

DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MR KENNEDY CHEBOROR

INTRODUCTION

1. World Athletics has established the Athletics Integrity Unit ("**AIU**") whose role is to protect the integrity of the sport of Athletics, including fulfilling World Athletics' obligations as a Signatory to the World Anti-Doping Code ("the "**Code**"). World Athletics has delegated implementation of the World Athletics Anti-Doping Rules ("**ADR**") to the AIU, including but not limited to the following activities in relation to International-Level Athletes: Testing, Investigations, Results Management, Hearings, Sanctions and Appeals.
2. Mr Kennedy Cheboror ("the **Athlete**") is a 33-year-old long-distance runner from Kenya.¹
3. This decision is issued by the AIU pursuant to Rule 8.5.6 ADR, which provides as follows:

"8.5.6 In the event that the Athlete or other Person either (i) admits the violation and accepts the proposed Consequences or (ii) is deemed to have admitted the violation and accepted the Consequences as per Rule 8.5.2(f), the Integrity Unit will promptly:

- (a) *issue a decision confirming the commission of the violation(s) and the imposition of the specified Consequences (including, if applicable, a justification for why the maximum potential sanction was not imposed);*
- (b) *Publicly Report that decision in accordance with Rule 14;*
- (c) *send a copy of the decision to the Athlete or other Person and to any other party that has a right, further to Rule 13, to appeal the decision (and any such party may, within 15 days of receipt, request a copy of the full case file pertaining to the decision)."*

WHEREABOUTS FAILURES

4. Rule 2.4 ADR sets out that the following shall constitute an Anti-Doping Rule Violation:

"2.4 Whereabouts Failures by an Athlete in a Registered Testing Pool

Any combination of three missed tests and/or filing failures, as defined in the International Standard for Results Management, within a 12-month period by an Athlete in a Registered Testing Pool."

5. A Missed Test and a Filing Failure are defined in the International Standard for Results Management ("**ISRM**") respectively as follows:

*"**Missed Test:** A failure by the Athlete to be available for Testing at the location and time specified in the 60-minute time slot identified in their Whereabouts Filing for the day in question, in accordance with Article 4.8 of the International*

¹ <https://worldathletics.org/athletes/kenya/kennedy-cheboror-14742808>

Standard for Testing and Investigations and Annex B.2 of the International Standard for Results Management.

***Filing Failure:** A failure by the Athlete (or by a third party to whom the Athlete has delegated the task) to make an accurate and complete Whereabouts Filing that enables the Athlete to be located for Testing at the times and locations set out in the Whereabouts Filing or to update that Whereabouts Filing where necessary to ensure that it remains accurate and complete, all in accordance with Article 4.8 of the International Standard for Testing and Investigations and Annex B.2 of the International Standard for Results Management.”*

6. In short, an athlete violates Rule 2.4 of the ADR where he or she has any combination of three Missed Tests and/or Filing Failures within any twelve-month period, that period beginning on the day of the first relevant Missed Test/Filing Failure.

THE ATHLETES COMMISSION OF AN ANTI-DOPING RULE VIOLATION

7. In this instance, the Athlete has had three Whereabouts Failures in the twelve-month period beginning on 6 November 2023, specifically:

- (i) a Missed Test and/or a Filing Failure on 6 November 2023;
- (ii) a Missed Test and/or a Filing Failure on 28 November 2023; and
- (iii) a Missed Test and/or a Filing Failure on 27 December 2023.

