

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF
WORLD ATHLETICS**

Before:

Nick De Marco QC (Chair)

Daniel Cravo Souza

Dominique Gavage

BETWEEN:

WORLD ATHLETICS

Anti-Doping Organisation

-and-

MR TAYE GIRMA ARIT

The Athlete

DECISION OF THE DISCIPLINARY TRIBUNAL

A. Introduction

1. This Panel has been appointed to determine a charge alleging Anti-Doping Rule Violations ('**ADRVs**') brought by the Athletics Integrity Unit (the '**AIU**') of World Athletics ('**WA**'), the International Federation governing the sport of Athletics worldwide.

2. The Charge is brought against Mr Taye Girma Arit (the '**Athlete**'), a 26-year old road runner from Ethiopia.
3. By a Notice of Charge dated 3 August 2021, the Athlete was charged with ADRVs pursuant to Article 2.1 and Article 2.2 of the 2021 World Athletics Anti-Doping Rules (the '**Rules**') in connection with the presence of recombinant erythropoietin ('**EPO**') in two urine samples collected from him on 6 April 2021 and on 20 June 2021 (the '**Samples**')
4. EPO is a Prohibited Substance under the WADA 2021 Prohibited List, category S2: Peptide Hormones, Growth Factors, Related Substances and Mimetics. It is a non-Specified Substance prohibited at all times.
5. The Athlete admitted the Charge but disputed the Consequences. In his "*Position Document*" dated 25 July 2022, (i) he disputed that there were aggravating features (pursuant to Rule 10.4 of the Rules); and (ii) he claimed he bears No Significant Fault or Negligence for the adverse finding. It was implicit in this second point that the Athlete also disputed that the ADRVs were intentional.
6. In addition to the matters set out in the factual background below, WA relied on expert evidence of Prof. Martial Saugy that the two Adverse Analytical Findings were consistent with at least two separate administrations of EPO, which could only have been taken in injectable form. The Athlete did not challenge Prof. Saugy's expert evidence and did not provide any evidence as to the source of the EPO, nor on any other matter, simply issuing a bare protestation of innocence.
7. The main issues before us were therefore:

7.1. Whether the Athlete is able to establish that the ADRVs were not intentional (Rule 10.2);

7.2. Whether the Athlete is able to establish that he bears No Significant Fault or Negligence for the ADRVs (Rule 10.6);

7.3. Whether WA is able to establish Aggravating Circumstances for the ADRVs and if so what if any additional period of sanction should be applied (Rule 10.4); and

7.4. Costs (Rule 10.12.1).

B. Background

8. On 6 April 2021, the Athlete provided a urine Sample In-Competition at the 'Ethiopian Championships' in Addis Ababa, Ethiopia, coded 4588850 ('**the First Sample**'). On 20 June 2021, the Athlete provided a urine Sample, In-Competition during the 'Telesia International Trophy 10k' held in Telese Terme, Italy, coded 0028044 ('**the Second Sample**').
9. Analysis of the Samples by the World Anti-Doping Agency ('**WADA**') accredited laboratories in Doha, Qatar and in Barcelona, Spain revealed the presence of EPO in both Samples ('**the Adverse Analytical Findings**').
10. Following the matter being referred to the AIU on 29 July 2021, the AIU reviewed the two Adverse Analytical Findings in accordance with Article 5 of the International Standard for Results Management and determined in each case that (i) the Athlete did not have a Therapeutic Use Exemption ('**TUE**') that had been granted (or would be granted) for the EPO found in the Samples; and (ii) there is no apparent departure from the International Standard for Testing and Investigations or from the International Standard for Laboratories that could reasonably have caused the Adverse Analytical Finding.

