

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

Before:  
Raj Parker (Sole Arbitrator)

**BETWEEN:**

**WORLD ATHLETICS**

**Anti-Doping Organisation**

**and**

**JAMES MWANGI WANGARI**

**Respondent**

---

**DECISION OF THE DISCIPLINARY TRIBUNAL**

---

**INTRODUCTION**

1. World Athletics is the International Federation governing the sport of Athletics worldwide. World Athletics is represented in these proceedings by the Athletics Integrity Unit (the “AIU”) which has delegated authority for Results Management and hearings on behalf of World Athletics pursuant to Rule 1.2 of the ADR. World Athletics has delegated implementation of its Anti-Doping Rules (“ADR”) to the Athletics Integrity Unit as per Rule 1.2.2 of the ADR 2021. It has its registered seat in Monaco.

2. Mr James Mwangi Wangari (the “Athlete”), is a 29-year-old road runner from Kenya.
3. This matter concerns the Athlete’s second Anti-Doping Rule Violation (“ADRV”).
4. On 23 September 2020, the Athlete was found to have committed a first ADRV following an Adverse Analytical Finding for exogenous Testosterone (and its Metabolites) in relation to a Sample collected In-Competition on 19 March 2017 and received a four (4) year ban from the Sports Disputes Tribunal of Kenya.
5. The AIU has asserted the following ADRVs against the Athlete, based on the presence of 19-Norandrosterone (“Norandrosterone”) at an estimated concentration greater than 15 ng/mL in a urine sample collected from the Athlete on 6 November 2022 (the “Adverse Analytical Finding”):
  - a) Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample (specifically Norandrosterone) pursuant to Rule 2.1 ADR; and
  - b) Use of a Prohibited Substance (specifically Nandrolone or a Nandrolone precursor) pursuant to Rule 2.2 ADR.
6. In the Athlete’s responses to the Notice of Allegation and the Notice of Charge, the Athlete denied intentionally doping and asserts that he bears No Significant Fault or Negligence.
7. More particularly, the Athlete claims that it is the ingestion of a Contaminated Product that led to the Adverse Analytical Finding in his Sample.
8. The AIU considers that the presence of Norandrosterone in the Sample provides sufficient proof that the Athlete has committed ADRVs pursuant to Rule 2.1 and Rule 2.2 ADR, which, taken together, constitute his second ADRV.

9. The AIU argues that the Athlete is unable to meet his burden to demonstrate that the ADRVs were not intentional in accordance with Rule 10.2.1.1 ADR and that he must therefore be subject to a mandatory period of ineligibility of eight (8) years pursuant to Rule 10.9.1 ADR.
10. The application of the ADR to athletes, athlete support personnel and other persons is set out in Rule 1.4.2(f):

*“1.4.2 Without limitation to the above, these Anti-Doping Rules shall apply to:*

*[...]*

*(f) the following Athletes, Athlete Support Personnel and other Persons:*

*(i) all Athletes who have signed an agreement with World Athletics or have been accredited or granted an official status by World Athletics/the Integrity Unit (for example, by way of inclusion in the International Registered Testing Pool or by designation of a Platinum, Gold, Silver or Bronze Label status) and all Athlete Support Personnel who have been accredited or granted an official status by World Athletics (for example, by way of an identity card) or who participate in International Competitions organised or sanctioned by World Athletics;*

*(ii) all Athletes, Athlete Support Personnel and other Persons who are members of or authorised by any Member Federation, or any member or affiliate organisation of any Member Federation (including any clubs, teams, associations or leagues);*

*(iii) all Athletes, Athlete Support Personnel and other Persons preparing for or participating in such capacity in Competitions and/or other activities organised, convened, authorised, sanctioned or recognised by (i) World Athletics (ii) any Member Federation or any member or affiliate organisation of any Member Federation (including any clubs, teams, associations or leagues), or (iii) any Area Association, wherever held, and all Athlete Support Personnel supporting or associated with such Athletes' preparation or participation; and*

*(iv) any other Athlete or Athlete Support Personnel or other Person who, whether by virtue of an accreditation, a licence or other contractual arrangement, or otherwise, is subject to the authority of World Athletics, or of any Member Federation, or of any member or affiliate organisation of any Member Federation (including any clubs, teams, associations or leagues), for purposes of anti-doping; and (v) Athletes who are not regular members of World Athletics or of one of its Members Federations, but who want to be eligible to compete in a particular International Competition, and all Athlete Support Personnel supporting such Athletes' participation in the relevant International Competition(s).”*

11. The Sample was collected from the Athlete following his participation in the EDP Porto Marathon, a World Athletics Label Road Race, and a competition authorised and recognised by World Athletics. The Athlete is therefore subject to the ADR by application of Rule 1.4.2(f)(iii) ADR.
12. Rule 1.4.4 specifies those athletes who are classified as International-Level athletes for the purpose of the ADR as follows:

*“1.4.4 Within the overall pool of Athletes set out above who are bound by and required to comply with these Anti-Doping Rules, each of the following Athletes at the relevant time shall be considered to be an International-Level Athlete (“International-Level Athlete”) for the purposes of these Anti-Doping Rules and therefore the specific provisions in these Anti-Doping Rules applicable to International-Level Athletes (e.g., Testing, TUEs, whereabouts and Results Management) shall apply to such Athletes:*

*(a) An Athlete who is in the International Registered Testing Pool as published from time to time on the Integrity Unit website: <https://www.athleticsintegrity.org/know-the-process/registered-testingpool>;*

*(b) An Athlete who is entered for, or is competing in, any of the following International Competitions:*

- (i) World Athletics Series Competitions;*
- (ii) the Athletics programme of the Olympic Games;*
- (iii) Area Senior Championships (indoor and outdoor);*
- (iv) Label Road Races (limited to those athletes with Platinum, Gold, Silver or Bronze status as published by World Athletics: <https://www.worldathletics.org/competitions/world-athletics-labelroadraces>; and*
- (v) such other International Competitions as shall be determined and published by the Integrity Unit on its website .*

*[Comment to Rule 1.4.4(b)(ii): Athletes will only be International-Level Athletes for the purposes of these Anti-Doping Rules if they are included on the final list of entries for the relevant edition of the Olympic Games].*

*(b) (c) For the purposes of Results Management responsibility, any other Athlete whose asserted anti-doping rule violation results from (i) Testing conducted under the Testing Authority of World Athletics/the Integrity Unit; (ii) an investigation conducted by the Integrity Unit, or (iii) any of the other circumstances in which World Athletics/the Integrity Unit has Results Management responsibility under Rule 7.”*

13. The asserted ADRVs result from the Testing conducted under the Testing Authority of World Athletics.

14. It follows, therefore, that the Athlete is an International-Level Athlete for the purposes of the ADR based on Rule 1.4.4(c) ADR.

