

DISCIPLINARY HEARING
Before
THE JAMAICA ANTI-DOPING DISCIPLINARY PANEL
between
JAMAICA ANTI-DOPING COMMISSION **Complainant**
and
DOMINIQUE BLAKE **Respondent**

Mr. Lackston Robinson and Mrs. Cara-Ann Bennett-Sudeene for the Complainant
Mr. Patrick Foster, Q.C, Ms. Catherine Minto and
Ms. Stephanie Forte for the Respondent.

BACKGROUND

1. The Respondent, Miss Dominique Blake participated at the National Senior Championships at the National Stadium, on July 1, 2012 in the 400 metres.
2. She was selected for testing and voluntarily provided a urine sample.
3. The urine sample was collected and under proper control and chain of custody transported to the Doping Control Laboratory in Canada.
4. Analysis of the urine sample by Professor Christiane Ayotte, Director of the Laboratory revealed an adverse analytical finding for the substance methylhexanamine (dimethylpentylamine).
5. Methylhexanamine (dimethylpentylamine) is a stimulant on the WADA 2012 list of prohibited substances.
6. Miss Blake was notified by the Jamaica Anti Doping Commission (JADCO) by letter dated August 29, 2012 that her urine sample revealed the presence of the said substance and that the JADCO Anti Doping Rules Violation Review Panel confirmed and asserts that an Anti-Doping Rules Violation was committed under Article 2.2.1 of the Jamaica Anti Doping Rules.
7. The B sample was analysed on September 26, 2012 and confirmed the presence of methylhexanamine (dimethylpentylamine) in Miss Blake's urine sample.

8. Miss Blake gave an explanation as to the adverse finding in a letter dated August 29, 2012 to the IAAF and by letter dated September 11 2012, to JADCO.
9. JADCO referred the matter to the Jamaica Anti Doping Disciplinary Panel.
10. The Panel convened several dates for hearing which were adjourned while Miss Blake settled her legal representation.
11. She was represented firstly by Miss Kadine Dixon, then Mr. Abe Dabdoub and finally Mr. Patrick Foster Q.C.
12. On March 22, 2013 when the matter came up for hearing, Mr. Patrick Foster, Q.C said that Miss Blake was advised by her mentor to take the product Neurocore and she had taken the product, and had not seen the warning label on the bottle that the product contained geranium and should not be used by those concerned with athletic testing such as required by WADA.
13. Mr Foster advised the Panel that in those circumstances Miss Blake was admitting the Anti doping rule violation and would be asking the Panel to determine the sanction to be imposed after considering mitigating factors pursuant to Article 10 of the JADCO Rules.
14. Miss Blake confirmed to the Panel what was expressed by Mr. Foster in that regard.
15. ARTICLE 10.4 of the JADCO Rules

Article 10.4, which deals with Elimination or Reduction of the Period of Ineligibility for Specified Substances under Specific Circumstances provides:

“Where an athlete or other Person can establish how a Specified Substance entered his or her body or came into his or her possession and that such Specified Substance was not intended to enhance the Athlete’s sport performance or mask the use of a performance enhancing substance, the period of Ineligibility found in Article 10.2 shall be replaced with the following:

First violation: At a minimum, a reprimand and no period of Ineligibility from future Events, and at a maximum, two (2) years’ Ineligibility.

To justify any elimination or reduction, the Athlete or other Person must produce corroborating evidence in addition to his or her own word which establishes to the comfortable satisfaction of the hearing panel the absence of an intent to enhance sport performance or mask the use of a performance enhancing substance. The Athlete or other Person's degree of fault shall be the criteria considered in assessing any reduction of the period of Ineligibility".

RESPONDENT'S CASE

16. In order to bring herself within the provisions of Article 10.4, the Respondent gave evidence herself and in addition called Dr. Peter Ruddock, Ms. Valerie Williams, her mother, Mr. Christopher Rosengrant, her mentor.
17. The Respondent's evidence disclosed inter alia:
 - a) That when she gave the urine sample on the 1st July 2012 she omitted to disclose that she was taking a product called Neurocore on the Doping Control Form as required
 - b) That she did not remember the name of the product Neurocore at the time but did not so advise the Doping Control Officer, Dr. Paul Wright.
 - c) That she put Nitro on the Doping Control form in an effort to remember Neurocore as they both have "N" names.
 - d) That the product was recommended as a new product by her mentor, Mr. Christopher Rosengrant.
 - e) That she researched the product Neurocore on the dpsnutrition website before the product was purchased.
 - f) That she did not see any warning in relation to the product.
 - g) That she explained to Mr. Rosengrant how she was feeling in training, especially with it being an Olympic year and going into Championship training was very vigorous and had taken a serious toll on her body.

