DECISION OF THE ATHLETICS INTEGRITY UNIT

IN THE CASE OF MR BRALON TAPLIN

Introduction

1. In April 2017, World Athletics (formerly the IAAF) 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 Bralon Taplin is a 28-year-old Grenadian sprinter and an International-Level Athlete for the purposes of the ADR (the "**Athlete**").

3. This decision is issued by the AIU pursuant to Article 8.4.7 ADR, which provides as follows.

> *"8.4.7 [i]n the event that […] the Athlete or Athlete Support Person admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by the Integrity Unit (or is deemed to have done so), a hearing before the Disciplinary Tribunal shall not be required. In such a case, the Integrity Unit […] shall promptly issue a decision confirming […] the commission of the Anti-Doping Rule Violation(s) and the imposition of the Specified Consequences […]."*

The Athlete's First Anti-Doping Rule Violation

4. This decision constitutes the Athlete's second Anti-Doping Rule Violation. On 8 November 2019, the AIU was advised by the Caribbean Regional Anti-Doping Organisation ("**Caribbean RADO**") that an Anti-Doping Panel constituted by the Caribbean RADO ("**the Anti-Doping Panel**") had confirmed an Anti-Doping Rule Violation against the Athlete pursuant to Article 2.3 of the Caribbean RADO Anti-Doping Rules, namely for evading sample collection in Grenada on 13 April 2019.[1] The Anti-Doping Panel imposed a period of Ineligibility of four (4) years on the Athlete for a first Anti-Doping Rule Violation, from 29 September 2019 until midnight on 29 September 2023.

5. On 5 December 2019, the World Anti-Doping Agency ("**WADA**") advised the AIU that the Athlete had filed an appeal against the decision of the Anti-Doping Panel to confirm an Anti-Doping Rule Violation against him pursuant to Article 2.3 of the Caribbean RADO Anti-Doping Rules with the Court of Arbitration for Sport ("**CAS**").

6. On 18 May 2020, the Caribbean RADO confirmed that the CAS had dismissed the Athlete's appeal against the decision of the Anti-Doping Panel and upheld the original decision that he had committed an Anti-Doping Rule Violation of evading sample collection.[2]

[1] Decision of the Anti-Doping Panel dated 7 November 2019.

[2] CAS 2019/A/6612 ***Bralon Taplin v. Caribbean Regional Anti-Doping Organization*** award dated 18 May 2020.

Whereabouts Failures

7. Article 2.4 ADR provides that the following shall constitute an Anti-Doping Rule Violation:

> ***"2.4 Whereabouts Failures***
>
> *Any combination of three Missed Tests and/or Filing Failures, as defined in the International Standard for Testing and Investigations, within a twelve-month period by an Athlete in a Registered Testing Pool."*

8. A Missed Test and a Filing Failure are defined in the World Athletics Anti-Doping Regulations (the "**Regulations**") 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 his Whereabouts Filing for the day in question, in accordance with these Anti-Doping Regulations.*
>
> *"Filing Failure: A failure by an Athlete (or by a third party to whom the Athlete has delegated such a task in accordance with paragraph 3.7 of Appendix A) 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 these Anti-Doping Regulations"*

9. In short, an athlete violates Article 2.4 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 Athlete's Second Anti-Doping Rule Violation

10. The Athlete has committed a second Anti-Doping Rule Violation under the ADR by virtue of having had three Missed Tests in the twelve-month period beginning on 21 April 2019, specifically:

    i. A Missed Test on 21 April 2019;

    ii. A Missed Test on 28 August 2019; and

    iii. A Missed Test on 25 November 2019.

I. First Whereabouts Failure – Missed Test on 21 April 2019

11. On 7 May 2019, the AIU wrote to the Athlete requesting his explanation for an apparent Missed Test which occurred on 21 April 2019. The Athlete's Whereabouts information stated that Athlete would be available for Testing at his home address in Bryan, Texas, USA between 07:00 and 08:00 on 21 April 2019.

12. In summary, the Doping Control Officer ("**DCO**") arrived at the specified address on 21 April 2019 and attempted to locate the Athlete for Testing. In the absence of a doorbell at the Athlete's address, the DCO knocked on the Athlete's front door at 07:00 and continued knocking from 07:00 until 07:15, from 07:30 until 07:35 and then from 07:45 until 07:53. The door remained unanswered throughout and, unable to locate the Athlete for Testing during the 60-minute period, the DCO concluded the attempt at 08:05.