## JURISDICTION

15. Rule 1.2 ADR states as follows:

*“1.2.1 In accordance with the World Athletics Constitution, World Athletics has established an Athletics Integrity Unit (“**Integrity Unit**”) whose role is to protect the integrity of Athletics, including fulfilling World Athletics’ obligations as a Signatory to the Code.*

*1.2.2 World Athletics has delegated implementation of these Anti-Doping Rules to the Integrity Unit, including but not limited to the following activities in respect of International-Level Athletes and Athlete Support Personnel: Education, Testing, Investigations, Results Management, Hearings, Sanctions and Appeals. As such, references in these Anti-Doping Rules to the Integrity Unit will, where applicable, be references to the Integrity Unit acting on behalf of World Athletics. For the avoidance of doubt, while the Integrity Unit may act on World Athletics’ behalf, World Athletics will be considered as the party asserting anti-doping rule violations and for the purposes of any actions to be taken within the Results Management process, as the responding party in appeals, and as the party in any other matter under these Anti-Doping Rules where that role would appropriately fall to a Signatory under the Code. [...]”*

16. This matter has been referred to the Disciplinary Tribunal in accordance with Rule 8.5.5 of the ADR.
17. World Athletics has, pursuant to Rule 4.1 of the World Athletics Disciplinary and Appeals Tribunal Rules, determined that the Disciplinary Tribunal shall have a Secretariat which is independent of World Athletics. Sport Resolutions (“SR”) acts as Secretariat to the Disciplinary Tribunal.
18. World Athletics has established a Disciplinary Tribunal in accordance with Rule 1.3 ADR, which provides that the Disciplinary Tribunal shall determine ADRVs committed under the ADR.
19. Rule 8.2(a) ADR sets out that the Disciplinary Tribunal shall have jurisdiction over all matters in which:

*“an anti-doping rule violation or other breach of these Anti-Doping Rules is asserted and/or Consequences or sanctions are sought by the Integrity Unit against an International-Level Athlete or other Person in accordance with these Anti-Doping Rules”*

20. The Disciplinary Tribunal therefore has the requisite jurisdiction to hear and determine this matter. No challenge was made to Mr Raj Parker, sitting as Sole Arbitrator of the Panel.

## **FACTUAL BACKGROUND**

21. On 6 November 2022, the Athlete provided a urine Sample In-Competition at the EDP Porto Marathon held in Porto, Portugal, which was given code 7018661 (the “Sample”) pursuant to Testing conducted by the AIU on behalf of World Athletics.
22. The Sample was analysed by the World Anti-Doping Agency (“WADA”) accredited laboratory in Lisbon, Portugal (the “Laboratory”) and resulted in an Adverse Analytical Finding for the presence of Norandrosterone at an estimated concentration greater than 15 ng/mL.
23. Norandrosterone is a Prohibited Substance under the WADA 2022 Prohibited List under the category S1.1 Anabolic Androgenic Steroids. It is a non-Specified Substance prohibited at all times.
24. The AIU reviewed the Adverse Analytical Finding in accordance with Article 5 of the International Standard for Results Management (“ISRM”) and determined that:
  - a) The Athlete did not have a Therapeutic Use Exemption (“TUE”) for the Norandrosterone found in the Sample; and
  - b) There was no apparent departure from the International Standard for Testing and Investigations (“ISTI”) or from the International Standard for

Laboratories (“ISL”) that could reasonably have caused the Adverse Analytical Finding.

## Procedure

25. On 21 December 2022, in accordance with Article 5.1.2.1 ISRM, the AIU issued the Athlete with a Notice of Allegation of ADRVs imposing a Provisional Suspension (effective immediately) and invited him, *inter alia*, to provide a detailed written explanation for the Adverse Analytical Finding and confirm whether he wanted his B sample analysed at his cost.
26. On 6 January 2023, the Athlete wrote to the AIU in the following terms:

*“To the W.A.D.A and world let me take this opportunity to apologise for my name being in the list. The truth is i personally never involved or used drugs or substances that are prohibited in world of athletic that can boost testosterone, but i have been using orals supplements such as vitamin D supplement, Shilajit and ashwagadha supplement, vitamin B complex supplement, zma, zinc and magnesium supplement since 2021 up to date. So according to my knowledge i don't think if those supplements that i mentioned can increase the level of steroid unless the Doctor tells. but i apologize for what have happened and i request for retest if possible please”*
27. The AIU replied on the same day and asked the Athlete to clarify his position in relation to the B sample analysis.
28. On 10 January 2023, following confirmation from the AIU that there could be no assistance with the costs, the Athlete confirmed that he would not request the B sample analysis.
29. On 16 January 2023, having satisfied itself that the Athlete had committed ADRVs under Rule 2.1 and Rule 2.2 ADR, the AIU issued a Notice of Charge to the Athlete in accordance with Rule 8.5.1 ADR and Article 7.1 ISRM.<sup>1</sup>
30. On 3 February 2023, the Athlete requested a hearing and the matter was referred to the Disciplinary Tribunal.

