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Sports Tribunal imposes minimum penalty of reprimand on Paralympian for anti-doping violation

The Sports Tribunal has imposed the minimum penalty of a reprimand on Peter Martin for an anti-doping violation involving the prohibited substance probenecid.

Peter Martin tested positive for probenecid in an out of competition drug test. Drug Free Sport New Zealand filed anti-doping violation proceedings with the Sports Tribunal on 6 August 2012 and requested an expedited hearing. Mr Martin had been selected to represent New Zealand in the Paralympic Games in London, commencing later this month, in shot put and javelin. An urgent hearing and decision was required as the outcome could potentially affect whether Mr Martin would be able to maintain his place in the New Zealand team which had to be finalised and advised by Paralympics New Zealand on the morning of the next day, 7 August.

The Tribunal held an urgent hearing on the night of 6 August and gave its decision shortly after the hearing that night. The Tribunal issued its reasons for its decision on 9 August.

Mr Martin admitted the anti-doping violation but gave evidence it occurred inadvertently as a result of medical treatment. He developed a serious arm infection and attended a 24 hour accident and emergency clinic. A doctor at the clinic diagnosed him as having cellulitis requiring immediate treatment. The doctor prescribed and administered probenecid as part of the treatment. The doctor gave evidence there was a serious medical emergency, with potentially life threatening consequences if untreated, and probenecid was seen as an essential treatment option.

Mr Martin gave evidence that he advised the treating doctor, and subsequent medical personnel he saw on return visits for further treatment with probenecid, that he had been selected for the Paralympic Games, was subject to drug testing and could not take anything that was a prohibited substance. However, Mr Martin and the doctors did not realise that probenecid was prohibited in sport. A therapeutic use exemption (TUE) could have been applied for to allow Mr Martin to take the probenecid but in the situation that developed this was overlooked.

The prime responsibility is on athletes to be vigilant in respect of any substance they take. The Tribunal noted that if athletes always have their Drug Free Sport Athlete Guide wallet cards to show medical practitioners, the risk can be eliminated. Mr Martin acknowledged there was more he could have done but submitted his level of fault was very low in the circumstances. He compared his level of fault to that in a previous Tribunal case involving probenecid where the athlete, who received a reprimand only, failed to ask the doctor to refer to the New Ethical's Catalogue to check the medication was not prohibited and did not ensure TUE requirements were met but had advised he was subject to drug testing.

The Tribunal was satisfied that Mr Martin was prescribed probenecid for a clear therapeutic reason and that performance enhancement or masking was not in issue in any way. The breach in this case arose out of a critical medical emergency where insufficient attention was

given to Mr Martin being subject to the Drug Free regime. The case is about inadvertence and oversight by a very sick man. The Tribunal was satisfied that in these circumstances issuing a reprimand (and no suspension) sufficiently reflected the actual culpability in the breach.

The Tribunal further stated:

We would hope that doctors (especially those who hold themselves out to be sports medicine practitioners) will also be mindful of the strict regime which applies to all athletes and counsel and advise patients to ensure that there are not breaches which could be avoided.

The decision in this case is available for download from the website of the Sports Tribunal (www.sportstribunal.org.nz). See *Drug Free Sport New Zealand v Peter Martin* (ST 03/12). Copies can also be obtained directly from Brent Ellis, Registrar, Sports Tribunal of New Zealand (telephone: 0800 55 66 80; e-mail: info@sportstribunal.org.nz).