1. First Whereabouts Failure - Missed Test/Filing Failure on 6 November 2023

8. The Athlete’s Whereabouts information stated that he would be at an address in Kapsabet, Kenya on 6 November 2023 during his specified 60-minute time slot between 19:00-20:00 (the “Camp Address”).
9. In summary, a Doping Control Officer (“DCO”) and a Doping Control Assistant (“DCA”) arrived at the Camp Address on 6 November 2023 at 19:00. The DCO and the DCA met a man who informed them that the Athlete was in his off-season at his home (and consequently not at the Camp Address where he resided during the training season). The man called the Athlete and informed the DCO and the DCA that the Athlete had said that he was in Eldoret and would not be able to make it to the Camp Address within the 60-minute time slot.
10. Therefore, on 9 November 2023, the AIU wrote to the Athlete requesting his explanation for an apparent Missed Test/Filing Failure which occurred on 6 November 2023 by no later than 23 November 2023.
11. No explanation was received by 23 November 2023 (or at all).
12. On 30 November 2023, the AIU therefore wrote to the Athlete and confirmed the Whereabouts Failure on 6 November 2023 against him. The Athlete was afforded the right to request an administrative review of that decision by no later than 14 December 2023 and advised that, if he failed to do so, the Whereabouts Failure would be considered as a Whereabouts Failure for the purpose of Rule 2.4 ADR.

13. No request for an administrative review was received by 14 December 2023.
14. Therefore, the AIU recorded a Whereabouts Failure² against the Athlete effective 6 November 2023.

II. Second Whereabouts Failure - Missed Test/Filing Failure on 28 November 2023

15. The Athlete's Whereabouts information stated that he would be at the Camp Address on 28 November 2023 during his specified 60-minute timeslot between 19:00-20:00.
16. In summary, a DCO and a DCA arrived at the Camp Address on 28 November 2023 at 19:00 and met several athletes, one of whom informed the DCO and the DCA that the Athlete had changed management and consequently no longer stayed at the camp. That athlete called the Athlete by phone and the Athlete informed them that he was of the understanding that his Whereabouts information had been updated to where he was located at that time (in Eldoret).
17. Therefore, on 7 December 2023, the AIU wrote to the Athlete requesting his explanation for an apparent Missed Test/Filing Failure which occurred on 28 November 2023 by no later than 21 December 2023.
18. On 18 December 2023, an explanation was submitted to the AIU on the Athlete's behalf by his representative at the time. In summary, the Athlete's representative explained that the Athlete had not informed those persons responsible for filing updates to his Whereabouts information that he had moved out of the camp and that there had been no updates to the Athlete's Whereabouts information accordingly.
19. On 9 January 2024, the AIU therefore wrote to the Athlete and confirmed the Whereabouts Failure on 28 November 2023 against him. The Athlete was afforded the right to request an administrative review of that decision by no later than 23 January 2024 and advised that, if he failed to do so, the Whereabouts Failure would be considered as his second Whereabouts Failure for the purpose of Rule 2.4 ADR.
20. No request for an administrative review was received by 23 January 2024.
21. Therefore, the AIU recorded a Whereabouts Failure³ against the Athlete effective 28 November 2023.

III. Third Whereabouts Failure - Missed Test/Filing Failure on 27 December 2023

22. The Athlete's Whereabouts information stated that he would be at an address in Eldoret on 27 December 2023 during his specified 60-minute timeslot between 19:00-20:00 ("the Eldoret Address").

² This Whereabouts Failure was confirmed as both a Missed Test and a Filing Failure.

³ This Whereabouts Failure was confirmed as both a Missed Test and a Filing Failure.

23. In summary, a DCO and a DCA arrived in the vicinity of the Eldoret Address on 27 December 2023 at 18:50. The DCO and the DCA searched the area for the full 60 minutes of the Athlete's specified timeslot by following the additional instructions submitted in the Athlete's Whereabouts Filing. However, the DCO and the DCA were unable to find the correct gate and house and therefore were not able to locate the Athlete for Testing during the specified 60-minute time slot. The DCO and the DCA therefore concluded their attempt.
24. On 16 January 2024, the AIU wrote to the Athlete requesting his explanation for an apparent Whereabouts Failure which occurred on 27 December 2023 by no later than 30 January 2024.
25. On 30 January 2024, an explanation was submitted to the AIU by the Athlete's then representative. In summary, the Athlete's representative informed the AIU that the Athlete had informed them that he had gone home for Christmas and had forgotten to inform the representative about changing his Whereabouts information.
26. On 2 February 2024, the Athlete submitted a further explanation to the AIU in which the Athlete confirmed that he had gone home for Christmas and had failed to return to the Eldoret Address in time.
27. On 9 February 2024, the AIU therefore wrote to the Athlete and confirmed the Whereabouts Failure on 27 December 2023 against him. The Athlete was afforded the right to request an administrative review of that decision by no later than 23 February 2024 and advised that, if he failed to do so, the Whereabouts Failure would be considered as his third Whereabouts Failure for the purpose of Rule 2.4 ADR.
28. No request for an administrative review was received by 23 February 2024.
29. Therefore, the AIU recorded a Whereabouts Failure⁴ against the Athlete effective 27 December 2023.