13. The Athlete was asked to provide his explanation for failing to be available for Testing at the location in his designated 60-minute timeslot for 21 April 2019 by no later than 20 May 2019, in the absence of which, the apparent Missed Test would be confirmed against him.

14. The Athlete failed to respond and to provide any explanation concerning the apparent Missed Test on 21 April 2019.

15. On 17 July 2019, the AIU wrote to Athlete and confirmed the apparent Missed Test on 21 April 2019 against him. The Athlete was afforded the right to request an administrative review of that decision by no later than 31 July 2019 and advised that, if he failed to do so, then the Missed Test would be considered as a Whereabouts Failure for the purposes of Article 2.4 ADR.

16. The Athlete did not request an administrative review. Therefore, the AIU recorded a Missed Test against Athlete effective from 21 April 2019.

II. Second Whereabouts Failure – Missed Test dated 28 August 2019

17. On 4 September 2019, the AIU wrote to the Athlete by e-mail requesting his explanation for an apparent Missed Test which occurred on 28 August 2019. The Athlete's Whereabouts information stated that Athlete would be available at his home address in Bryan, Texas, USA for Testing between 07:00-08:00 on 28 August 2019.

18. In summary, the DCO arrived at the specified address at 06:57 and knocked repeatedly on the front door at 07:00, 07:16, 07:30 and finally at 07:45, without response. The DCO took photos in front of Athlete's residence at 08:01 before departing from the address at around 08:03.

19. The Athlete was asked to provide his explanation for failing to be available for Testing at the location in his designated 60-minute timeslot between 07:00 and 08:00 on 28 August 2019 by no later than 18 September 2019, in the absence of which, the apparent Missed Test would be confirmed against Athlete.

20. On 23 September 2019 (5 days after the deadline), the AIU received the Athlete's explanation concerning the apparent Missed Test on 28 August 2019. The Athlete asserted that he was at home on 28 August 2019 and that he did not receive a phone call (or anything which would have otherwise alerted him that he had been selected for Testing that morning). The Athlete confirmed that he was not asleep and that he did not hear any knocks on his front door.

21. On 5 December 2019, following review and investigation by the AIU into the Athlete's explanation, the AIU wrote to the Athlete and confirmed the apparent Missed Test on 28 August 2019. The Athlete was afforded the right to request an administrative review of that decision by no later than 19 December 2019 and advised that, if he failed to do so, then the Missed Test would be considered as a Whereabouts Failure for the purposes of Article 2.4 ADR.

22. The Athlete did not request an administrative review. Therefore, the AIU recorded a Missed Test against the Athlete (effective from 28 August 2019) as the Athlete's second Whereabouts Failure in the twelve-month period beginning 21 April 2019.

III. Third Whereabouts Failure – Missed Test dated 25 November 2019

23. On 6 December 2019, the AIU wrote to the Athlete by e-mail requesting his explanation for an apparent Missed Test which had occurred on 25 November 2019. The Athlete's Whereabouts information stated that the Athlete would be available at his home address in Bryan, Texas, USA between 07:00-08:00 on 25 November 2019.

24. In summary, the DCO arrived at the specified address at 06:59. The DCO observed that there were four (4) cars in the driveway and began knocking on the front door of the address continuously from 07:00 to 07:15, 07:25 to 07:30, 07:40 to 07:45 and 07:50 to 07:55. The DCO reported that there were dogs barking inside the house continuously whilst he was knocking on the door, but that no one answered. At 07:55, the DCO called three (3) numbers listed in Athlete's ADAMS Whereabouts information. There was no answer to the calls made to any of these numbers. The DCO concluded his attempt at 08:02.

25. The Athlete was asked to provide his explanation for failing to be available for Testing on 25 November 2019 at the location designated for his 60-minute timeslot between 07:00 and 08:00, by no later than 20 December 2019, in the absence of which the apparent Missed Test would be confirmed against Athlete.

26. The Athlete failed to respond and to provide any explanation concerning the apparent Missed Test on 25 November 2019.

