 4 April 2018.

8. On 11 April 2018, Mark Hovell was appointed as the Chairman of the Tribunal. Michelle Duncan and Terry Crystal were appointed as Tribunal Members on 25 June 2018.

9. This matter was determined following the oral hearing that took place on 24 July 2018 (the "Hearing").

I. Jurisdiction

10. The SRU is the National Governing Body of rugby union in Scotland. As a Member Union of World Rugby (the International Federation for the sport of rugby union), the SRU, via part 21.5 of the Domestic Regulations, has adopted World Rugby Regulation 21 as its own anti-doping rules. World Rugby Regulation 21 is supplemented by certain parts of the UK Anti-Doping Rules ("UK ADR"), as adopted at part 21.7 of the Domestic Regulations.

11. The Player did not dispute that, as a licensed competitor who is registered with the SRU and a participant in competitions and other activities organised, convened, authorised or recognised by the SRU, he was at all times bound by and required to comply with the Domestic Regulations, including the ADR.

12. UKAD has responsibility for results management of this matter (Paragraph 8 of Part 21 of the Domestic Regulations). This means that UKAD dealt with this Charge and prosecuted this matter.

13. Further, any disciplinary proceedings brought against a player shall be determined by the NADP (Paragraph 10 of Part 21 of the Domestic Regulations).

14. For all of the above reasons, it follows that the Tribunal therefore has jurisdiction to determine this matter.

II. Background

15. On 13 January 2018, a Doping Control Officer operating under mission number M-697990924 collected a urine Sample from the Player In-Competition, at a match between Haddington RFC and Newton Stewart RFC.

16. The Player provided a Sample of urine that was split into two bottles. These were given the reference numbers of A1137583 (the "A Sample") and B1137583 (the "B Sample").

17. Both Samples were transported to the WADA accredited laboratory in London, the Drug Control Centre, Kings College London (the "Laboratory"). The Laboratory analysed the A Sample in accordance with the procedures set out in WADA's International Standard for Laboratories. This analysis returned an AAF for MDMA.

18. The Player did not request a test of the B Sample and as a result the B Sample has never been tested.

19. UKAD confirmed that the Player did not have a Therapeutic Use Exemption to justify the presence of the Prohibited Substance in his Sample.

20. In accordance with Article 7.8 of the Rules of the NADP (2015 edition), the Chairman of the Tribunal agreed various directions with the parties (at this stage the Player was represented by Mr Harrison of counsel, who was acting on a pro bono basis) on 17 April 2018, one of which was for the Player to serve upon UKAD all the evidence he intended to rely upon by 11 June 2018 and another was for him to provide the Tribunal and UKAD with his written submissions by 9 July 2018. Unfortunately, neither direction was complied with.

21. The Player and Mr Harrison were contacted on numerous occasions by telephone and email informing them of the date of the Hearing and encouraging his participation at it, but to no avail. They were also provided with the evidence and written submissions that UKAD intended to rely upon, pursuant to the said directions.

22. Eventually, on 11 July 2018, Mr Harrison informed UKAD and the NADP Secretariat, as follows:

"It is with regret that I am going to have to step away from this case.

As you know, I recently found myself in difficulty in obtaining instructions to advance the sort of statements that I ordinarily would like to, such that no formal statement was served by Mr Wilson. He produced an email to me, which I forwarded and to which UKAD refer in their written submissions.

I've struggled to obtain any meaningful instructions to enable me to prepare and advance written submissions. In particular, I've not been able to obtain any instructions on Professor Cowan's opinion. In fairness to Mr Wilson, we have had some contact here and there but that hasn't enabled me to be able to advance the case.

Mr Wilson made it clear to me that he does not intend on attending the hearing in London on 24/7/18. I have again asked whether that is his final decision, but I have not heard back.

In the circumstances, I am unable to continue acting in this matter."

23. The Tribunal notes that in particular the evidence of Professor Cowan was sent to both the Player and Mr Harrison, but the latter was unable to obtain any instructions from the Player.