11. On 3 August 2021, the AIU issued the Athlete with a Notice of Allegation of ADRVs imposing a Provisional Suspension (effective immediately) and invited him to provide a written explanation for the Adverse Analytical Findings.
12. On 26 August 2021, the Ethiopian Athletic Federation ('EAF') forwarded to the AIU the Athlete's explanation which (in a letter dated 14 August 2021) set out that he denied using EPO, requested a "*re-diagnosis of the investigation result*" and provided a list of the supplements and medication he had taken.
13. On 30 August 2021, the AIU asked that the Athlete clarify his position regarding the B sample analyses. On 6 October 2021, the EAF provided the AIU with the Athlete's reply (in a letter dated 16 September 2021) in which he confirmed that he would like his B samples to be analysed but requested the AIU assist him with the related costs due to his "*economic situation*" – the letter stated that he had been unable to pay a bill and he had to flee town to his old village. On 8 October 2021, the AIU declined the request stating that the costs of the B sample analyses were to be borne entirely by the Athlete. On 14 October 2021, the Ethiopian NADO notified the AIU that the Athlete had confirmed that he could not afford to proceed with the B sample analyses and provided the contact details of his agent, Mrs Mihret Sahle, who later confirmed (on 17 October 2021) that the Athlete could not afford to proceed with the B sample analyses, that he did not take any support drinks and he did not know the reason for the Adverse Analytical Findings.
14. On 22 October 2021, the AIU issued a Notice of Charge to the Athlete. On 22 October 2021, Mrs Sahle informed the AIU that she was no longer representing the Athlete and that all correspondence should go through the EAF. On 8 November 2021, the EAF wrote to the AIU stating that the Athlete wanted to know the cost of the B sample analyses. On 9 November 2021, the AIU asked the EAF to inform the Athlete that he had already waived his right to the B sample analyses and now needed to reply to the Notice of Charge.

15. Following a request by the Athlete, on 22 November 2021 the parties agreed for the hearing of the matter to take place via videoconference. On 30 November 2021, the Secretariat to the Disciplinary Tribunal confirmed that the Chairperson of the Disciplinary Tribunal, Mr Charles Hollander QC had appointed Mr Nick De Marco QC as Chair of the Panel in these proceedings (**'the Chair'**). On 2 December 2021, the Secretariat informed the AIU that the Athlete was represented, on a pro-bono basis, by Mr Graham Gilbert of counsel. On 14 December 2021, the Chair issued procedural directions agreed between the parties including that the Athlete confirm his position in relation to the Notice of Charge in writing by 11 January 2022.
16. Following an extension of the deadline for the Athlete to file his written position with respect to the Notice of Charge (and a stay of proceedings for the Athlete's counsel to obtain instructions in that respect), on 22 February 2022, the Athlete provided his written response to the Charge (via his counsel) admitting both breaches and stating that he would seek to establish that: (i) the aggravating features referred to in Rule 10.4 do not apply in his case, and (ii) that he bears No Significant Fault or Negligence of the adverse finding, such that the Panel may and should exercise its powers under Rule 10.6 to reduce any period of Ineligibility.
17. The AIU submitted its Brief, on behalf of WA, on 8 March 2022. In that Brief, WA made various detailed submissions as to the Consequences of the ADRVs and also relied upon Prof. Saugy's expert evidence. At the end of the Brief, WA asked this Panel to make the following rulings:

"66.1. That the Tribunal has jurisdiction over the present matter;

66.2. That the Athlete has committed Anti-Doping Rule Violations pursuant to Rule 2.1 and Rule 2.2 of the World Athletics Anti-Doping Rules;

66.3. *That the Athlete must serve a period of Ineligibility of six (6) years for the Anti-Doping Rule Violations based on Rule 10.2.1 and the application of Aggravating Circumstances pursuant to Rule 10.4, commencing on the date of the Tribunal's award;*

66.4. *That the Athlete be given credit for the period of Provisional Suspension since 3 August 2021 until the date of the Tribunal's award against the period of Ineligibility imposed for the Anti-Doping Rule Violations, provided that the Provisional Suspension has been effectively served by the Athlete;*

66.5. *That all the Athlete's results obtained at the 2021 'Ethiopian Championships' and since 6 April 2021 be disqualified pursuant to Rules 9, 10.1 and 10.10 with all resulting consequences including the forfeiture of any titles, awards, medals, points and prize and appearance money; and*

66.6. *The AIU is granted an order for costs pursuant to Rule 10.12.1."*

18. There followed a period in which contact with the Athlete was difficult and eventually his previous pro-bono counsel, Mr Gilbert, confirmed he was no longer acting for him due to a lack of instructions. Eventually, leading counsel, Mr Jason Pitter QC, was appointed as new pro-bono counsel to represent the Athlete.

19. Following various further requests for extensions and agreed variations to the directions, Mr Pitter QC submitted a "*Position Document*" on behalf of the Athlete on 25 July 2022. The document confirmed that the Athlete remained unable to explain the presence of EPO in his Samples. The document suggested (at paragraph 5) that whilst it had previously been indicated the Athlete wished to accept the allegations, "*the safest course (at present) is for the AIU to prove the existence and accuracy of the test results.*" The document further confirmed that the Athlete was not in a position to present any independent evidence to support the propositions that the test results are inaccurate and/or that he bears No

Significant Fault or Negligence for the adverse results. It confirmed that the Athlete would submit (i) the aggravating facts referred to in Rule 10.4 did not apply in his case and (ii) that he bears No Significant Fault or Negligence of the adverse finding, such that the Panel may and should exercise its powers under Rule 10.6 to reduce any period of Ineligibility.

