

INTERNATIONAL SKATING UNION

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Case No. 01/2012

May 21st 2012

DECISION

of the

ISU Disciplinary Commission

Panel: Volker Waldeck, Chair
Dr. Egbert Schmid
Susan Petricevic

In the matter of

International Skating Union, Chemin de Primrose 2, 1007 Lausanne, Switzerland,
represented by its Legal Advisor, Dr. Béatrice Pfister,

- Complainant -

against

Ms. Anastasia Galyeta, c/o Ukrainian Figure Skating Federation,
Panasa Mirnogo str. apt. 26, 01011 Kiev, Ukraine,

- Alleged Offender -

and

Ukrainian Figure Skating Federation (UFSF),
Panasa Mirnogo str. apt. 26, 01011 Kiev, Ukraine,

- Interested Member -

Concerning alleged violation of the ISU Anti-Doping Rules

I. History of the procedure

On March 6th 2012, the ISU filed a complaint against the Alleged Offender, together with seven exhibits. The Alleged Offender and the Interested Member were invited by the ISU Disciplinary Commission to file a statement of reply within 21 days upon receipt of the complaint. The Ukrainian Figure Skating Federation replied on April 3rd 2012 that “all the evidences and remarks were accepted” and that the Alleged Offender waived the right of a written reply and an oral hearing.

II. Procedural Matters

According to Article 24, Paragraph 10 of the ISU Constitution 2010 and Article 8.1.1 of the ISU Anti-Doping Rules 2010 the Disciplinary Commission has jurisdiction in anti-doping cases arising out of ISU Testing or Testing at International Events or Competitions. The present case arises out of testing at the ISU Junior Grand Prix of Figure Skating Final 2011 in Quebec City, i.e. of testing at an International Event. Therefore the ISU Disciplinary Commission has jurisdiction to hear and decide this case.

III. Facts

1. The Alleged Offender is a 19 years old ice dancer from Kiev, Ukraine and member of the Ukrainian Figure Skating Federation. She participated in the Ice Dance Event at the 2011 /2012 ISU Grand Prix of Figure Skating Final in Quebec City, December 8-11, 2011.

2. Following an in-competition Anti-Doping test carried out on December 10, 2011, the ISU received an adverse analytical finding for sample 2616504 from the Alleged Offender. The said sample was found to contain Furosemide, which belongs to class S5 (Diuretics and Other Masking Agents) of the 2011 WADA List of Prohibited Substances and Methods.

The Complainant has offered as Evidence:

- Doping Control Form for Sample 2616504 of December 10, 2011, taken at the Grand Prix of Figure Skating Final in Quebec City (Exhibit 1),
- Laboratory result for A Sample 2616504 of January 11, 2012 of the Institut Armand-Frappier, Quebec, Canada, (Exhibit 2),
- Class S5 (Diuretics and Other Masking Agents) of 2011 WADA List of Prohibited Substances and Methods, (Exhibit 3).

3. By letter of January 16th 2012, the Interested ISU Member and the Alleged Offender were informed of the positive finding and requested to submit their written explanations. Further they were reminded that the Alleged Offender had the right to request the B sample to be analyzed (Exhibit 4).

4. Together with her e-mail dated January 21, 2012, the President of the Ukrainian Figure Skating Federation furnished a written explanation from the Alleged Offender together with an English translation (Exhibit 5 and 6).

Therein the Alleged Offender stated that due to drinking large amounts of liquids which had been prescribed to her by the physician of her national team due to having a cold and a sore throat, she suffered a swollen face. Therefore she consulted a pharmacist who suggested that she take Furosemide, telling her that Furosemide was not a doping substance. She admitted that it was her mistake and that she did not consult the team physician and her coach.

5. Further UFSF furnished a letter of explanation from the team doctor and, on January 18, 2012, upon request of the ISU, an English translation thereof (Exhibit 7).

The team doctor explained that he was asked for help by the Alleged Offender on December 1st 2011, with complaints of sore throat, cough, rhinitis and fever. He made a diagnosis of acute respiratory viral infection and tonsillitis. He prescribed that she take Augmentin 500 mg twice a day for five days.

The Alleged Offender did not ask the team doctor for help with her swollen face and her excess weight.

IV. Law

1. Furosemide, as uncontestedly found present in the Alleged Offender's bodily specimen, is contained in the Prohibited List 2011 of the World Anti-Doping Agency (WADA) under "S5(Diuretics and Other Masking Agents)". According to Article 4.1 of the ISU Anti-Doping Rules 2010 the Prohibited List which is published and revised by WADA is incorporated into those ISU rules.

2. According to Article 2.1 of the ISU Anti-Doping Rules, the presence of a prohibited substance in a Skater's bodily specimen constitutes an Anti-Doping Rule violation, unless a Therapeutic Use Exemption (TUE) for the otherwise prohibited substance has been granted in accordance with letter D of the ISU Anti-Doping procedures. The Alleged Offender had neither requested a Therapeutic Use Exemption for Furosemide nor had she declared having taken this medication on her doping control form.

3. According to Article 2 of the ISU Anti-Doping Rules Skaters are responsible for knowing what constitutes an Anti-Doping Rule violation and the substances and methods which have been included in the prohibited list. Article 2 Para 2.1.1 says that it is each Skater's personal duty to ensure that no prohibited substance enters his or her body and that Skaters are responsible for any prohibited substance or its metabolites or markers found to be present in their samples.