III. UKAD's Submissions

The Charge

24. UKAD submitted that the Player, on 13 January 2018 pursuant to ADR Regulation 21.2.1 had the presence of a Prohibited Substance or its Metabolites or Markers in his sample. ADR Regulation 21.2.1 states:

"21.2.1. Presence of a Prohibited Substance or its Metabolites or Markers in a Player's Sample

21.2.1.1 It is each Player's personal duty to ensure that no Prohibited Substance enters his or her body. Players are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, Fault, negligence or knowing Use on the Player's part be

demonstrated in order to establish an anti-doping rule violation under Regulation 21.2.1 (Presence)."

25. UKAD submitted that the presence of this Prohibited Substance in the Player's urine Sample constitutes a violation of the ADR.

26. Further, an ADRV under ADR Regulation 21.2.1 is committed without regard to a Player's Fault and is a 'Strict Liability' offence.

27. The Player accepted the 'Presence' Charge in his response on 17 February 2018. UKAD therefore submitted that as the Player's liability for commission of the ADRV is not in dispute the main issue to be resolved is that of sanction.

Sanction

ADR Regulation 21.10.2 and whether or not the ADRV was "Intentional"

28. UKAD submitted that its records indicate that this is the Player's first ADRV. Accordingly, the period of Ineligibility to be applied is set out at ADR Regulation 21.10.2:

> "21.10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method
>
> The period of Ineligibility for a violation of Regulations 21.2.1 (Presence) … shall be as follows, subject to potential reduction or suspension pursuant to Regulations 21.10.4, 21.10.5 or 21.10.6:
>
> 21.10.2.1 The period of Ineligibility shall be four years where:
>
> 21.10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Player or other Person can establish that the anti-doping rule violation was not Intentional.
>
> 21.10.2.1.2 The anti-doping rule violation involves a Specified Substance and [UKAD] … can establish that the anti-doping rule violation was Intentional.

21.10.2.2 If Regulation 21.10.2.1 does not apply, the period of ineligibility shall be two years."

29. Further, the definition of "Intentional" can be found at ADR Regulation 21.10.2.3:

> "As used in Regulations 21.10.2 and 21.10.3, the term "Intentional" is meant to identify those Players who cheat. The term therefore requires that the Player …engaged in conduct which he … 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 Player can establish that the Prohibited Substance was Used Out-of-Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered Intentional if the substance is not a Specified Substance and the Player can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance."

30. UKAD submitted that in the recent case of *Curry v UKAD*[1], the Appellate Sole Arbitrator dismissed an Appeal against a finding of Intentional use for Cocaine, stating the following at paragraph 23 *et seq:*

> "23. Accordingly, when considering the intention of a Player, for the purposes of ADR Article 10.2.1(a), in ingesting a Prohibited Substance, which is a Specified Substance, whether the Player intended to gain a competitive advantage by so ingesting is not a question to which the provision is addressed. Rather, the relevant question is whether the Player intended, within the meaning of ADR Article 10.2.3, that the Prohibited Substance or its Metabolites or Markers be present in his system so that it or they would be present in the Sample provided by him in the event that he was required to provide a Sample for Analytical Testing.
>
> 24 … it was not for the Arbitral Tribunal to seek to establish anything regarding the context and/ or timing of the Player's ingestion of cocaine. It was

[1] Curry v UKAD, SR/NADP/968/2017 and at first instance, UKAD v Curry SR/ NADP887/2017

for the Player to establish,[2] on the balance of probabilities, that when he ingested the cocaine, he did not intend it to be present in a Sample collected from him in the event that he was subject to Sample collection. "Intentional"[sic], in this context, and by extension its derivatives, intend and intent, are given a particular meaning which extends beyond the usual dictionary definition…"

31. UKAD submitted that the Player's account of his use of MDMA being recreational and Out-of-Competition is inconsistent with the scientific evidence provided by Professor Cowan as follows, *"In my opinion, the amount of MDMA detected by the laboratory is not consistent with the Player's explanation ….. it is more likely than not that the MDMA was administered after 2 a.m. on 13 January 2018."* Consequently, there is a case to answer on the question of whether the ADRV was Intentional.