20. Mr Pitter QC confirmed on behalf of the Athlete by email on 27 July 2022 that the Athlete would not assert that the test results were inaccurate and he re-submitted the Position Document amending paragraph 5 by removing it and stating the Athlete accepted the allegations “*on the basis that he has no knowledge of how the substance entered his body.*”

C. The Applicable rules

21. There was no dispute as to jurisdiction in this case, and both parties accepted that the Rules applied.

22. Rule 2 specifies the circumstances and conduct that constitute ADRVs, including Rule 2.1, which specifies that the Presence of a Prohibited Substance or its Metabolites or Markers is an ADRV:

“2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample

2.1.1 It is each Athlete’s duty to ensure that no Prohibited Substance enters his 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 to demonstrate intent, Fault, Negligence, or knowing Use on the Athlete’s part in order to establish a Rule 2.1 anti-doping rule violation.”

23. Rule 2.2 provides that the Use of a Prohibited Substance is an ADRV:

“2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method

2.2.1 *It is the Athlete’s personal duty to ensure that no Prohibited Substance enters his body and that no Prohibited Method is Used. 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 for Use of a Prohibited Substance or a Prohibited Method.”*

24. Rule 3.1 provides that the AIU (on behalf of WA) has the burden of establishing that an ADRV has been committed to the comfortable satisfaction of the Panel:

“3.1 Burdens and Standards of Proof

The Integrity Unit or other Anti-Doping Organisation will have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof will be whether the Integrity Unit or other Anti-Doping Organisation has established an antidoping rule violation to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation that has been made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where these Anti-Doping Rules place the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, except as provided in Rules 3.2.3 and 3.2.4, the standard of proof will be by a balance of probability.”

25. According to Rules 9 and 10.1, an ADRV shall lead to the disqualification of an Athlete’s results in applicable competitions:

“9. Automatic Disqualification of Individual Results

An anti-doping rule violation in connection with an In-Competition test automatically leads to Disqualification of the Athlete’s individual results obtained in that Event, with all resulting consequences, including forfeiture of any medals, titles, awards, points and prize and appearance money. In addition, further results obtained by the Athlete in other Events may be

Disqualified, in accordance with Rule 10.1 (same Competition) and/or Rule 10.10 (subsequent Competitions).

10.1 Disqualification of individual results in the Competition during or in connection with which an Anti-Doping Rule Violation occurs

10.1.1 Subject to Rule 10.1.2, an anti-doping rule violation occurring during or in connection with a Competition shall lead to Disqualification of all the Athlete's individual results obtained in that Competition, with all resulting consequences for the Athlete, including forfeiture of any medals, titles, awards, points and prize and appearance money."

26. Rule 10.2 provides the sanction to be imposed for Anti-Doping Rule Violations under Rule 2.1 and Rule 2.2 is (as applicable):

"10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method

The period of Ineligibility for a violation of Rule 2.1, Rule 2.2 or Rule 2.6 will be as follows, subject to potential elimination, reduction or suspension pursuant to Rules 10.5, 10.6 and/or 10.7:

10.2.1 Save when Rule 10.2.4 applies, the period of Ineligibility will be four years where:

- (a) The anti-doping rule violation does not involve a Specified Substance or a Specified Method, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional."*

27. Rule 10.4 specifies that, where "Aggravating Circumstances" are present, then the period of Ineligibility may be increased by a period of up to two (2) years depending on the seriousness of the violation(s) and the nature of the Aggravating Circumstances, unless the Athlete can establish that he did not knowingly commit the ADRVs:

"10.4 Aggravating Circumstances that may increase the period of Ineligibility

If the Integrity Unit or other prosecuting authority establishes in an individual case involving an anti-doping rule violation other than violations under Rule 2.7 (Trafficking or Attempted

Trafficking), Rule 2.8 (Administration or Attempted Administration), Rule 2.9 (Complicity or Attempted Complicity) or Rule 2.11 (Acts by an Athlete or other Person to discourage or retaliate against reporting) that Aggravating Circumstances are present which justify the imposition of a period of Ineligibility greater than the standard sanction, then the period of Ineligibility otherwise applicable will be increased by an additional period of Ineligibility of up to two (2) years depending on the seriousness of the violation and the nature of the Aggravating Circumstances, unless the Athlete or other Person can establish that they did not knowingly commit the antidoping rule violation.”