Even if a pharmacist had in fact told the Alleged Offender that there are no restrictions with respect to the use of Furosemide for sportsmen, which the Complainant in the absence of any evidence contests, the Alleged Offender would still be responsible for the prohibited substance found to be present in this sample. In the present case it is particularly striking that the Alleged Offender did not inquire about Furosemide with her team doctor.

4. It is the first time that the skater has violated the Anti-Doping Rules. According to Article 10.2 of the ISU Anti-Doping Rules 2010 a two years' ineligibility in principle is imposed for a first violation of Article 2.1 unless the conditions for reducing the period of ineligibility, as provided in Articles 10.4 and 10.5 are met.

5. According to Article 10.4 of the ISU Anti-Doping Rules the period of ineligibility may be reduced if the skater can establish how a Specified Substance entered his body or came into his possession and that such Specified Substance was not intended to enhance his sport performance or mask the use of a performance-enhancing substance.

The substance "Furosemide" is a Specified Substance contained in the Prohibited List 2010 of the World Anti-Doping Agency (WADA) under "S5(Diuretics and Other Masking Agents)". The skater has explained how the substance got into her body and that the intake of Furosemide was a fault she was not aware of. The panel accepts the pleading of the Alleged Offender that she has taken the medication upon the advice of the pharmacist, assuming that it would not contain any prohibited substance. The panel is satisfied by the objective circumstances of the case that the skater in taking a prohibited substance did not intend to enhance her sport performance but only wanted to remove the swelling of the face and the excessive weight. In assessing the skater's degree of fault the panel comes to the conclusion that the skater acted

negligently and not intentionally to enhance her performance. However only a reduction of 6 months of the principal two years ineligibility is justified. According to Article 10.4 a period of 18 months of ineligibility is therefore imposed on the skater.

6. The ineligibility starts according to Article 10.9 of the ISU Anti-Doping Rules 2010. In her letter of January 17th 2012 the skater agreed to have used the medication Furosemide after she has been confronted with the alleged Anti-Doping Rule violation. According to Article 10.9.2 ISU Anti Doping Rules the period of ineligibility may start as early as the date of sample collection, i.e. in this case December 10th 2011. The period of ineligibility will end on May 9th 2013.

V. Costs

According to Article 12.2 of the ISU Anti-Doping Rules 2010 the ISU Member shall be obligated to reimburse the ISU for all costs (including but not limited to laboratory fees, hearing and travel expenses) related to a violation of these Anti-Doping Rules committed by a skater affiliated with that member. Therefore the costs of these proceedings, including the laboratory fees of the Anti-Doping testing, have to be borne by the Ukrainian Figure Skating Federation.

The skater has to bear her own costs.

Based on the above considerations the ISU Disciplinary Commission rules as follows:

Decision

1. Anastasia Galyeta is declared responsible for an Anti-Doping violation, committed on December 10th 2011 at the ISU Junior Grand Prix Final in Quebec, Canada.
2. A period of ineligibility of 18 months, beginning on December 10th 2011 and ending on May 9th 2013, is imposed on Anastasia Galyeta.
3. The Ukrainian Figure Skating Federation has to reimburse the ISU for the costs of these proceedings and the laboratory fees of the Anti-Doping testing.
4. The skater bears her own costs.

May 21st 2012



Volker Waldeck



Dr. Egbert Schmid



Susan Petricevic

The decision is sent to Anastasia Galyeta, c./o. Ukrainian Figure Skating Federation, by registered mail against return receipt and to the Interested Member and to the ISU by email.

The present decision is subject to appeal to the Court of Arbitration for Sport, Avenue de Beaumont 2, CH-1012 Lausanne, Switzerland, within 21 days upon receipt of the decision, in accordance with Article 24 Paragraph 12 and Article 25 of the ISU Constitution 2010.

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Case No. 01/2012

May 23, 2012

DECISION

of the

ISU Disciplinary Commission

Panel: Volker Waldeck, Chair
Dr. Egbert Schmid
Susan Petricevic

In the matter of

International Skating Union, Chemin de Primrose 2, 1007 Lausanne, Switzerland,
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- Alleged Offender -

and

Ukrainian Figure Skating Federation (UFSF),
Panasa Mirnogo str. apt. 26, 01011 Kiev, Ukraine,

- Interested Member -

the ISU Disciplinary Commission corrects the Final Decision of May 21, 2012 as follows:

Decision

1. Anastasia Galyeta is declared responsible for an Anti-Doping violation, committed on December 10th 2011 at the ISU Junior Grand Prix Final in Quebec, Canada.
2. A period of ineligibility of 18 months, beginning on December 10th 2011 and ending on June 9th 2013, is imposed on Anastasia Galyeta.
3. The Ukrainian Figure Skating Federation has to reimburse the ISU for the costs of these proceedings and the laboratory fees of the Anti-Doping testing.
4. The skater bears her own costs.

Reason:

The period of ineligibility of 18 months has started on December 10, 2011 and will end on June 9, 2013. The ending on May 9, 2013, as decided in the award of May 21, 2013, was obviously wrong and has to be corrected.

May 23, 2012



Volker Waldeck



Dr. Egbert Schmid



Susan Petricevic

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