32. UKAD set out the following in this regard:

> "Mr Wilson engaged in conduct which he knew constituted an ADRV, or, at the very least, he knew that there was a significant risk that the conduct might constitute or result in an ADRV and manifestly disregarded that risk in that:
>
> a) He knowingly consumed MDMA (he has not suggested otherwise).
>
> b) He consumed the MDMA during an In-Competition period (after 2am on the morning that he was due to play) – a matter of hours before competing.
>
> c) Mr Wilson is not an inexperienced Player or individual. At best, he has consumed a widely known illegal substance and took no apparent step to clarify whether MDMA was Prohibited. Therefore, on his own case taken at its highest, Mr Wilson knew that there was a significant risk that his conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk."

33. Further and in addition to the above stated position, UKAD submitted that the Player does not have the benefit of the rebuttable presumption provided for in ADR Regulation 21.10.2.3, namely *that "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 Player can establish that the Prohibited Substance was Used*

[2] Cocaine is a Non-Specified Substance, unlike MDMA

Out-of-Competition", as Professor Cowan's evidence states that the consumption in this instance was In-Competition.

ADR Regulations 21.10.4 and 21.10.5.1.1 – No Fault or Negligence and No Significant Fault or Negligence

34. UKAD submitted that in the limited comment by the Player to date, there has been nothing advanced to sustain a plea of No Fault or Negligence and No Significant Fault or Negligence. UKAD did provide detailed submissions on this point in the event that the Tribunal was minded to consider these provisions of the ADR.

35. UKAD concluded with *"Mr Wilson has not, to date, supplied any information that might amount to subjective Fault mitigation. In the circumstances, it is difficult to see how a reduction of sanction within the highest (or any) range can be justified."*

Timely Admission

36. UKAD submitted that *"Mr Wilson made admissions on 17 February 2018 that amount, for the purposes of ADR Article 21.10.11.2, to a timely admission of the ADRV, and that any period of Ineligibility imposed may run from the date of Sample collection (13 January 2018)."*

37. UKAD concluded its submissions with the relief sought as follows:

> "For the reasons set out above, UKAD respectfully requests that the Panel:
>
> a) Confirms that Mr Wilson committed an ADRV under ADR Article 21.2.1, in that on 13 January 2018 he had the Presence of a Prohibited Substance or its metabolites or markers in his Sample.
>
> b) Subject to any reduction under ADR Article 10.4 or 10.5, imposes a period of Ineligibility of four years under ADR Article 21.10.2.1, such period to run from 13 January 2018; and
>
> c) Grants such other and further relief as it deems appropriate."

IV. Respondent's Submissions

38. There were no formal submissions received from the Respondent in accordance with the Tribunal's directions. However, the Tribunal did take note of the various emails that he and his representative, Mr Harrison, exchanged with UKAD.

39. In an email from Mr Harrison to UKAD on 18 June 2018, the Player was quoted in the following terms:

> "I have loved rugby from a young age, since the very first time I picked up a ball and was taught to pass, tackle and kick. I loved being there with my friends, and fighting towards something, winning together, every gamewas a battle and I was happy to be there with them, it is the greatest feeling.
>
> Rugby has been much more than that to me though, It was something to distract me from problems I would have at home, something to take my frustrations and anger of life out on. Training and being with the team always took my mind off any other troubles I would have.
>
> [redacted]
>
> I have been in a dark place with my thoughts for some time, worrying about what may happen. This had led to my poor decision to take drugs as an attempt to make myself feel better, when in fact it has only made things worse.
>
> Now I stand to lose the ability to play a sport I have loved for so long and has been a huge part of my life.
>
> Rugby means a huge deal to me, not just playing but being there with my friends and team mates, being in that competitive environment.
>
> I would regret my decision forever if a moment of weakness was to take one of the few things I love away from me.

Please let me have another chance and I will show you how much it means to me."

40. On 18 June 2018, UKAD again requested better particulars. On 19 June 2018, Mr Harrison's response was:

"Response to request for information

Mr Wilson wishes to confirm the following (being the only information he is able or willing to give):

His in-competition test was on a Saturday. On the Wednesday night before that Saturday
- he cannot be sure of the time but he thinks it was before midnight - he ingested 2 or 3 lines of MDMA.

Further, on the Weekend before, he ingested MDMA - although he is unable to say how much - that was on the Saturday night and may in fact have been in the early hours of Sunday morning."