---

<sup>1</sup> By this letter, the AIU noted that the Athlete had waived his right to the B Sample analysis and therefore was deemed to have accepted the Adverse Analytical Finding

31. On the same day, he requested the assistance of pro-bono counsel.
32. On 9 February 2023, the Secretariat appointed Mr Raj Parker as Chair of the Panel to determine the matter.
33. On 1 March 2023, the Secretariat confirmed that the Athlete would be represented pro-bono by Mr David Baker, Essex Court Chambers, instructed by Mr Alastair Campbell, Level Law. The Panel wishes to record its thanks to Mr Baker and Mr Campbell for representing the Athlete on a pro bono basis, as the Athlete would have otherwise been unable to have legal representation without their services.
34. On 28 March 2023, as per his request, the AIU informed the Athlete that the estimated concentration of Norandrosterone detected in the Sample was approximately 72 ng/mL.
35. On 13 April 2023, a Preliminary Meeting was convened between the Parties before the Chair and Procedural Directions were issued for the determination of this matter on 14 April 2023 (the "Directions").
36. On 9 June 2023, in accordance with the Directions, the Athlete filed his Response to the Charge, which set out his position as follows: he had no choice but to accept the ADRVs, provided that the AIU discharge its burden of proving that there was "*no error in the chain of custody and no laboratory error relating to the Sample*"; he asserted that the Adverse Analytical Finding was caused by a Contaminated Product, in particular, one or more of the nutritional supplements he was using at the time of the Doping Control; and he sought to mitigate the Consequences on the basis that he bears No Significant Fault or Negligence for the ADRVs.
37. The matter was heard remotely via video conference on Wednesday 15 November 2023. The Athlete attended and gave evidence. He was represented



by Mr Baker and Mr Campbell. The AIU was represented by Ms Louise Reilly, Kellerhals Carrard, and Ms Laura Gallo, AIU Case Manager.

38. Post hearing briefs were served on 29 November 2023 pursuant to Directions from the Chair at the conclusion of the hearing.

## SUBMISSIONS OF THE PARTIES

### The AIU

The AIU submitted:

39. Rule 2 ADR specifies the circumstances and conduct that constitute ADRVs. This includes Rule 2.1 ADR, which specifies that the Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample constitutes 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 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.*

*2.1.2 Sufficient proof of an anti-doping rule violation under Rule 2.1 is established by any of the following: (i) the presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analysed; (ii) where the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample; or (iii) where the Athlete's A or B Sample is split into two parts and the analysis of the confirmation part of the split Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the first part of the split Sample or the Athlete waives analysis of the confirmation part of the split Sample.*

*2.1.3 Excepting those substances for which a Decision Limit is specifically identified in the Prohibited List or a Technical Document, the presence of any reported quantity of a Prohibited Substance or its Metabolites or*

*Markers in an Athlete's Sample will constitute an anti-doping rule violation. [...]*"

40. Rule 2.2 ADR also provides that the Use of a Prohibited Substance constitutes an ADRV:

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

*2.2.1 It is each 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.*

*[Comment to Rule 2.2: It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to Rule 3.2, unlike the proof required to establish an anti-doping rule violation under Rule 2.1, Use or Attempted Use may also be established by other reliable means such as admissions by the Athlete, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, including data collected as part of the Athlete Biological Passport, or other analytical information that does not otherwise satisfy all the requirements to establish the presence of a Prohibited Substance under Rule 2.1. For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample alone where the Anti-Doping Organisation provides a satisfactory explanation for the lack of confirmation in the other Sample.]"*

41. Rule 2.1 ADR and Rule 2.2 ADR establish that the Athlete is strictly liable for the Presence of a Prohibited Substance or its Metabolites or Markers in his Sample and the Use of a Prohibited Substance or Prohibited Method. It is not necessary for the AIU to establish the Athlete's intent, Fault, negligence or knowing Use of a Prohibited Substance in the context of Rule 2.1 or Rule 2.2 ADR.
42. The Laboratory issued an Adverse Analytical Finding for the presence of Norandrosterone at an estimated concentration greater than 15 ng/mL<sup>2</sup> in the A Sample. The Athlete waived his right to the B Sample analysis and is therefore deemed to have accepted the results in the A Sample.

---

<sup>2</sup> In accordance with paragraph 4.3 of the WADA Technical Document TD2021NA

43. The AIU has reviewed the Adverse Analytical Finding in accordance with Article 5.1.1 of the ISRM and has determined that no valid TUE exists that would justify the presence of Norandrosterone in the Athlete's Sample. Furthermore, the AIU has not identified any apparent departures from the ISTI or the ISL.
44. It is the Athlete's burden to rebut the presumption that the chain of custody and analysis procedures have been conducted in accordance with the ISL by demonstrating that a departure from the ISL occurred that could reasonably have caused the Adverse Analytical Finding.
45. The Athlete has failed to identify any specific departure from the ISL (or from any other International Standard or other anti-doping rule or policy) or explain how the specific departure could reasonably have caused the Adverse Analytical Finding. Therefore, the presumption that the Laboratory has conducted its procedures in accordance with the ISL remains undisturbed and the Adverse Analytical Finding unchallenged.
46. In circumstances where the Athlete waived his right to the B-Sample analysis, that is automatically sufficient proof of a Rule 2.1 ADR ADRV for the Presence of Norandrosterone, as made clear by Rule 2.1.2 ADR. Furthermore, the presence of Norandrosterone in the Sample also supports the commission of a Rule 2.2 ADR ADRV for the Use of Nandrolone (or a Nandrolone precursor) by the Athlete.
47. Pursuant to the foregoing, the Panel can be comfortably satisfied that the Athlete has committed ADRVs pursuant to Rule 2.1 and Rule 2.2 ADR.
48. As to the penalty, on 23 September 2020, the Athlete was found to have committed a first ADRV following an Adverse Analytical Finding for exogenous Testosterone (and its Metabolites) in relation to a Sample collected In-Competition on 19 March 2017.<sup>3</sup>

---

<sup>3</sup> Sports Disputes Tribunal of Kenya Decision on 23 September 2020

49. Rule 10.9. ADR details the rules applicable in case of multiple ADRVs as follows:

*“10.9.1 Second or third anti-doping rule violation:*

- (a) For an Athlete or other Person’s second anti-doping rule violation, the period of Ineligibility will be the greater of:
  - (i) a six month period of Ineligibility; or*
  - (ii) a period of Ineligibility in the range between:
    - (aa) the sum of the period of Ineligibility imposed for the first anti-doping rule violation plus the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation; and*
    - (bb) twice the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation.***

*The period of Ineligibility within this range will be determined based on the entirety of the circumstances and the Athlete or other Person’s degree of Fault with respect to the second violation.*

[...]