27. On 27 December 2019, the AIU wrote to the Athlete and confirmed the apparent Missed Test on 25 November 2019. The Athlete was afforded the right to request an administrative review of that decision by no later than 10 January 2020 and advised that, if he failed to do so, then the Missed Test would be considered as a Whereabouts Failure for the purposes of Article 2.4 ADR.

28. On 27 December 2019, the Athlete replied to the AIU and stated that the Missed Test on 25 November 2019 was due to an emergency and the Athlete's lawyer would contact the AIU upon his return from holiday to provide the AIU with information proving that the Missed Test on 25 November 2019 was due to an emergency.

29. On 8 January 2020, the Athlete wrote to the AIU and confirmed that he had appointed a lawyer to represent him in relation to the appeal proceedings that he had lodged before the CAS (related to the decision of the Caribbean RADO) and that the Athlete therefore needed additional time to provide his explanation for the alleged Missed Test dated 25 November 2019.

30. On 9 January 2020, the AIU replied to the Athlete's e-mail dated 8 January 2020 and granted the Athlete an extension to request an administrative review by no later than 17 January 2020.

31. On 17 January 2020, the AIU received the Athlete's request for administrative review of the AIU's decision to record the Missed Test on 25 November 2019 against him.

32. In summary, the Athlete's explanation for failing to be available for Testing between 07:00 and 08:00 on 25 November 2019 was the following. The Athlete had been arrested following, and resulting from, his involvement in a road traffic accident, and then released on bail on 20 November 2019 having engaged the services of a bail bondsman.[3] Following the Athlete's release on bail, the Athlete was contacted early in the morning of 25 November 2019 and informed by his attorney that he was required to appear in the Municipal Court in Bryan, Texas later that morning at 08:30 (and to ensure his arrival for that appearance by no later than 08:00). The Athlete also claimed that his attorney had informed him of the need to obtain hard copies of paperwork that might be required for his court appearance in advance of his attending the court. The Athlete said that he had informed his attorney that he needed to be available for drug testing between 07:00 and 08:00 at his home address, but claimed that he was left with no choice but to leave his house to print the documents for his court appearance (the alternative being that the Athlete would be sent back to jail for breaching his bail conditions). The Athlete also claimed that he thought that it was too late to update his Whereabouts information by that time, it being so close to the beginning of his 60-minute time slot for that morning.

[3] The Athlete provided the AIU with copies of documents related to his release on bail in support of this part of his explanation.

33. On 5 February 2020, the AIU concluded that the Athlete's explanation had failed to establish that no negligent behaviour on his part caused or contributed to his failure to be available for Testing on 25 November 2019. In particular, the AIU noted (i) that documents related to his release on bail were signed by the Athlete on 20 November 2019 and clearly indicated that the Athlete was required to attend the Municipal Court in Bryan, Texas on the morning of 25 November 2019; and (ii) that the Athlete failed to update his Whereabouts information to ensure that he would be available for Testing on that date despite his prior knowledge of that appointment (at the latest when he was contacted by his lawyer at 06:10 that morning).

34. The AIU concluded in the circumstances that the requirements of Article 4.3 of Appendix A of the Regulations remained satisfied and upheld the decision to confirm the Missed Test on 25 November 2019 against the Athlete as his third Whereabouts Failure in the twelve-month period beginning 21 April 2019.

Disciplinary Proceedings

35. Following the conclusion of the results management procedures for the Athlete's Whereabouts Failures set out above, on 17 March 2020, the AIU issued a Notice of Charge to the Athlete for a violation of Article 2.4 ADR (including the imposition of a Provisional Suspension) and invited him to respond by no later than 27 March 2020.

36. The Athlete did not reply within the given deadline and another deadline was granted to respond to the Charge by 3 April 2020 which was also missed.

37. On 15 April 2020, the AIU wrote to the Athlete and granted him a final deadline to respond to the Charge, failing which he would be deemed to have admitted the Charge, accepted the mandatory Consequences for a second Anti-Doping Rule Violation under the ADR and to have waived his right to a hearing.

38. On 9 May 2020, the Athlete wrote to the AIU setting out the circumstances in which the three Missed Tests had occurred. The AIU interpreted the Athlete's reply as such as disputing the Charge and a request for a hearing, and it duly referred the matter to the Disciplinary Tribunal.