28. “Aggravating Circumstances” are defined in the Rules as follows:

“Aggravating Circumstances: *Circumstances involving, or actions by, an Athlete or other Person that may justify the imposition of a period of Ineligibility greater than the standard sanction. Such circumstances and actions include, but are not limited to: the Athlete or other Person Used or Possessed multiple Prohibited Substances or Prohibited Methods, Used or Possessed a Prohibited Substance or Prohibited Method on multiple occasions or committed multiple other anti-doping rule violations; a normal individual would be likely to enjoy the performance enhancing effects of the anti-doping rule violation(s) beyond the otherwise applicable period of Ineligibility; the Athlete or other Person engaged in deceptive or obstructive conduct to avoid the detection or adjudication of an anti-doping rule violation; or the Athlete or other Person engaged in Tampering during Results Management. For the avoidance of doubt, the examples of circumstances and conduct described herein are not exclusive and other similar circumstances or conduct may also justify the imposition of a longer period of Ineligibility.”*

29. Rule 10.6 allows for the reduction of the period of Ineligibility based on No Significant Fault or Negligence in certain circumstances. The definition of No Significant Fault or Negligence is as follows:

“No Significant Fault or Negligence: *The Athlete or other Person’s establishing that any Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relation to the anti-doping rule violation.*

Except in the case of a Protected Person or Recreational Athlete, for any violation of Rule 2.1, the Athlete must also establish how the Prohibited Substance entered their system.”

30. With respect to the costs of proceedings, Rule 10.12.1 provides:

“10.12.1 Where an Athlete or other Person is found to have committed an anti-doping rule violation or other breach of these Anti-Doping Rules, the Disciplinary Tribunal or CAS (or, in cases where Rule 8.5.6 applies, the Integrity Unit), taking into account the proportionality principle, may require the Athlete or other Person to reimburse World Athletics for the costs that it has incurred in bringing the case, irrespective of any other Consequences that may or may not be imposed.”

D. The Hearing

31. A hearing by video conference took place before this Panel on 3 August 2022. WA was represented by Mr Adam Taylor (of Kellerhals-Carrard, Lausanne, Switzerland) and the Athlete was represented by Mr Jason Pitter QC (of New Park Court, Leeds, UK). The Panel is most grateful to both representatives for their co-operation and their clear, concise, and helpful submissions. We record our special appreciation to the lawyers acting for the Athlete who so acted on a pro bono basis. It is important athletes of all means have proper legal representation in proceedings of this nature, and without the Athlete’s lawyers agreeing to pursue his case on a pro bono basis the Athlete may have not had the opportunity of such representation.

32. The proceedings were conducted in English. We were told the Athlete does not speak English and did not have the use of an interpreter, but he was not giving evidence and his counsel was able to obtain instructions from him and was content for us to proceed in the circumstances. The proceedings were organised and recorded by the Secretariat, Sport Resolutions. We are grateful for their effective administrative and technical support.

33. Due to the fact that the Athlete offered no evidence and did not challenge the expert evidence of Prof. Saugy, no live evidence was called. The hearing consisted of submissions developed by the parties' representatives.
34. We do not repeat all of the submissions made (including those made by the AIU in writing) in this decision, rather, the following summary focusses on the key matters of agreement or dispute in the case.
35. The Athlete accepted the ADRVs. He was unable to explain the presence of EPO in his Samples. He offered no evidence, expert or otherwise, to explain it or to advance some theory as to how it may have been present. He did not challenge the expert evidence and Mr Pitter accepted that we were bound to accept that expert evidence, which we did.
36. In the circumstances, and in particular given that it is a requirement of an athlete seeking to persuade a tribunal that she or he bears No Significant Fault of Negligence for the ADRV that she or he must "*establish how the Prohibited Substance entered their system*" (see the definition above), Mr Pitter QC quite properly accepted that he could not advance a case for No Significant Fault or Negligence at the Hearing. We would have had no hesitation in rejecting a claim of No Significant Fault or Negligence in circumstances where (i) expert evidence that the EPO could only have been present in the Athlete's Samples as a result of it being administered to him by injections on at least two occasions was accepted by the Athlete and (ii) the Athlete offered no explanation at all of how the Prohibited Substance entered his system.
37. As to establishing non-intentional use, the AIU accepted that, as distinguished from the requirement to prove No Significant Fault or Negligence, there was no express requirement under the Rules for the Athlete to establish how the Prohibited Substance entered their system, but submitted that it would be an exceptional case for an athlete to be able to establish non-intentional use without offering some coherent evidence of how it did so. The AIU relied on a series of CAS cases discussing the interpretation of non-intentional use in

