

Independent Anti-Doping Disciplinary Panel – Jamaica

No. 04 of 2017

**In the Matter of Jamaica Anti-Doping Commission v. Mr. Jason Livermore
Decision on JADCO complaint that athlete breached Article 2.3 of the 2015 Anti-Doping
Act**

The hearing was held on the 11th and 18th days of September 2017 at the Jamaica Conference Centre

Jamaica Anti-Doping Commission, Kingston, Jamaica, W.I.

Represented by Ms. Judith Clarke, Attorney-at-Law, Kingston, Jamaica

Complainant

v.

Mr. Jason Livermore, athlete, Jamaica, W.I.

Represented by Lorenzo Sanford, Manager of the athlete

Respondent

1. The parties

1.1. Mr. Jason Livermore (hereinafter ‘athlete’) is a national level Jamaican athlete. He competes in track and field athletics on an international level.

1.2. The Jamaica Anti-Doping Commission (JADCO) is an independent Anti-Doping Organisation in Jamaica and is charged with the responsibility to administer the anti-doping programme in Jamaica. It has the necessary authority, in keeping with its core functions, to implement the 2015 World Anti-Doping Code and the International Standards.

1.3. JADCO is independent of the Independent Anti-Doping Disciplinary Panel (IADP) and the Anti-Doping Appeal Tribunal.

1.4. JADCO and the IADP derive their respective jurisdictions from the 2015 Anti-Doping Rules (‘JADCO rules’).

2. The factual background

2.1 In the instant case the complainant alleges that the athlete, Mr. Jason Livermore, breached Article 2.1 of the JADCO rules.

2.2 Article 2.1 of the JADCO rule reads “Presence of a prohibited substance or its metabolites or markers in an athlete’s sample. 2.1.1 It is each Athlete’s personal duty to ensure that no prohibited substance enters his or her body. Athletes 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 athlete’s part be demonstrated in order to be establish an Anti-Doping Rule Violation under Article 2.1”.

2.3 On the 18th day of December 2016 (the day of the first alleged violation) the complainant, comprising Mr. Oraine Gordon, a Doping Control Officer and Mr. Dave Thomas, a Chaperone, visited the athlete at his home and conducted an out of competition testing. The test was conducted on a no advance notice. The athlete voluntarily provided the sample under the supervision of the DCO and under the observation of the chaperone. That was with respect to sample code **4025719**.

2.4 On the 22nd day of December 2016 (the day of the second alleged violation) the complainant, comprising Ms. Angela Lee, a Doping Control Officer and Mr. Marlon Silbourne, a Chaperone, visited the athlete at his home and conducted an out of competition testing. The test was conducted on a no advance notice. The athlete voluntarily provided the sample under the supervision of the DCO and under the observation of the chaperone. That was with respect to sample code **4025723**.

2.5 The athlete’s samples were tested and came back positive for Clomiphene and Mesterolone. The athlete was informed on the 08th day of February 2017 by the complainant of these results and was provisionally suspended.

2.6 The athlete replied in a letter to JADCO dated 15th February 2017 where he admitted to the use of medications prescribed by his doctor, Dr. Xavier Dowe, namely Clomiphene Citrate and Proviron, to treat a medical condition. The athlete had no Therapeutic Exemption Certificate.

2.7 The athlete's doctor, Dr. Dr. Xavier Dowe, wrote a letter to JADCO dated 14th August 2017 acknowledging that he was treating the athlete with the aforementioned medications for a medical condition known as oligospermia.

2.8 The IADP panel admitted into evidence 55 exhibits for consideration. Of those exhibits the IADP panel notes that the athlete did in fact receive literature from JADCO on treating with the JADCO rules and in particular the Therapeutic Use Exemption (TUE) certificate.

3. The complainant's evidence and written submissions

3.1 The complainant's evidence led in support of its case has not been challenged by the athlete in any material respect save and except with respect to intention as being a factor in the adverse analytical findings against him.

3.2 The complainant has asked this panel to find the athlete guilty of the adverse analytical findings and impose a sentence of 4 years pursuant to Rule 10 of the JADCO Rules.

4. The respondent's evidence and written submissions

4.1 The respondent contended inter alia that the presence of the substances in his urine sample was as a result of 'justifiable medical circumstances'. The respondent went on to assert that the athlete made both verbal and written declarations of the fact that he was on prescribed medication at the time of his urine samples and that this is evidence of the athlete's clear indication of no intent to cheat.

4.2 The respondent asserted that he was unaware of the Therapeutic Use Exemption (TUE) process at the time of the doping tests and that he was of the view that as long as he disclosed to JADCO at the time of the sample testing the medication he was taking he would be absolved from liability, in particular since the drug was prescribed by a doctor and so he should be found not guilty of the anti-doping charges.

5. The substantive issue to be decided

5.1 Whether the athlete is in breach of article 2.1 of the JADCO Anti-Doping Rules.

6. Legal Analysis

6.1 Article 2.1 of the JADCO Rules clearly state that it is not necessary that intent, Fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an Anti-Doping Rule violation under Article 2.1.

7 Orders-

The Independent Anti-Doping Panel finds as follows:-

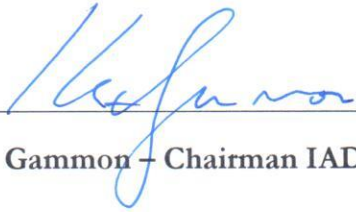
7.1 The athlete had in his body prohibited substances.

7.2 The IADP is of the view that the athlete did not intend to cheat but was negligent in not satisfying himself that the drugs were not prohibited substances and should have applied for a Therapeutic Use Exemption (TUE) certificate.

7.3 The Independent Anti-Doping Disciplinary Panel is unanimously persuaded to the standard of proof on the evidence presented that the athlete, Mr. Jason Livermore, was in breach of article 2.1 of the 2015 Anti-Doping Rules.

7.4 In the circumstances of this case the athlete is ineligible for **2 years** and the period of provisional suspension comprising eight (8) months and eighteen (18) days from the time of the official notification by JADCO¹ to the athlete of the adverse analytical findings for time already served would be deducted from the 2 years ineligibility.

Dated this 26th day of October 2017



Kent P. Gammon – Chairman IADP



Heron Dale – Member of the IADP



Dr. Marjorie Vassell – Member of the IADP

¹ 08th day of February 2017