*10.9.3 Additional rules for certain potential multiple violations*

- (a) For purposes of imposing sanctions under Rule 10.9, except as provided in Rules 10.9.3(b) and 10.9.3(c), an anti-doping rule violation will only be considered a second (or third, as applicable) violation if the Integrity Unit can establish that the Athlete or other Person committed the additional anti-doping rule violation after the Athlete or other Person received notice pursuant to Rule 7, or after the Integrity Unit made reasonable efforts to give notice, of the first anti-doping rule violation. If the Integrity Unit cannot establish this, the violations will be considered together as one single first violation, and the sanction imposed will be based on the violation that carries the more severe sanction, including the application of Aggravating Circumstances. Results in all Competitions dating back to the earlier anti-doping rule violation will be Disqualified as provided in Rule 10.10.*

*[Comment to Rule 10.9.3(a): The same rule applies where, after the imposition of a sanction, the Integrity Unit discovers facts involving an antidoping rule violation that occurred prior to notification for a first anti-doping rule violation – e.g., the Integrity Unit will impose a sanction based on the sanction that could have been imposed if the two violations had been adjudicated at the same time, including the application of Aggravating Circumstances.]*

[...]

*10.9.4 Multiple anti-doping rule violations during ten-year period.*

*For purposes of Rule 10.9, each anti-doping rule violation must take place within the same ten-year period in order to be considered multiple violations.”*

50. The Athlete received notice of his first ADRV prior to providing the Sample on 6 November 2022. Furthermore, the first ADRV took place within ten (10) years of the Sample that is the subject of these proceedings.

51. Consequently, the ADRVs arising from the Adverse Analytical Finding shall be considered the Athlete's second ADRV.

52. Rule 10.2 ADR provides the sanction to be imposed for ADRVs under Rule 2.1 and Rule 2.2 ADR as follows:

***“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. [...]*

53. Norandrosterone is a non-Specified Prohibited Substance. The period of Ineligibility shall therefore be eight (8) years pursuant to Rules 10.2.1(a) and 10.9 ADR<sup>4</sup>, unless the Athlete can establish that the ADRVs were not intentional<sup>5</sup>.

54. For that purpose, whereas it is not strictly required under the ADR that the Athlete establish how a prohibited substance entered their body, and although Court of Arbitration for Sport (“CAS”) Panels have left open the theoretical possibility that

---

<sup>4</sup> In this case, the period of Ineligibility imposed for the first ADRV was four (4) years and the period of Ineligibility otherwise applicable to the second ADRV treated as if it were a first violation would be four (4) years. Therefore, in accordance with Rule 10.9 ADR, the appropriate period of Ineligibility for the second ADRV is eight (8) years.

<sup>5</sup> Rule 10.2.3 ADR provides a definition of the term “intentional” in the context of Rule 10.2 ADR: “As used in Rule 10.2, the term ‘intentional’ is meant to identify those Athletes or other Persons who engage in conduct that they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance that is only prohibited In-Competition will be rebuttably presumed to be not ‘intentional’ if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance that is only prohibited In-Competition will not be considered ‘intentional’ if the substance is not a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.”

an athlete might be able to establish an absence of intent without establishing the origin of the Prohibited Substance, it has been made clear that this will only occur in the most exceptional circumstances.

55. In summary, the AIU submits that it is only in the very rarest and exceptional of cases that an athlete will be able to demonstrate that an ADRV was not intentional without clearly establishing the origin of the Prohibited Substance, and even then, the evidence adduced must be concrete, objective, and persuasive, capable of demonstrating a causative link between the source of the Prohibited Substance and the Adverse Analytical Finding.

56. Furthermore, under Rule 10.6.1(b) ADR:

*“Contaminated Products*

*In cases where the Athlete or other Person can establish both No Significant Fault or Negligence for the anti-doping rule violation(s) alleged against them and that the Prohibited Substance (other than a Substance of Abuse) came from a Contaminated Product, then the period of Ineligibility will be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two years Ineligibility, depending on the Athlete’s or other Person’s degree of Fault.*

57. No Significant Fault or Negligence is defined in the ADR 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.”*

58. The comment to Rule 10.6.1(b) ADR states the following:

*“In order to receive the benefit of this Rule, the Athlete or other Person must establish that the detected Prohibited Substance came from a Contaminated Product, and must also separately establish No Significant Fault or Negligence. It should be further noted that Athletes are on notice that they take nutritional supplements at their own risk. The sanction reduction based on No Significant Fault or Negligence has rarely been applied in Contaminated Product cases unless the Athlete has exercised a high level of caution before taking the Contaminated Product. In assessing whether the Athlete can establish the source of the Prohibited Substance, it would, for example, be significant for purposes of establishing whether the Athlete actually Used the*

*Contaminated Product, whether the Athlete had declared the product that was subsequently determined to be contaminated on the Doping Control form. This Rule should not be extended beyond products that have gone through some process of manufacturing. Where an Adverse Analytical Finding results from environment contamination of a 'non-product' such as tap water or lake water in circumstances where no reasonable person would expect any risk of an antidoping rule violation, typically there would be No Fault or Negligence under Rule 10.5."*

