

DECISION OF THE JAMAICA ANTI-DOPING (JAD) DISCIPLINARY PANEL INTO THE ADVERSE ANALYTICAL FINDING WITH RESPECT TO AN A SAMPLE TAKEN ON THE 28th DAY OF MARCH 2011 FROM SIMONE FORBES AT AN OUT-OF-COMPETITION TESTING AND HEARD ON THE 26th AND 29th DAYS OF APRIL 2011 IN THE LECTURE HALL AT THE INSTITUTE OF JAMAICA

Essential Facts of the Case JADCO v Ms. Simone Forbes

1. We have been asked to determine whether a violation of the Jamaica Anti-Doping Commission Rules has occurred with respect to the positive finding of a prohibited substance, namely Clomiphene Metabolites, in an A sample taken on the 28th March 2011 at an Out-Of-Competition testing from Ms. Simone Forbes.
2. Dr. Christiane Ayotte from the Laboratoire de controle du dopage, an accredited laboratory of the World Anti-Doping Agency (WADA) in Montreal, Canada conducted a test on the A sample for Ms. Forbes and an adverse analytical finding of Clomiphene Metabolites was found in the A sample for Ms. Simone Forbes.
3. The Jamaica Anti-Doping Disciplinary Panel was further informed by JADCO that Ms. Simone Forbes waived her right to the testing of her B sample. This was in a correspondence dated 15th April 2011 written by Simone Forbes.
4. Ms. Simone Forbes had a representative that assisted her in the hearing, Dr. Aggrey Irons, and Professor Joseph Frederick, a Professor of Reproductive Medicine at the University of the West Indies, who administered Clomiphene Metabolites, to her to treat her complaint of incapacitating dysmenorrheal which is called period pains.
5. Dr. Irons stated that Ms. Simone Forbes in his words “was not contesting that by JADCO rules a doping violation took place in terms of Clomiphene Metabolites being found in her sample....what he is seeking to establish reasonably is how it got there, and that the athlete was in no way responsible for it getting there”.

6. A letter dated 21st April 2011 written by Professor Joseph Frederick and tendered into evidence as exhibit 10, stated inter alia, page 2, the final paragraph, "Miss Simone Forbes was being treated for a medical condition which caused incapacitation on a monthly basis and, in the process of treatment, protocols involving a drug on the WADA lists were administered."

7. Counsel for JADCO obtained a medical opinion dated 28th April 2011 from Dr. Errol Daley directly treating with the letter of Professor Joseph Frederick and also tendered into evidence as Exhibit 12, that stated inter alia, page 2, paragraph 2, "Clomiphene Citrate (or Clomid) is a testosterone-like (male type) medication but only mildly so. Testosterone-type medications do build muscles and can offer a performance enhancing advantage to athletes." In his final paragraph he states "I would endorse Professor Frederick's treatment and view and would like to suggest that Miss Forbes' use of Clomiphene Citrate was not intended for performance enhancement but for therapeutic use of her medical condition."

Essential Issue for Determination by the JAD Panel

8. Whether the athlete can establish how the specified substance, namely Clomiphene Metabolites, entered her body and that such specified substance was not intended to enhance her performance nor mask the use of a performance enhancing substance and furthermore that such explanation from the athlete can justify any elimination or reduction from the period of ineligibility imposed for a violation of Article 2.1.1 of the Jamaica Anti-Doping Rules.

Essential Findings of the JAD Panel

9. Article 2.1.1 of the JADCO Anti-Doping Rules reads "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 establish an anti-doping rule violation under Article 2.1."

10. Professor Frederick gave quite extensive testimony on his diagnosis of Miss Forbes' medical condition and his treatment of same since she has been a patient of his in April 2010.

11. Whilst the extensive testimony of his treatment of Miss Forbes' medical condition was persuasive in establishing that Miss Forbes was not using Clomiphene Metabolites to enhance her athletic performance it is nevertheless imperative that the athlete check the WADA prohibited list each year to ensure that whatever substance enters his or her body is not on the said list.

12. Professor Frederick testified that had he known that Clomiphene Metabolites was on the banned list he would have discussed with Miss Forbes the possibility of withdrawing from that drug until she completed her sporting career.

13.(a) Miss Forbes testified in cross-examination as follows:-

- (i) that she was aware of the existence of a prohibited list of substances,
- (ii) that it was her responsibility to ensure that she does not ingest or otherwise take any of these substances,
- (iii) prior to the adverse analytical finding, the team doctor, Dr. Singh, spoke to the team members regularly on banned substances and ensure that we inform him of taking any substances and take the necessary precautions,
- (iv) she did not at any time ensure if the drug being administered to her, i.e. Clomiphene Metabolites was on the WADA prohibited list of substances.

13.(g) When asked if there was any reason for this she stated quote "Dr. Frederick knew I was a member of the netball team and I thought if he knew this drug was harmful he would say something to me."

14. Miss Forbes declared on her doping control form dated 28th March 2011 at the section dealing with declaration of medication/supplements... taken over the past 7 days, "Geritol complete and Centrum Performance". No mention was made of Clomiphene

Metabolites and although she admitted to taking Clomiphene Metabolites during the month of the Out Of competition testing she couldn't remember what day exactly.

15. Miss Forbes testified as well that she knew of the JADCO rules dealing with a Therapeutic Use Exemption Certificate but she didn't see the need to take one but as she now knew Clomiphene Metabolites was a banned substance and that she was being administered same she now knew she would need to obtain one.

Conclusion

16. The JAD Disciplinary Panel unanimously finds beyond a comfortable doubt that Miss Simone Forbes was in violation of Article 2.1.1 of the JADCO Anti-Doping Rules.

17. The JAD Disciplinary Panel, having taken into account Article 10.4 of the JADCO Anti-Doping Rules, imposes a three month period of ineligibility from the 18th day of April 2011, that is the date from which she was provisionally suspended pursuant to JADCO anti-Doping rule 7.6.

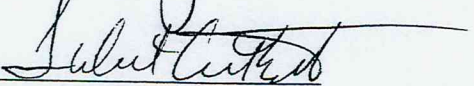
13. **The JAD Disciplinary Panel wishes to emphasize that all national athletes who take part in national competitions must ensure that they check the WADA prohibited list web-site frequently to be fully aware of all prohibited substances and if anyone is on any medication of a therapeutic nature must ensure they apply for the Therapeutic Use Exemption Certificate from the Jamaica Anti-Doping Commission.**

DATED THIS 01ST MAY 2011

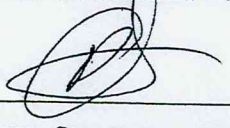
PER;


KENT P. GAMMON – CHAIRMAN OF THE JAD DISCIPLINARY PANEL

PER;


MS. JULIET CUTHBERT – MEMBER OF THE JAD DISCIPLINARY PANEL

PER;


DR. PETER CHARLES – MEMBER OF THE JAD DISCIPLINARY PANEL