this context, the most recent of which was CAS 2020/A/7579 *World Anti-Doping Agency v. Swimming Australia, Sport Integrity Australia & Shayna Jack*; CAS 2020/A/7580 *Sport Integrity Australia v. Shayna Jack & Swimming Australia Limited*.

38. As interesting as this case law is, we do not find it necessary to consider the extent to which some evidence or some credible alternative theory of how the Prohibited Substance entered the Athlete's system must be advanced by an athlete in order to establish the burden on him or her that use was not intentional, nor analyse the quality or standard of that evidence necessary to do so. Each case will turn on its specific facts and in this case, as set out above, the Athlete accepted the expert evidence that the only way the EPO could have been found in both his Samples was if it was injected in to him on at least two occasions in the relevant period, and he offered no explanation whatsoever of how that could have occurred in some non-intentional way. In the circumstances we have no hesitation in dismissing his claim that the ADRVs were not intentional in this case.

39. It follows from our findings above and pursuant to Rule 10.2 that the starting point as to the period of Ineligibility in this case is four years.

40. We turn next to the discussion about Aggravating Circumstances which was the main issue between the parties at the hearing:

40.1. At first we had some difficulty in reconciling some of the wording in Rule 10.4 "*If the Integrity Unit ... establishes in an individual case involving an anti-doping rule violation ... that Aggravating Circumstances are present which justify the imposition of a period of Ineligibility greater than the standard sanction, then the period of Ineligibility otherwise applicable **will** be increased by an additional period of Ineligibility of up to two (2) years*" (emphasis added) with the use of the word "**may**" in the heading to that Rule "*10.4 Aggravating Circumstances that **may** increase the period of Ineligibility*" (emphasis added) and in the definition: "*Circumstances involving, or actions by, an*

*Athlete or other Person that **may** justify the imposition of a period of Ineligibility greater than the standard sanction” (emphasis added).*

40.2. Having heard various submissions by the parties about whether or not the existence of Aggravating Circumstances means a tribunal must (as opposed to may) increase the standard sanction we were persuaded by the construction finally seized upon by Mr Pitter QC: in short, a tribunal must first find whether Aggravating Circumstances do in fact justify an increase in sanction (considering the “*may justify*” test), and if it finds it does so then they fall within Rule 10.4 because they have found “*Aggravating Circumstances are present **which justify***” (emphasis added), and so they then “*will*” impose a longer sanction.

40.3. In this particular case, however, this debate was of little consequence. We had no doubt that there were Aggravating Circumstances that did justify the increase in the standard sanction.

40.4. The AIU submitted that there were essentially three Aggravating Circumstances:

- (i) The expert evidence that there had been “*at least two separate administrations of EPO*” meant that the Athlete “*Used a Prohibited Substance on multiple occasions*”, which constitutes a specific example of an Aggravating Circumstance in the definition.
- (ii) The use of EPO, which is highly regulated, is only taken in injectable form and is difficult to detect, presents compelling evidence that the Athlete “*engaged in a deliberate and sophisticated doping regime*”.
- (iii) The Athlete’s doping with EPO was targeted to assist the Athlete in qualifying for the Tokyo 2020 Olympic Games.