59. The Athlete has simply denied that he intentionally doped and asserted that he bears No Significant Fault or Negligence for the ADRVs. He says using several nutritional supplements purchased from a retail store in Nairobi at the time of the Doping Control and that *"[o]ne or other of the Supplements was contaminated such that it was, or they were, the source of the Prohibited Substance"*. The AIU says that does not meet his burden.
60. In accordance with Rule 10.13 ADR, the eight (8) year period of Ineligibility for the Athlete's second ADRV shall start from the date of the decision in this matter with credit for the period of Provisional Suspension served by the Athlete since 21 December 2022 in accordance with Rule 10.13.2(a) ADR.
61. In accordance with Rules 9 and 10.1 ADR, all the Athlete's individual results obtained at the 2022 EDP Porto Marathon shall be Disqualified, with all resulting consequences, including forfeiture of any medals, titles, awards, points and prize and appearance money.
62. In accordance with Rule 10.10 ADR, the Athlete's competitive results obtained since 6 November 2022 (the date the Sample was collected) through to the commencement of the Provisional Suspension on 21 December 2022 shall be Disqualified (unless fairness requires otherwise) with all of the resulting Consequences, including forfeiture of any medals, titles, points, prize money, and prizes.

## **Athlete**

The Athlete submitted:

63. By the Notice of Allegation dated 21 December 2022 (“NOA”), the Athlete was informed of his right “to request a copy of the A Sample laboratory documentation package (and, if applicable, the B Sample laboratory documentation package)”. However, the NOA made clear that the “costs associated with the production of the A Sample and B Sample laboratory documentation packages shall be borne entirely by [the Athlete]”. As the Athlete explains in his witness statement, he did not make enquiries as to the cost of obtaining any laboratory package as, unless the cost had been close to zero, he would not have been able to afford it.
64. As explained in the Initial Response, in the circumstances and in his witness statement, the Athlete has no choice but to accept the ADRVs.
65. The Athlete has by virtue of his lack of means,<sup>6</sup> been deprived of the opportunity to investigate the testing of the Sample as against the ISTI and/or ISL and, if appropriate, challenge such testing.
66. The Athlete was *de facto* forced to waive his right to a B Sample analysis (and therefore was *de facto* forced to accept the results of the A Sample) in light of: (i) the fact that the entire cost burden of the B Sample analysis falls upon the Athlete; (ii) the lack of financial assistance available to the Athlete and (iii) his limited financial means.
67. As explained in his witness statement, the Athlete believed (and believes) that the most likely source of the Norandrosterone in the Sample is contaminated supplements which he had been taking at the time the Sample was collected. The Athlete has made thorough, documented, and diligent attempts to establish the source of the Norandrosterone, without success, save that he has eliminated the possibility of having consumed contaminated pork meat.
68. The Athlete does not have to prove how a Prohibited Substance entered his body to establish a lack of intent.

---

<sup>6</sup> Wangari 1, paras. 9-12



69. CAS Panels have left open the possibility that an athlete might be able to establish an absence of intent without establishing the origin of the Prohibited Substance.
70. The Athlete accepts that, in circumstances where he cannot prove the source of the Prohibited Substance, *“it leaves the narrowest of corridors through which [he] must pass to discharge the burden which lies upon him”* (CAS 2016/A/4534 *Villanueva v Fina*). However, *“narrow”* does not mean *“impassable”*.
71. In CAS 2019/A/ 6313 *Jarrion Lawson v IAAF (“Lawson”)*, a CAS Panel found that American athlete Jarrion Lawson had committed an ADRV but accepted that he had not intentionally committed that violation on the basis that it was reasonably plausible that the Prohibited Substance (Trenbolone) found in his urine resulted from the consumption of contaminated beef. The CAS Panel agreed with Lawson’s argument that he *“need not be required to present the perfect case”* and that the corridor must be *“wide enough to allow unintentionally doped athletes an opportunity to exculpate themselves by means of relevant and convincing evidence”*<sup>7</sup>.
72. In doing so the CAS Panel cited *“renowned experts in the field of anti-doping”* to the effect that: *“The 2015 Code does not explicitly require an Athlete to show the origin of the substance to establish that the violation was not intentional. While the origin of the substance can be expected to represent an important, or even critical, element of the factual basis of the consideration of an Athlete’s level of Fault, in the context of Article 10.2.3, panels are offered flexibility to examine all the objective and subjective circumstances of the case and decide if a finding that the violation was not intentional.”*<sup>8</sup>

---

<sup>7</sup> Lawson, paras. 73 and 75.

<sup>8</sup> Antonio Rigozzi and Ulrich Haas “Breaking Down the Process for Determining a Basic Sanction Under the 2015 World Anti-Doping Code” *International Sports Law Journal*, (2015) 15:3-48 – cited at Lawson, para. 76

73. The CAS Panel rejected the argument that Lawson had to provide “*actual evidence*” or establish the “*concrete origin*” of the Prohibited Substance where it was “effectively impossible” to do so.<sup>9</sup>
74. To argue that the Athlete must adduce evidence and that such evidence must be “*concrete, objective, and persuasive evidence capable of demonstrating a causative link between the source of the prohibited substance and the adverse analytical finding*” is misguided.
75. The CAS Panel in Lawson held it was “*appropriate and indeed necessary in the circumstances [i.e. because of the effective impossibility] to take to broaden the enquiry and to take a different approach than that followed by the Disciplinary Tribunal [which focused on a need to establish actual evidence]*”.<sup>10</sup>
76. The CAS Panel summed up the task it set itself, and the relevant touchstone for the present case, thus: “*examining [the] strict liability principle on balance against the Athlete’s thorough, documented and diligent attempts to establish the source of the prohibited substance present in his sample*”.<sup>11</sup>
77. The CAS Panel went on to conclude that the *Lawson* case was a case in which impossibility of proving scientifically the source of the Prohibited Substance did not debar the athlete from establishing his innocent lack of intent.<sup>12</sup>
78. In *Canadian Centre for Ethics in Sport (CCES) v Dominika Jamnicky*,<sup>13</sup> the athlete, who had tested positive for Clostebol, argued that the substance entered into her system through eating meat, either in Australia or in Canada. The first instance tribunal found that the athlete had committed the ADRV of Presence and imposed a reprimand. CCES appealed to CAS against the sanction, and the athlete cross-appealed against the finding of the ADRV.