39. Following referral of the Charge to the Disciplinary Tribunal, the Athlete was granted pro-bono legal assistance through Sport Resolutions with respect to the Notice of Charge and was represented by Ms Heidi Gan of Clifford Chance, Perth.

40. In correspondence from the Athlete's pro-bono counsel on 3 July 2020, the Athlete confirmed his position being that he denied the Anti-Doping Rule Violation and requested a hearing before the Disciplinary Tribunal.

41. On 6 July 2020, a Preliminary Meeting took place before the Chair of the Panel of the Disciplinary Tribunal and Directions were issued for the determination of the matter.

42. On 24 July 2020, the AIU filed a Brief with the Disciplinary Tribunal, setting out arguments on all issues that the AIU wished to raise at the hearing and attaching witness statements from the witnesses that the AIU intended to call at the hearing.

43. After several extensions granted to the Athlete, the Athlete submitted a Reply Brief responding to the AIU's Brief on 16 October 2020.

44. Following the exchange of written submissions set out above and in advance of the hearing, which was scheduled to take place on 4 December 2020, the parties engaged in without prejudice discussions concerning the determination of the matter without the need for a hearing before the Disciplinary Tribunal.

45. On 3 December 2020, the Athlete's pro-bono counsel confirmed the Athlete's agreement to the Consequences as set out below and signed and returned (with the Athlete's authority and on the Athlete's behalf) an Admission of Anti-Doping Rule Violation and Acceptance of Consequences Form to the AIU.

Consequences

46. This constitutes the Athlete's second Anti-Doping Rule Violation under the ADR.

47. The Athlete is already subject to a period of Ineligibility of four (4) years for Evading Sample Collection from 29 September 2019 until midnight on 29 September 2023 according to the Anti-Doping Panel decision dated 7 November 2019 (as upheld by the CAS in its award dated 18 May 2020).

48. Article 10.7.1 ADR provides that the sanction for a second Anti-Doping Rule Violation shall be calculated on the following basis:

> *"10.7 Multiple Violations*
>
> *10.7.1 For an Anti-Doping Rule Violation that is the second anti-doping offence of the Athlete or other Person, the period of Ineligibility shall be the greater of:*
>
> *a. six months;*
>
> *b. one-half of the period of Ineligibility imposed for the first anti-doping offence without taking into account any reduction under Rule 10.6; or*
>
> *c. twice the period of Ineligibility that would be applicable to the second Anti-Doping Rule Violation if it were a first Anti-Doping Rule Violation, without taking into account any reduction under Rule 10.6.*
>
> *The period of Ineligibility established above may then be further reduced by the application of Rule 10.6."*

49. Article 10.3.2 ADR provides that the period of Ineligibility for an Anti-Doping Rule Violation of Article 2.4 (calculated as a first violation) shall be a period of Ineligibility of two (2) years, subject to a reduction down to a minimum of one (1) year based on the Athlete's degree of Fault for the Anti-Doping Rule Violation.

50. The definition of Fault set out in the ADR provides as follows:

> *"**Fault**: **Fault is any breach of duty or any lack of care appropriate to a particular situation**. Factors to be taken into consideration in assessing an Athlete or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or other Person is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. **In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour**. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in their career, or the timing of the*

sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Rule 10.5.1 or 10.5.2."

(emphasis added)

51. The Athlete submitted (in the alternative to his primary submission that the Anti-Doping Rule Violation should not be upheld) that the period of Ineligibility should be reduced to the minimum of one (1) year due to the Athlete's degree of Fault on the basis of (i) impairment experienced by the Athlete at the time of the 25 November 2019 Missed Test due to several medical conditions/illnesses and (ii) the specific circumstances of the 25 November 2019 Missed Test which meant that the Athlete's level of Fault was not significant in the circumstances.

52. As to the asserted impairment experienced by the Athlete, the jurisprudence clearly provides that an athlete must establish (i) a medically diagnosed illness/condition, (ii) a causative link between the medically diagnosed illness/condition and a cognitive impairment and (iii) that the cognitive impairment was linked to the circumstances of the anti-doping rule violation[4].

53. The AIU considers that the Athlete has failed to produce any medical evidence of his alleged illness/condition, still less any evidence capable of demonstrating a causative link with a cognitive impairment or his ability to meet his whereabouts responsibilities, and therefore concludes that there is no basis for reduction of the Athlete's period of Ineligibility on grounds of Fault according to any claimed impairment.