- h) That she took Neurocore for about a week and a half before the Championship.
- i) That Christopher Rosengrant told her of a new line called Neurocore and understood him to mean it never existed before.
- j) That she did not try to find out from Mr. Rosengrant what he meant by new, as she trusted him.
- k) That towards the end of August 2012 she was advised to contact Dr. Peter Ruddock and did so at the beginning of September 2012, and told him of the products she was taking including Neurocore.
- l) That in mid September Dr. Ruddock told her by telephone that it was the geranium in the Neurocore which likely had caused the findings.
- m) That she did not look at the Neurocore label on the bottle after receiving the product and was only aware of the warning when they were pointed out by her Attorneys in the meeting.
- n) That on the dps website she read everything.
- o) That the dps website says that the nutrition facts are a simulation of the product, but she does not know what that means.
- p) That the dps website said that for actual nutrition label please refer to the product packaging and this meant that she should look on the label on the bottle.
- q) That if she had looked at the label she would have seen geranium.
- r) That she did not think it prudent to examine the bottle to see any warning on it.
- s) That although she had read from the WADA 2011 list that geranium is linked to methylhexanamine that was something that she had read but it would not be stored in her mind and she would not be able to just instantly recall it, because it would not be significant to anything she was taking.

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- t) That she read the 2012 WADA list and the explanation of the list, but it was of no significance.
- u) That she had two scoops every time she consumed the Neurocore.
- v) That she took Neurocore on the day of the Competition
- w) That she agreed at the time of the first anti doping rule violation to complete an online educational programme on doping and pledged to undertake further research to enhance her knowledge on doping, which she did.

18. Mr. Christopher Rosengrant in his evidence stated:

- a) That he was not a dietitian and not trained as a nutritionist, but gives advice on diet and nutrition.
- b) That Dominique Blake being an elite athlete, a specialized diet must be in place to maintain how good she is and he wanted to make her better.
- c) That he learnt of Neurocore through a Muscle Tech advertisement.
- d) That he cannot recall when he heard about Neurocore and when it was placed on the market.
- e) That he cannot recall when exactly it was introduced to Miss Blake but it was in 2012.
- f) That he spoke to Miss Blake about the Neurocore and they both went through and analysed each part of the ingredients on the dps website.
- g) That they both researched it thoroughly and ran it against the WADA list.
- h) That he read the entire page of the dps website document.
- i) That the website told you to double check, as it says for actual label please refer to the product packaging.
- j) That simulation means that everything in this product may not be exactly as stated.

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- k) That if you want to know exactly what is contained in the product you must go to the product packaging.
 - l) That Miss Dominique Blake and himself did the research on the same website and he discussed it with her.
 - m) That he did not follow the instructions to look at the product packaging to see what the actual ingredients were.
 - n) That in relation to the WADA 2012 list all he remember discussing with Miss Blake was alcohol.
 - o) That he knew Neurocore was a stimulant, but did not discuss that section of the WADA 2012 list with her.
 - p) That Miss Blake complained that her energy level was down and he observed her appearance and saw that she was not looking too well.
 - q) That now looking on the Neurocore bottle label he sees geranium extract on it.
19. Dr. Peter Ruddock gave evidence to the effect:
- a) That he has a BSC in Chemistry and a PHD in Organic Chemistry and has done post doctoral research at University of the West Indies (UWI) and Brock University in Canada.
 - b) That he received three (3) bottles from Dominique Blake of the things she had been taking including Neurocore.
 - c) That he discovered geranium extract in the Neurocore.
 - d) That methylhexanamine affects blood pressure and opens the airways.
 - e) That there have been no studies to show that it has adverse or positive effect on athletic performance.

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- f) That with increase dosage it leads to a commensurate increase in blood pressure to a certain extent.
- g) That he had the Neurocore bottle in his possession since October 2012 and did not see the warning until the Attorneys pointed it out to him.
- h) That the ingredients on the bottle include geranium extract.
- i) That he was first approached by Dominique Blake on the phone in October 2012.
- j) That unless a substance is tested, one cannot say it is performance enhancing.
- k) That a document shown to him at the hearing says it is favoured by many body builders.
- l) That there are anecdotal reports that it is performance enhancing.
- m) That at page 30 of the Complainant's Bundle in paragraph 5, DMAA is referred to as a central nervous system stimulant.
- n) That the only study he has seen is the study last year when a group of scientists, Robertson et al, looked at performance enhancing activity and said it increases blood pressure, broncho dilatory, but it did not enhance performance enhancing activity.
- o) That on page 30 of the Complainants Bundle at paragraph 6, it reads " The stimulant effect of methylhexanamine on the Central Nervous System are dose dependent and include euphoria, elevated mood, intense energy, mental clarity and increase confidence".
- p) That he does not know the required dosage of Neurocore
- q) That he has seen one study which said methylhexanamine does not enhance performance.
- r) That stimulant effect does not necessarily translate into performance enhancing.