---

<sup>9</sup> Lawson, para. 79 and para. 85.

<sup>10</sup> Lawson, para. 78.

<sup>11</sup> Lawson, para. 70.

<sup>12</sup> Lawson, paras. 90-91.

<sup>13</sup> *Canadian Centre for Ethics in Sport (CCES) v Dominika Jamnicky; Dominika Jamnicky v CCES – CAS 2019/A/6443 and CAS 2019/A/6593*

79. The Appeal Panel was comfortably satisfied that the ADRV of Presence was made out. The CCES accepted that the ADRV was not intentional. The main issue was that of the appropriate sanction, which turned on whether the athlete could establish “No Fault or Negligence” or “No Significant Fault or Negligence”, which issue first required consideration of the question of how the substance had entered the athlete’s system.<sup>14</sup>
80. After considering a range of possibilities, the Appeal Panel was satisfied on the evidence before it that the consumption of meat “[...] *is the only reasonably possible and credible explanation for the athlete’s AAF and is more likely than not to have occurred*”.<sup>15</sup> As a result, the athlete had established, on the balance of probabilities that the Clostebol had entered her system through the consumption of meat containing the substance. Further, the Appeal Panel specifically rejected CCES’ submission that to establish the proposition, the athlete was required to identify the specific piece of contaminated meat.<sup>16</sup> The Appeal Panel’s conclusion was thus:

*“At first and in isolation, the mere suggestion that the Athlete’s AAF was the result of the consumption in Australia or Canada of meat illegally treated with clostebol may appear speculative. However, in the final weighing of all of the evidence ... the [possibility of having the athlete ingesting contaminated meat] became a reasonable inference to explore in the absence of evidence of any other reasonable explanation as to how clostebol entered the Athlete’s system. Having more closely examined the entirety of the evidence in respect of the [possibility of the athlete ingesting contaminated meat] as summarized above, and when combined with other inferences made, the Panel is unanimously of the view that [such possibility] is the only reasonably possible and credible explanation for the Athlete’s AAF and is more likely than not to have occurred. The Panel finds that the Athlete has established on a balance of probability how clostebol entered her system.”<sup>17</sup>*

81. In summary, the athlete had not, and was not required to, present “*actual evidence*” or establish the “*concrete origin*” of the Clostebol.

---

<sup>14</sup> The relevant rules, Rules 10.4 and 10.5 of the CADP, required (like Rules 10.4 and 10.5 of the Rules) that, for a finding of “No Fault or Negligence” or “No Significant Fault or Negligence” the athlete “establish how the Prohibited Substance entered his or her system”.

<sup>15</sup> Jamnicky, para. 183.

<sup>16</sup> Jamnicky, para. 96.

<sup>17</sup> Jamnicky, paras. 182-183

82. In this case it is “*effectively impossible*” for the Athlete to present any further evidence in support of his argument that the presence of Norandrosterone in his Sample resulted from the ingestion of contaminated supplements. In such circumstances, the Athlete ought not to be required to present “actual evidence” or establish the “*concrete origin*” of the Norandrosterone in his Sample.
83. The Panel ought to be satisfied that, considering the “*effective impossib[ility]*” of the Athlete proving the source of the Norandrosterone, and the circumstances, the Athlete’s ADRV was not intentional.
84. If the Panel accepts as much, it ought to be common ground that the period of Ineligibility imposed upon the Athlete ought to be in the range between 4 (four) and 6 (six) years.<sup>18</sup>
85. In such circumstances, and considering the totality of matters, including the Athlete’s degree of Fault (and the Athlete’s evidence regarding his anti-doping education),<sup>19</sup> the Panel ought to impose a period of Ineligibility of four (4) years (pursuant to Rule 10.9.1(a)(ii)(bb)). In particular, the Panel will have necessarily concluded that the Athlete did not intentionally commit the ADRV.

## LEGAL FRAMEWORK & ANALYSIS

### Burden and Standard of Proof

86. Rule 3.1 ADR provides that World Athletics shall have the burden of establishing that an ADRV has been committed to the comfortable satisfaction of the Panel:

***“Burden 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 anti-doping rule violation to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation that has been*

---

<sup>18</sup> Rule 10.2.1, Rule 10.2.2, Rule 10.9.1(a)

<sup>19</sup> Wangari-1, para. 30.

*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.”*

87. Rule 3.2 ADR states that facts relating to ADRVs may be established by any reliable means.
88. In that regard, Rule 3.2.3 ADR also states that WADA-accredited laboratories and other laboratories approved by WADA are presumed to have conducted Sample analysis and custodial procedures in accordance with the ISL unless the Athlete rebuts this presumption by demonstrating, on the balance of probabilities, that a departure from the ISL occurred and could reasonably have caused the Adverse Analytical Finding.
89. Rule 3.2.4 ADR goes on to state that a departure from any other International Standard or other anti-doping rule or policy set forth in the World Anti-Doping Code or in the ADR will not invalidate analytical results or other evidence of an ADRV: provided, however, that if the Athlete demonstrates a departure from one of the specific International Standard provisions identified in Rule 3.2.4 ADR that could reasonably have caused an ADRV based on an Adverse Analytical Finding, then the burden shifts to the AIU to establish that such departure did not cause the Adverse Analytical Finding.

**The test for the Athlete to establish the ADRV was not intentional**

90. The Parties are agreed that because Norandrosterone is a non-specified Prohibited Substance, the period of Ineligibility is eight (8) years unless the Athlete can establish that the ADRVs were not intentional.
91. This, according to the relevant case law where proof of likely origin is not established, is difficult for an athlete to establish.