41. No further submissions or evidence were received.

V. The Hearing

42. Pursuant to the Tribunal's directions agreed with the Parties, the Hearing was convened in London on 24 July 2018. Mr Law and Ms Landy attended for UKAD along with their expert witness, Professor Cowan. The Player did not attend, nor was he represented.

43. The Tribunal noted the provisions of Article 8.5 of the Rules of the NADP, which states that *"the non-attendance of any party or his representative at the hearing, after proper notice of the hearing has been provided, shall not prevent the Tribunal from proceeding with the hearing in his absence, whether or not written submissions have been made by or on behalf of that party."*

44. The Tribunal was satisfied that the Player had been made aware of the date, time and place of the Hearing. Not only was it agreed with his then representative, Mr Harrison as part of the Tribunal's directions, but there was all the correspondence

which the Player was copied into (at the email address that he had put on the doping control form and from which he had communicated with UKAD) as set out above. Mr Harrison was also able to confirm, as he came off the record, that the Player was aware of the Hearing but would not be attending.

45. The Tribunal determined to proceed with the Hearing in his absence.

46. UKAD drew the Tribunal's attention to ADR Regulation 21.3.2.5, pursuant to which the Tribunal were able to draw an adverse inference from his non-attendance. The wording is *"may draw…"* In the case at hand, the Tribunal determined not do so, as (i) his non-attendance deprived him of an opportunity to challenge some of the assumptions Professor Cowan based his opinion on; (ii) his non-attendance deprived him of advancing any "Fault" based submissions; and (iii) the Tribunal had the impression from his limited correspondence as set out above that he was perhaps not in a good place due to his personal circumstances, which may explain why he chose not to fully engage in this process.

47. The Hearing was of assistance to the Tribunal, as it enabled it to confirm the issues at hand and to hear from Professor Cowan in person.

48. The evidence of Professor Cowan can be summarised as follows:

48.1. He worked on the assumption that the half-life of MDMA is 9 hours. It may be less, but to work off 9 hours was to the Player's advantage. Then taking the concentration of MDMA found in the Sample and knowing the time the Sample was given, he was able to work back to see when the likely time of ingestion was.

48.2. The other key factor was the dose. The amount of MDMA taken (in terms of the number of tablets) and the amount of that Substance that would be likely to have been present in a tablet. Professor Cowan stated that typically 150 mg of MDMA would be in a tablet. Again, it could be less, but this assumption was in the Player's favour. One tablet would produce 2 or 3 lines, which was the dose the Player had admitted taking on the Wednesday.

48.3. Matters were further complicated in that when a tablet is crushed down to form a powder that can then be ingested through the nose, bits often break off

during the crushing process. However, he assumed that the entire tablet was ground down and ingested nasally, which assumption is to the Player's advantage.

48.4. The Wednesday was 64 hours before the Sample Collection, whereas 2am on the Saturday was within 14 hours of the Sample Collection. Using the half-life of MDMA, he was able to conclude that the Player's version of events (i.e. that it was only taken on the Wednesday) was not consistent with his analysis, rather he was of the opinion that it was more likely than not that the ingestion was In-Competition i.e. after 2am on 13 January 2017.

48.5. The Tribunal asked Professor Cowan a number of questions and found his evidence useful. That said, he did confirm that the concentration of MDMA in his Sample would be consistent with the Player having taken 2 tablets before the In-Competition window opened, just as it would be consistent with him taking ½ tablet much nearer to the start of the match. It was all to do with the relationship between the size of the dose and time. He also confirmed that factors such as the Player's size would affect absorption to a small degree and that the Renal Function of the Player might also affect the result.

VI. The Tribunal's findings

49. The Tribunal stated at the Hearing that it was satisfied that the Player had committed an ADRV. The test results were clear and he had admitted the same.

50. The Tribunal noted the submissions of UKAD regarding intention and at the Hearing delved into these a little deeper:

50.1. It was agreed with Mr Law that the Prohibited Substance, MDMA, was a Specified Substance, which is banned In-Competition only and pursuant to ADR Regulation 21.10.2.2 the period of Ineligibility would be 2 years, unless, pursuant to ADR Regulation 21.10.2.1.2, UKAD could establish that the ADRV was Intentional.