DISCIPLINARY PROCEEDINGS

30. On 4 March 2024, the AIU issued a Notice of Allegation to the Athlete for a violation of Rule 2.4 ADR, including the imposition of a Provisional Suspension, and specified that the AIU would seek Consequences including a period of Ineligibility of two (2) years and disqualification of the Athlete's results since 27 December 2023 with all resulting consequences. The Athlete was invited to respond to the Notice of Allegation confirming how he wished to proceed by no later than 12 March 2024.
31. On 6 March 2024, the AIU received a response to the Notice of Allegation submitted on the Athlete's behalf by the Athlete's new representative.
32. In summary, the response did not challenge the first or the third Whereabouts Failures. However, in relation to the second Whereabouts Failure on 28 November 2023, it was claimed on the Athlete's behalf that he had asked his representative at that time to change his Whereabouts information from the Camp Address to his new address in Eldoret after he had

⁴ This Whereabouts Failure was confirmed as both a Missed Test and a Filing Failure.

received the notice of a Whereabouts Failure on 6 November 2023 from the AIU on 9 November 2023, but that they had failed to do so.

33. It was alleged that the second Whereabouts Failure (on 28 November 2023) should therefore not be recorded against the Athlete because he was “*where he was supposed to be according to the instructions he gave to his management*”.
34. It was also claimed that the Whereabouts Failure on 28 November 2023 “*is the responsibility/mistake of his management and he couldn't be aware that they forgot to update his whereabouts*”.
35. Following a review of the Athlete's response to the Notice of Allegation, the AIU remained satisfied that the Athlete had committed an Anti-Doping Rule Violation as set out in Rule 2.4 of the Rules and, on 20 March 2024, the AIU therefore issued a Notice of Charge to the Athlete in accordance with Rule 8.5.1 and Article 7.1 ISRM.
36. On 3 April 2024, the AIU received via the Athlete's representative an Admission of Anti-Doping Rule Violation and Acceptance of Consequences Form signed by the Athlete confirming that the Athlete admitted that he had committed an Anti-Doping Rule Violation and accepted the specified Consequences.

CONSEQUENCES

37. This is the Athlete's first Anti-Doping Rule Violation.
38. On the basis that the Athlete has admitted the Anti-Doping Rule Violation under Rule 2.4 ADR, the AIU confirms by this decision the following Consequences for a first Anti-Doping Rule Violation:
 - 38.1. a period of ineligibility of two (2) years commencing on the date of this decision, but with credit for the period of Provisional Suspension served since 4 March 2024 (i.e., until 3 March 2026); and
 - 38.2. disqualification of the Athlete's results since 27 December 2023, with all resulting Consequences, including the forfeiture of any medals, titles, points, prize money and prizes.
39. The Athlete has accepted the above Consequences for her Anti-Doping Rule Violation and has expressly waived his right to have those Consequences determined by the Disciplinary Tribunal at a hearing.

PUBLICATION

40. In accordance with Rule 8.5.6(b) ADR, the AIU shall publicly report this decision on the AIU's website.

RIGHTS OF APPEAL

41. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.

42. Further to Rule 13.2.3 ADR, WADA and the Anti-Doping Agency of Kenya (“ADAK”) have a right of appeal against this decision to the Court of Arbitration for Sport in Lausanne, Switzerland, in accordance with the procedure set out at Rule 13.6.1 ADR.
43. If an appeal is filed against this decision by WADA or ADAK, the Athlete will be entitled to exercise his right of cross-appeal in accordance with Rule 13.2.4 ADR.

Monaco, 4 April 2024