92. For example, in *CAS 2016/A/4534 Villanueva v. FINA*, the CAS Panel referred to the “*narrowest of corridors through which such athlete must pass to discharge the burden that lies upon him*”.<sup>20</sup>
93. In addition, in *CAS 2016/A/4919 WADA v. WSF & Iqbal*, the CAS Panel held that:
- “in all but the rarest cases the issue is academic” (para 66) and more recently in CAS 2021/O/7977 World Athletics v. Shelby Houlihan the CAS Panel confirmed “that it is – in practice – very difficult to rebut the presumption of intent without showing how the prohibited substance entered the Athlete’s system.”*<sup>21</sup>
94. The Disciplinary Tribunal also found in *World Athletics v. Marina Arzamasova* that “*it is indeed difficult to establish a non-intentional ADRV if the Athlete fails to establish the origin of the substance.*”<sup>22</sup>
95. Disciplinary and appellate tribunals have held that to successfully demonstrate that the ADRVs were not intentional, the Athlete must provide actual evidence<sup>23</sup> that is cogent and sufficient to satisfy the Tribunal to the requisite standard<sup>24</sup> .
96. The clear theme is that evidence establishing that a scenario is merely possible is not enough. The CAS Panel in *CAS OG 16/25 WADA v. Yadav & NADA* “*found the sabotage(s) theory possible, but not probable and certainly not grounded in real evidence*”.<sup>25</sup>
97. The CAS Panel found that “*the nature and quality of the defensive evidence put forward by the athlete, in light of all the facts established, must be such that it leaves the tribunal actually satisfied (albeit not comfortably so) that the athlete’s defence is more likely than not [to be] true*”.<sup>26</sup>

---

<sup>20</sup> CAS 2016/A/4534 Villanueva v. FINA, para. 37

<sup>21</sup> CAS 2016/A/4919 WADA v. WSF & Iqbal, para. 91

<sup>22</sup> World Athletics v. Marina Arzamasova, para. 64

<sup>23</sup> This was supported by the CAS Panel in the case of *CAS 2014/A/3820 WADA v Damar Robinson & JADCO* case, which concluded: “*In order to establish the origin of a Prohibited Substance by the required balance of probability, an athlete must provide actual evidence as opposed to mere speculation*”

<sup>24</sup> The Panel in *World Athletics v. Marina Arzamasova* confirmed that protestations of innocence and speculation are insufficient, and that evidence must be adduced that is concrete and persuasive (para 63).

<sup>25</sup> CAS OG 16/25 WADA v. Yadav & NADA, para. 7.27

<sup>26</sup> CAS OG 16/25 WADA v. Yadav & NADA, para. 58

98. The CAS case law set out above was also reflected in the comment to Article 10.2.1.1 in the 2021 World Anti-Doping Code:

*[58 Comment to Article 10.2.1.1: While it is theoretically possible for an Athlete or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one's system, it is highly unlikely that in a doping case under Article 2.1 an Athlete will be successful in proving that the Athlete acted unintentionally without establishing the source of the Prohibited Substance.]*

99. The consistent approach is that where an athlete is unable to establish origin, the test will only be met in exceptional cases where there is “*concrete and persuasive evidence*”<sup>27</sup> or “*specific, objective and persuasive evidence*”<sup>28</sup> to demonstrate on a balance of probabilities that the athlete acted unintentionally.

## **Determination**

100. The Athlete accepts the ADRV's. The Lisbon Laboratory which carried out the analysis is accredited by WADA. The Athlete was provided with information and documentation required by the ISRM, including the chain of custody form on request. The Athlete has not identified any specific departure from the ISL (or from any other International Standard or other anti-doping rule or policy) or explained how the specific departure could reasonably have caused the Adverse Analytical Finding. Therefore, the presumption that the Laboratory has conducted its procedures in accordance with the ISL remains undisturbed and the Adverse Analytical Finding unchallenged.
101. As to the Athlete's intent, the Panel has carefully considered the evidence given by the Athlete himself and that of the scientific expert in this case, Professor Martial Saugy.
102. The Panel has concluded that the Athlete has not shown on the balance of probabilities that the ADRV was committed unintentionally and therefore the

---

<sup>27</sup> CAS 2020/A/6978 & 7068 WADA v. FIM & Iannone (para. 134)

<sup>28</sup> CAS 2017/A/5016 & 5036 Abdelrahman v. WADA & EgyNADO, para. 125

mandatory eight (8) year period of Ineligibility must apply pursuant to Rule 10.9.1 ADR. The reasons for that conclusion are as follows.

103. The Panel rejects the Athlete's argument that in light of the "*effective impossibility*" (due to lack of means) of proving the supplements theory is correct, he does not have to do so on the balance of probabilities, but merely has to show that it is a reasonable plausible explanation.
104. The Panel also rejects his argument that, having ruled out the possibility of contaminated meat products, and in the light of the expert evidence, he has discharged his burden. The Panel does not accept that this is the case.
105. As to the *Jamnicky* and *Lawson* cases relied on by the Athlete, the facts in the present case are very different.
106. In the present case, the AIU contends that the evidence shows the ADRV was intentional. In addition, the supplement theory is not the only plausible explanation for the ADRV.
107. By contrast in *Jamnicky*, the CCES accepted that the ADRV was not intentional, and the Panel was satisfied "*having examined the entirety of the evidence*" that meat contamination was "*the only reasonably possible and credible explanation for the Athlete's AAF and is more likely than not to have occurred*"<sup>29</sup>
108. In *Lawson*, the Athlete had adduced extensive evidence, a "*tiny*" amount of substance was found in his body, and the CAS Panel was satisfied he presented a "*rare set of facts*". Moreover, the CAS Panel accepted the athlete's explanation that the source of the Prohibited Substance was meat.