54. As to the Athlete's alternative submission that his sanction should be reduced due to the specific circumstances of what happened on 25 November 2019, the AIU notes that the definition of Fault provides that the circumstances considered in assessing Fault must be specific and relevant to explain the Athlete's departure from the expected standard of behaviour.

55. The AIU does not accept as a matter of evidence that the Athlete was first made aware of his court appearance on 25 November 2019 via a telephone call from his attorney that morning. The documents signed by the Athlete on 20 November 2019 clearly indicate that the Athlete was to appear in court on 25 November 2019 at 08:30am. Nor does the AIU accept the Athlete's assertion that he thought it was too late to update his Whereabouts information on 25 November 2019. The AIU notes in this regard that the Athlete had previously made several updates to his Whereabouts information in close proximity to his specified 60-minute time slot.

56. The AIU does consider however that the circumstances of the Athlete's mandatory court appearance on the morning of 25 November 2019, in particular, the late notice that he was given to obtain documents for his court appearance (and his potential surrender back into custody for failing to do so) were unprecedented so far as the Athlete was concerned and that these specific and unique circumstances could reasonably be said to have distracted him from his daily whereabouts responsibilities that morning.

57. Other Panels have considered an athlete's specific individual circumstances in relation to their degree of Fault for a Whereabout Failure. In ***World Athletics v. Deajah Stevens***[5], the Panel of the Disciplinary Tribunal acknowledged that the "*distraction*" caused by harassment that the Athlete experienced in the period leading up to a Missed Test was relevant when considering her level of Fault and justified a six-(6) month reduction in sanction. In addition, in ***FINA v. Ilya***

[4] See for example, SR NADP/476/2015 ***UKAD v Gavin Duffy***, decision dated 9 February 2016, and ***UKAD v Slowey*** decision of the NADP dated 12 September 2016.

[5] See SR/092/2020 ***World Athletics v Deajah Stevens***, decision dated 9 July 2020 available at https://www.athleticsintegrity.org/downloads/pdfs/disciplinary-process/en/World-Athletics-v-Deajah-Stevens-Decision_FINAL.pdf

Zakharov[6], the FINA Disciplinary Panel concluded that the athlete's "*health conditions that caused him to reasonably seek medical treatment and to forget his one-hour window*" justified a six (6) month reduction in the period of Ineligibility.

58. Taking the above case law into account, and bearing in mind the unprecedented nature of the circumstances that befell the Athlete on the morning of 25 November 2019, the AIU considers that the Athlete could reasonably have been distracted from his whereabouts responsibilities on 25 November 2019 justifying a reduction in his period of Ineligibility of six (6) months on grounds of his level of Fault.

59. In accordance with Article 10.7.1 c. ADR, the period of Ineligibility of 18 months is doubled to three (3) years and, pursuant to Article 10.7.6 ADR, the three (3) year period of Ineligibility shall run sequentially to the period of Ineligibility imposed for the Athlete's first Anti-Doping Rule Violation.

60. The AIU therefore confirms by this decision a period of Ineligibility for the Athlete's second Anti-Doping Rule Violation of **three (3) years** from **midnight on 29 September 2023 to midnight on 29 September 2026.**

61. The Athlete has accepted the above Consequences for his second Anti-Doping Rule Violation and has expressly waived his right to have those Consequences determined by the Disciplinary Tribunal at a hearing.

Publication

62. In accordance with Article 8.4.7(b) ADR, the AIU shall publicly report this decision on the AIU's website.

Rights of Appeal

63. This decision constitutes the final decision of the AIU pursuant to Article 8.4.7 ADR.

64. Further to Article 13.2.4 ADR, WADA and the Caribbean RADO have a right of appeal against this decision to the CAS in Lausanne, Switzerland, in accordance with the procedure set out at Article 13.7.2 ADR.

65. If an appeal is filed against this decision by WADA or the Caribbean RADO, the Athlete will be entitled to exercise his right of cross-appeal in accordance with Article 13.9.3 ADR.

Monaco 23 December 2020

[6] See FINA Doping Panel 09/19 ***FINA v. Ilya Zakharov*** decision dated 22 November 2019 available at https://www.fina.org/sites/default/files/rus_zakharov_full_decision_for_publication.pdf