50.2. The definition of Intentional is at ADR Regulation 21.10.2.3:

> "As used in Regulations 21.10.2 and 21.10.3, the term "Intentional" is meant to identify those Players who cheat. The term therefore requires that the Player …

> engaged in conduct which he … 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 Player can establish that the Prohibited Substance was Used Out-of-Competition…"

50.3. The third sentence appears to give a Player an initial benefit. If he or she can establish that the substance is (a) a Specified Substance; (b) only prohibited In-Competition; and (c) was used Out-of-Competition, then the presumption is he or she did not look to cheat. There would be no intention.

50.4. However, this presumption is rebuttable by whichever body is handling the case against the Player. This was best demonstrated in the recent case of *Curry v UKAD* (albeit in that case the substance was a non-specified substance), as Mr Curry looked to establish that he ingested the substance on a certain date and produced corroborating evidence from a friend to support that, only for UKAD to produce expert evidence that rebutted the presumption. In that case Mr Curry would have had to take a potentially fatal quantity of the substance to have the concentration of the substance left in his Sample a few days later.

50.5. If this third limb was not available to or was rebutted by the body handling the case against the player, then that body still had the burden to prove to the panel's comfortable satisfaction that the Player's Intention was to cheat. As such, the first and second sentences of ADR Regulation 21.10.2.3 were relevant. However, as Mr Law confirmed, the burden was solely on UKAD.

51. The Tribunal notes that the presence of the Prohibited Substance in the Player's Sample, which was taken In-Competition, was sufficient to give rise to an ADRV. The Tribunal also note that the Competition window opened at 2am on Saturday 13 January 2018, pursuant to the definition of "In-Competition" in the ADR. The actual time that the Player took MDMA is only relevant for the third sentence of ADR Regulation 21.10.2.3.

52. The Tribunal did not look to apply the third sentence of ADR Regulation 21.10.2.3 to the case at hand. Even if it were to accept the Player's version of events (that he took it on the Wednesday) without any supporting evidence and without being able to test that version with him at the Hearing, the Tribunal accepted Professor Cowan's evidence that the relevant ingestion must have been after the evening of Wednesday 9 January 2018 to result in the concentration of the Prohibited Substance that was in the A Sample. It may be that the Player did indeed ingest MDMA on that Wednesday, however, it would appear that there was further ingestion after that date and before the Sample collection. Such expert evidence would have rebutted the presumption, even if the Tribunal was willing to accept the Player's version in the first instance.

53. As such, the Tribunal had to consider the first and second sentences of ADR Regulation 21.10.2.3 and determine whether it was comfortably satisfied that the Player was cheating. This is the general principle of this Regulation – to punish cheats. To demonstrate he was cheating, UKAD have to show intent, pursuant to the second sentence of ADR Regulation 21.10.2.3 (i.e. that the Player engaged in conduct which he knew constituted an ADRV or knew that there was a significant risk that the conduct might constitute or result in an ADRV and manifestly disregarded that risk).

54. The Tribunal notes that this is a high hurdle for UKAD to overcome generally and with regards to this particular Substance. As Mr Law acknowledged, its effects on sporting performances would be limited. MDMA is a recreational drug intended to give a euphoric high, but not one that lasts particularly long. It is also difficult for UKAD to prove what the Player knew or should have known.

55. The Tribunal notes that UKAD sought to rely upon the *Curry* case, however, that case was one involving a non-Specified Substance and as such, the burden of proof was upon the player, so was different from the matter at hand.

56. The Player had admitted to taking MDMA twice already in the week before the match. He had stated it was purely for recreational purposes, that he was having problems at home [redacted] and that had driven him to MDMA.

57. UKAD looked to rely upon the argument that all players would know it was a banned Substance or at least should have known and ignored the risk. However, it could not produce any evidence of what the Player knew or did not know. Instead, in order to strengthen their position, it produced the evidence of Professor Cowan, whose opinion was that it was more likely than not that the Player would have actually taken the MDMA after 2am on the Saturday (so within the In-Competition window).