20. Mrs. Valerie Williams, the mother of Dominique Blake gave evidence concerning Miss Blake's first doping violation for ephedrine.
21. That evidence was that she had given Miss. Blake Vitamin C and cape aloe vera which she got from an health food store and that the whole family was taking it for about three (3) years and when she was tested the ephedrine was in the aloe vera .
22. That Complainant called rebuttal evidence from Dr. Jacqueline Campbell.
23. Dr. Campbell's evidence disclosed:
 - a) That she was a registered medical practitioner and clinical pharmacologist and was employed to the University of the West Indies, Mona, Jamaica.
 - b) That methylhexanamine by the fact that it is a central nervous system stimulant with particular properties including caffeine, it can be looked on, or viewed as performance enhancing from that perspective.
 - c) That there is anecdotal evidence to that effect.
 - d) That there is no scientific study of the effect of methylhexanamine.
24. Having considered all the evidence presented, the Panel finds that the Respondent and Mr. Christopher Rosengrant turned a "blind eye" to the ingredients in the new product, Neurocore.
25. They did not pay heed to the Warnings on the DPS website and the statement that the information was a simulation of the product and that the product packaging should be examined.
26. The Panel considered the circumstances of the lack of disclosure by the Respondent on the Doping Control Form and her explanation that she remembered she was taking Neurocore but did not remember the name, and so she put Nitro because it had an "N".

This is quite remarkable since she had taken the Neurocore the same day that she was tested, and that Nitro was one of the products she was then taking.

27. The Panel notes that the Respondent did not inform Dr. Paul Wight the Doping Control Officer of her memory loss, and does not believe her explanation.
28. The Respondent stated that she did not examine the product packaging because she trusted Mr. Rosengrant, her mentor.
29. The Panel does not use the fact that Mr. Rosengrant did not check the packaging against the Respondent, because it is the personal duty of the athlete to ensure that no prohibited substance enters her body.
30. In other words, whether or not Mr. Rosengrant checked, it was the Respondents duty to check.
31. The behaviour of the Respondent from the evidence does not satisfy the Panel to its comfortable satisfaction that she did not intend to enhance sport performance or mask the use of a performance enhancing substance. It is of note, that the Respondent was able to inform the IAAF and JADCO of the geranium content before she had obtained the information from Dr. Ruddock in October 2012.
32. The question is not whether the substance is capable of enhancing performance, it is the intention of the Respondent that is important.
33. The Panel considered the most helpful submissions of Mr. Patrick Foster Q.C, but found that the Respondent has failed to justify any elimination or reduction under Article 10.4 of the JADCO Rules.
34. The Respondent has not established no fault or negligence, therefore Article 10.5.1 of the JADCO Rules would not apply.
35. Based on the findings of the Panel, the other provisions of Article 10.5 of the JADCO Rules would not apply and there are no exceptional circumstances presented in this hearing.
36. In the case of *Torri Edwards v IAAF*, CAS OG 04/003 glucose had been purchased the same day and the athlete and her chiropractor had not examined the packaging. It was said that it was obvious that if the leaflet and the product had been examined it would have been clear that the product contained more than glucose.
37. The leaflet drew attention to those in sport and said "Athletes: Caution, this product contains an active principle which can result in a positive test in case of an anti-doping control".

38. The Panel in that case found that there was negligence in failing to enquire or ascertain whether the product contained a prohibited substance.
39. The warning has some similarity to the Respondent's case.
40. In Torri Edwards, the Panel said that to ignore these facts was at a minimum negligence on the part of the chiropractor, and such negligence must be attributed to the athlete who uses him in supplying either a food source or a supplement.
41. The Panel there said:

“It would put an end to any meaningful fight against doping, if an athlete was able to shift his/her responsibility with respect to substances which enter the body to someone else and avoid being sanctioned because the athlete himself/herself did not know of that substance” .
42. It is strange that the Respondent having pursued an educational programme on doping could examine the dps website in relation to Neurocore and not follow the instructions to examine the packaging to see the true ingredients

SANCTION

43. The Respondent received a Reduced Sanction (RS) for a previous anti-doping rule violation and this is now the Respondents second anti-doping rule violation.
44. Based on the findings of the Panel, this second anti-doping rule violation would not be regarded as a Reduced Sanction, but as a Standard sanction (St).
45. Using the table in Article 10.7 of the JADCO Rules, the range would be 4-6 years.
46. The Panel considered the serious circumstances and the actions of the Respondent in this matter and in particular the intention to enhance performance and so imposed the period of ineligibility of 6 years.

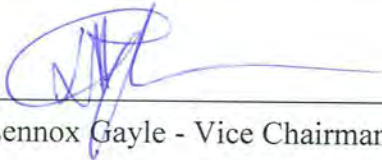
47. The Panel also found that although there was discretion to commence the period of ineligibility at an earlier time, it did not find the circumstances of this matter and how it proceeded, merited an earlier commencement.
48. The Panel therefore commenced the period of ineligibility from 13th June 2013.
49. The Panel wishes to thank Mr. Patrick Foster Q.C and Mr. Lackston Robinson for their most helpful submissions.

By THE JAMAICA ANTI-DOPING DISCIPLINARY PANEL

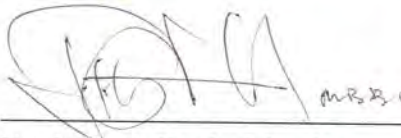
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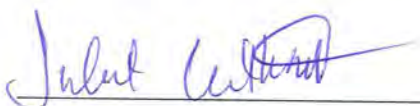
Kent S. Pantry CD, Q.C - Chairman



Lennox Gayle - Vice Chairman



Dr. Japheth Ford - Member



Juliet Cutbert - Member