- 40.5. We agreed that the first two matters are capable of amounting to Aggravating Circumstances, but we did not regard the fact that the doping was targeted at qualification of the Olympic Games (as opposed to some “lesser” regulated competition) could of itself be regarded as constituting Aggravating Circumstances. If it did so then all doping targeted at qualification (or presumably competition in) the Olympics would be regarded as Aggravating Circumstances. The AIU accepted that, by itself, that could not be the case.
- 40.6. On behalf of the Athlete, Mr Pitter QC argued that while “*at least two occasions*” might literally constitute “*multiple occasions*”, multiple occasions was meant to suggest some more frequent use. In addition, he argued that this was not a case of a sophisticated doping machinery standing behind the Athlete, who was of humble means and did not have the kind of sophisticated machinery and entourage that an athlete like Lance Armstrong had. Mr Pitter also suggested that “*hypothetically*” the Athlete might have been injected with EPO without really understanding what was being administered to him and/or relying on others around him.
- 40.7. The main difficulty for Mr Pitter was that the Athlete provided no explanation whatsoever for the presence of EPO. Had he, for example, been injected with something he did not know was prohibited then not only would he have had to have said so for us to consider such an argument, but we would have expected him to do so. The absence of any explanation at all, in circumstances where the Athlete did not dispute the evidence that he was injected with EPO on at least two occasions, means that we are satisfied that the Athlete was engaged in deliberate doping by using a substance which is notoriously difficult to detect and very difficult to administer mistakenly.
- 40.8. The AIU argued that another important feature relating to the fact there had been at least two administrations of EPO was that the Athlete was tested after the time the first administration must have taken place and before the second administration. This

demonstrated, according to the AIU, either a very high degree of recklessness/disregard of doping rules or a belief that the administration of EPO would be undetected. Mr Pitter suggested this feature could also be explained by the Athlete not realising he was taking a Prohibited Substance. We prefer the AIU's submissions in this regard. Once again the insurmountable difficulty Mr Pitter was faced with in making his submissions was the total lack of evidence advanced by the Athlete.

41. In all the circumstances, and for the reasons summarised above, we find the existence of Aggravating Circumstances do justify the increase of the standard sanction in this case. While the AIU submitted the Aggravating Circumstances were at the very top end of the range, such that we should impose an additional two-year period of Ineligibility, we accept that there may be more serious Aggravating Circumstances, involving, for example, more uses than at least two, or a more sophisticated doping machinery. However, we nevertheless find that being engaged in deliberate doping with use of EPO on more than one occasion in a short period of time is at the more serious end of the range of Aggravating Circumstances and as such we find an additional period of Ineligibility of sixteen (16) months is justified.

42. As such, the total Period of Ineligibility that we impose is of five (5) years and four (4) months.

43. Mr Pitter accepted, on behalf of the Athlete, that the results the Athlete obtained at the 2021 'Ethiopian Championships' and since 6 April 2021 be disqualified with all resulting consequences including the forfeiture of any titles, awards, medals, points and prize and appearance money.

44. As to costs, while the AIU did apply for some of its costs of the proceedings it (i) recognised we have a broad discretion as to costs; (ii) the principle of proportionality referred to in the costs rule included a consideration of the Athlete's means; and (iii) there was at least some evidence of the Athlete being of limited means. Mr Pitter QC explained that the Athlete was of very limited means, and that was why he did not have an interpreter present at the

hearing, and that he did not even have access to wi-fi communications. Given the history of this matter, and the Athlete's concern about paying for a B sample, we accepted these submissions. In all the circumstances, we make no order as to costs.

E. Award

45. We therefore make the following Award:

- 45.1. The Panel has jurisdiction over the present matter.
- 45.2. The Athlete has committed Anti-Doping Rule Violations pursuant to Rule 2.1 and Rule 2.2 of the World Athletics Anti-Doping Rules.
- 45.3. The Athlete must serve a period of Ineligibility of five (5) years and four (4) months for the Anti-Doping Rule Violations based on Rule 10.2.1 and the application of Aggravating Circumstances pursuant to Rule 10.4, commencing on the date of this Award.
- 45.4. The Athlete be given credit for the period of Provisional Suspension since 3 August 2021 until the date of this Award against the period of Ineligibility imposed for the Anti-Doping Rule Violations. The period of Ineligibility will start on 3 August 2021 and end at 23:59 on 2 December 2026.
- 45.5. That all the Athlete's results obtained at the 2021 'Ethiopian Championships' and since 6 April 2021 be disqualified pursuant to Rules 9, 10.1 and 10.10 with all resulting consequences including the forfeiture of any titles, awards, medals, points and prize and appearance money.

45.6. There be no order as to costs.

F. Appeals

46. This decision may be appealed to the Court of Arbitration for Sport ("CAS"), located at Palais de Beaulieu Av. des Bergières 10, CH-1004 Lausanne, Switzerland (procedures@tas-cas.org), in accordance with Article 13 ADR.

47. In accordance with Art. 13.6 2021 ADR, parties shall have 30 days from receipt of this decision to lodge an appeal with the CAS.



Nick De Marco QC (Chair)
On behalf of the Independent Panel
London, UK
15 August 2022

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