58. The Tribunal noted that Professor Cowan's opinion was based on the assumption that the Player took one tablet of MDMA and, as appeared to be his habit, ground the tablet down into 2 or 3 lines, which he ingested through the nose.

59. Professor Cowan's opinion was that it was more likely than not that the ingestion took place after 2am on 13 January 2018. When pressed a little further, he concluded that it would have been between 8am and 10am that day.

60. The Tribunal had asked whether taking 2 tablets on the Friday night/Saturday morning could give the same concentration in the Sample and Professor Cowan confirmed that it could. Just as taking 1/2 a tablet before kick-off could have given the same concentration in the Sample.

61. Therein lies the issue for the Tribunal. MDMA is a recreational drug. For it to have an effect on his sporting performance, the Player would have had to take the MDMA close to kick-off. Did the Tribunal feel comfortably satisfied that an player would effectively start taking MDMA on a Saturday morning or lunchtime before a rugby game, when the Substance is purportedly a recreational drug that gives a temporary euphoric feeling? Or did the Tribunal feel it more likely that the Player would be taking such a Substance on a night out and may then take more than one tablet? The Tribunal noted that the two times the Player admitted taking MDMA it was both at night time (Wednesday at night and the previous weekend on the Saturday night or perhaps early Sunday morning). On balance, the Tribunal did not feel comfortably satisfied with Professor Cowan's key assumption that the Player only took one tablet and that it would have been at breakfast time on a match day.

62. As such, having determined that it was more likely that the Player took the Substance the night before, did the Tribunal feel comfortably satisfied by UKAD's submissions that he "*knew that there was a significant risk that his conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk"*? The Tribunal had no evidence before it to support that submission. The Player, in his emails, claimed he was not aware that MDMA was banned and to UKAD's credit, it provided the Tribunal with the fact that it couldn't establish if the Player had received specific anti-doping education.

63. As such, the Tribunal acknowledge that the Player has committed an ADRV, but it was not convinced that he did so to cheat. UKAD did not establish to the comfortable satisfaction of the Tribunal that the ADRV was Intentional.

64. The Tribunal notes that the Player did not advance any "Fault" based submissions, so needs not address this part of the ADR, and further notes UKAD's position with regards to the Player's prompt admission.

VII. The Decision

65. For the reasons set out above, the Tribunal makes the following decision:

65.1. An ADRV contrary to ADR Regulation 21.10. 2 has been established;

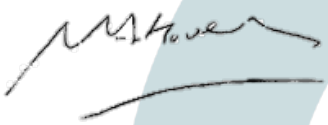
65.2. As UKAD failed to satisfy its burden to establish that the ADRV was Intentional pursuant to ADR Regulation 21.10.2.1.2, the standard sanction of 2 years Ineligibility shall apply to Mr Wilson;

65.3. In accordance with ADR Regulation 21.10.11.2, Mr Wilson is entitled to credit for his prompt admission of the ADRV and so the period of Ineligibility shall be deemed to have commenced from the Sample Collection date i.e. on 13 January 2018 and shall therefore end at midnight on 12 January 2020;

65.4. As such, Mr Wilson shall not be permitted to participate in any capacity in a competition or other activity (other than Authorised Anti-Doping Education or Rehabilitation programmes) organised, convened or authorised by the SRU or any body that is a member of, affiliated to, or licenced by the SRU; or any other Signatory to the World Anti-Doping Code.

65.5. Pursuant to ADR Regulation 21.10.8, any result obtained by Mr Wilson in any Competitions taking place between the date of Sample Collection and commencement of his Provisional Suspension shall be Disqualified with all resulting Consequences, including forfeiture of any medal, title, points and prizes; and

65.6. In accordance with ADR Regulation 21.13, the Parties have a right of appeal to the NADP Appeal Tribunal. In accordance with Article 12.5 of the Procedural Rules any party who wishes to appeal must lodge a Notice of Appeal with the NADP Secretariat within 21 days of receipt of this decision.



Mark Hovell
For and on behalf of the Tribunal
13 August 2018
London, UK

Sport Resolutions (UK)
1 Salisbury Square
London EC4Y 8AE

T: +44 (0)20 7036 1966

Email: resolve@sportresolutions.co.uk
Website: www.sportresolutions.co.uk