---

<sup>29</sup> *Jamnicky*, para. 182



109. In this case the Athlete has had a previous doping conviction and has not given a convincing explanation to show on a balance of probabilities that he did not intentionally dope.
110. The Athlete's reliance on his alleged lack of anti-doping education is unconvincing. Each athlete has a personal duty to know the Rules and is responsible for what enters their body, irrespective of the extent of their anti-doping education.<sup>30</sup> The Athlete is an International-Level Athlete, and he has been tested at least eight times, including four times since September 2021. Furthermore, it is the Athlete's second ADRV.
111. Moreover, there is no evidence in this case which supports the contamination theory aside from the Athlete's own evidence. Making the assumption that had the Athlete sufficient resources, he would have been able to support the contamination theory is speculative at best.
112. Furthermore, the evidence of Professor Saugy, based on the science and his expertise, is that the contamination theory was very unlikely.
113. The Athlete argued that Professor Saugy stated his conclusions "*too high*" and that the scientific evidence upon which he relied showed that the supplements theory was plausible. The Panel disagrees.
114. Professor Saugy is the former Director of Research & Expertise in Anti-Doping Sciences (REDS) and former Director of the WADA accredited Laboratory in Lausanne, Switzerland.
115. He gave specific evidence in his report<sup>31</sup> concerning (*inter alia*): the science relating to the Sample itself, noting an approximate concentration of 19-

---

<sup>30</sup> ADR Rule 1.5.1(a) and (b), where respectively athletes must "be knowledgeable of and comply with these Anti-Doping Rules at all times" and "know what constitutes an anti-doping rule violation and the substances and methods that have been included on the Prohibited List."

<sup>31</sup> Dated 17 August 2023

Norandrosterone of 72ng/ml; the supplements identified by the Athlete, Carbonex and Ginsomin, taken on the day of the doping control; and the supplements taken around the relevant time (but not on the day of the race itself), namely: Vitamin D supplements, Vitamin C supplements, Ashwaganda, Shilajeet, and a zinc, magnesium and Vitamin B complex (known as ZMA).

116. In his evidence he confirmed that the concentration of Norandrosterone found in the Athlete's Sample is fully consistent with the administration of a Nandrolone injection. The Panel accepts his expert opinion and finds that this is a plausible source of the Prohibited Substance found in the Sample.
117. He identified that the major factors leading to his conclusion were: (i) the two supplements identified by the Athlete on his DCF (Carbonex and Ginsomin) were from companies which do not produce Prohibited Substances, and (ii) even if the contamination scenario was theoretically possible (and it is always difficult for science to exclude any theoretical scenario definitively), he has never before experienced that such a high level of concentration in urine (72 ng/ml of 19-NA) was caused by a contaminated supplement.
118. Professor Saugy's opinion was that given the circumstances of this case, the likelihood of contamination being the source of the Athlete's Adverse Analytical Finding was "*extremely low*". Such a concentration would not be likely had the Athlete taken contaminated products.
119. He did accept in cross-examination that contamination with a Nandrolone precursor was possible (especially back in the early 2000's). However, that phenomenon is no longer observed as contamination nowadays is with different, more effective steroids.
120. The Panel accepts that the Athlete does not have to positively establish the source of the ADRV. However, there must be some good evidence adduced to discharge his burden that it is more likely than not that he did not intentionally dope.

121. In this case the Athlete has provided no good evidence of the likely “*innocent source*” of the Prohibited Substance. The contamination theory amounts to mere speculation. There is no evidence that the supplements he ingested were contaminated, nor that any of the manufacturers produced products which contained Prohibited Substances. The supplements the Athlete says he took were a mixture of vitamins, minerals and herbal remedies. The supplements theory on the evidence in this case is not even reasonably plausible, let alone more likely than not.
122. The Panel has sympathy with the Athlete’s argument concerning his inability to pay for the necessary efforts to try to establish the contamination theory, which might be available to a wealthier Athlete. However, to make an assumption that had he sufficient resource he would have been able to support the contamination theory is mere speculation.
123. The Panel does not accept that the Athlete’s limited financial means can operate to excuse or justify the lack of evidence to show the ADRV was unintentional, or to lower the Athlete’s standard of proof.

#### **APPLICABLE PENALTY**

124. The ADRV’s are proven to the comfortable satisfaction of the Panel.
125. The Athlete received notice of his first ADRV prior to providing the Sample on 6 November 2022. Furthermore, the first ADRV took place within ten (10) years of the Sample that is the subject of these proceedings.
126. Consequently, the ADRVs arising from the Adverse Analytical Finding is to be considered the Athlete’s second ADRV.

127. Norandrosterone is a non-Specified Prohibited Substance. The period of Ineligibility shall therefore be eight (8) years pursuant to Rules 10.2.1(a) and 10.9 ADR.
128. In accordance with Rule 10.13 ADR, the eight (8) year period of Ineligibility for the Athlete's second ADRVs shall start from the date of the decision in this matter with credit for the period of Provisional Suspension served by the Athlete since 21 December 2022 in accordance with Rule 10.13.2(a) ADR.
129. In accordance with Rules 9 and 10.1 ADR, all the Athlete's individual results obtained at the 2022 EDP Porto Marathon shall be Disqualified, with all resulting consequences, including forfeiture of any medals, titles, awards, points and prize and appearance money.
130. In accordance with Rule 10.10 ADR, the Athlete's competitive results obtained since 6 November 2022 (the date the Sample was collected) through to the commencement of the Provisional Suspension on 21 December 2022 shall be disqualified (unless fairness requires otherwise) with all of the resulting Consequences, including forfeiture of any medals, titles, points, prize money, and prizes.

## **COSTS**

131. The AIU has asked for its costs. The Panel has decided that in all the circumstances and having particular regard to the evidence of the Athlete's means, each Party will bear its own costs.

## RIGHT OF APPEAL

1. 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, in accordance with Rule 13 ADR.
2. In accordance with Rule 13.6 ADR, the deadline for filing an appeal with CAS is 30 days from receipt of this decision.



*Raj Parker*

**Raj Parker**  
Sole Arbitrator

London, UK

7 December 2023

1 Paternoster Lane, St Paul's London EC4M 7BQ [resolve@sportresolutions.com](mailto:resolve@sportresolutions.com) 020 7036 1966

Company no: 03351039 Limited by guarantee in England and Wales  
Sport Resolutions is the trading name of Sports Dispute Resolution Panel Limited

[www.sportresolutions.com](http://www.sportresolutions.com)



ENABLING FAIR PLAY