

**BEFORE THE SPORTS TRIBUNAL  
OF NEW ZEALAND**

**ST 11/09**

**BETWEEN                      NEW ZEALAND RUGBY LEAGUE**

Applicant

**AND                              VINCE WHARE**

Respondent

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**DECISION OF TRIBUNAL ON APPLICATION FOR  
PROVISIONAL SUSPENSION**

**Dated 20 October 2009**

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**Tribunal:**                      Nicholas Davidson QC (Chairperson)  
Anna Richards  
Tim Castle

**Hearing:**                      By telephone conference on 20 October 2009

**Present:**                      Kevin Bailey for applicant  
Graeme Steel for Drug Free Sport  
Paul David counsel for Drug Free Sport  
Vince Whare in person

**Registrar:**                      Brent Ellis

## **DECISION OF TRIBUNAL ON APPLICATION FOR PROVISIONAL SUSPENSION**

1. The Applicant, New Zealand Rugby League, applies pursuant to Rule 12.1 of the Sports Anti-Doping Rules 2009 ("the Rules") for provisional suspension of the Respondent Vince Whare. The application was received 15 October, and a teleconference hearing conducted on Tuesday 20 October.
2. Mr Whare underwent an in-competition test at a game between Taranaki and Canterbury on 13 September 2009. The application is based on an adverse analytical finding for the prohibited substance cannabis from the "A" Sample taken.
3. At the date of the provisional suspension hearing Mr Whare had not exercised his right to have the B sample analysed, and he was told of his rights in that regard, if still within time.
4. Rule 12 governs provisional hearings and suspensions. The Tribunal is directed by Rule 12.4, wherever possible, to hold an urgent provisional hearing. Mr Whare had notice of such hearing, but had not taken legal advice, available to him through the pro bono list of lawyers prepared to assist in cases such as this.
5. Rule 12.8 empowers the Tribunal to impose a provisional suspension where there is a prima facie case that a violation has been committed, and it is considered appropriate to impose a provisional suspension.
6. There is a clear prima facie case here, and Mr Whare did not suggest otherwise. There is no reason not to make the provisional order provided for in Rule 12.8.
7. The effect of a provisional suspension is to prohibit participation in any event or activity organised, sanctioned or authorised by NZ Rugby League or any member, organisation or club, of NZ Rugby League or by any person in any way connected with NZ Rugby League. NZ Rugby League is directed by Rule 12.9 to take all

necessary steps to have the provisional suspension recognised by other anti-doping organisations.

8. Under Rule 12.7 the provisional suspension is to remain confidential until publication of the final decision on the Anti-Doping Rule Violation unless the Tribunal considers that it is in the interests of NZ Rugby League and its members that the decision in relation to provisional suspension be publicly reported.
9. The provisional suspension will affect Mr Whare's participation in the NZ Maori Tournament to be held in the weekend of 24-26 October 2009. The provisional suspension precludes that, and any participation from the date of this ruling. If it is thought to be in the interests of NZ Rugby League that the provisional suspension be published, then an application should be made to the Tribunal through the Registrar. Mr Whare would be entitled to be heard if such an application is made.

### **Decision**

10. Vince Whare is provisionally suspended in accordance with the provisions of Rule 12.

Dated this 20<sup>th</sup> day of October 2009



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**Nicholas Davidson QC**  
**Chairperson (for the Tribunal)**

**Anna Richards**

**Tim Castle**