

DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MS BETTY WILSON LEMPUS

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. Ms Betty Wilson Lempus ("the **Athlete**") is a 31-year-old road runner from Kenya¹.
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)."*

THE ATHLETE'S COMMISSION OF ANTI-DOPING RULE VIOLATIONS

4. Rule 2 ADR sets out that the following shall constitute an anti-doping rule violation:

"2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample

[...]

*2.5 Tampering or Attempted Tampering with any part of Doping Control by an Athlete or other Person"*²

¹ <https://www.worldathletics.org/athletes/kenya/betty-wilson-lempus-14725867>

² Tampering is defined in the ADR as follows: "*Intentional conduct that subverts the Doping Control process but that would not otherwise be included in the definition of Prohibited Methods. Tampering shall include, without limitation, offering or accepting a bribe to perform or fail to perform an act, preventing the collection of a Sample, affecting or making impossible the analysis of a Sample, falsifying documents submitted to an Anti-Doping Organisation or TUE committee or hearing panel, procuring false testimony from witnesses, committing any other fraudulent act upon the Anti-Doping Organisation or hearing body to affect*

5. On 5 September 2021, the Athlete provided a urine Sample In-Competition at the ‘Harmonie Mutuelle Semi de Paris’ in Paris, France, which was given code 4629872 (the “**Sample**”) pursuant to Testing conducted under the Testing Authority of the Agence Française de Lutte contre le Dopage (“**AFLD**”).
6. On 5 October 2021, the World Anti-Doping Agency (“**WADA**”) accredited laboratory in Paris, France (the “**Laboratory**”) reported an Adverse Analytical Finding in the Sample for the presence of a metabolite of triamcinolone acetonide³ (the “**Adverse Analytical Finding**”).
7. Triamcinolone acetonide is a Prohibited Substance under the WADA 2021 Prohibited List under the category S9: Glucocorticoids. It is a Specified Substance prohibited In-Competition when administered by oral, intravenous, intramuscular or rectal route⁴.
8. The AFLD clarified with the AIU that the Athlete was an International-Level Athlete for the purposes of the ADR and thereafter proceeded with a review of the Adverse Analytical Finding in accordance with the International Standard for Results Management (“**ISRM**”) which determined that there was (i) no TUE on file for the Athlete and (ii) no apparent departure from either the International Standard for Testing and Investigations (“**ISTI**”) or the International Standard for Laboratories (“**ISL**”) that could reasonably have caused the Adverse Analytical Finding.
9. On 1 December 2021, the AFLD issued the Athlete with a Notice of Allegation of Anti-Doping Rule Violations and requested *inter alia* that she provide a written explanation for the Adverse Analytical Finding (the “**AFLD Notice of Allegation**”).
10. On 11 February 2022, the Athlete provided the AFLD with four (4) medical documents said to have been issued by the Uasin Gishu County Hospital in Eldoret, Kenya (“the **Hospital**”):
 - 10.1. An out-patient treatment card dated 20 August 2021 recording an injection of triamcinolone acetonide;
 - 10.2. A prescription form dated 20 August 2021 recording an injection of triamcinolone acetonide;
 - 10.3. An attendance card dated 20 August 2021; and
 - 10.4. A medical certificate dated 9 February 2022 emanating from a Dr Philip Murey and confirming the treatment given to the Athlete on 20 August 2021.
11. On 15 March 2022, the AFLD rendered a decision not to move forward with the Adverse Analytical Finding as they considered that the Athlete had established that the substance had been administered via an authorised route (i.e., by local injection) (“the **AFLD Decision**”). The

Results Management or the imposition of Consequences, and any other similar intentional interference or Attempted interference with any aspect of Doping Control.”

³ Namely, 6b-hydroxy Triamcinolone acetonide.

⁴ Since 2022, glucocorticoids are prohibited when administered by any injectable, oral [including oromucosal (e.g. buccal, gingival, sublingual)] or rectal route.

AFLD Decision not to proceed was materially based on the above-referenced medical documents provided by the Athlete.

12. In May 2022, based on the receipt of third-party intelligence/information, the AIU requested the assistance of the Anti-Doping Agency of Kenya (“**ADAK**”) in the context of an investigation to determine the veracity of the asserted medical treatment and the supporting medical documents from the Hospital that the Athlete had previously provided to the AFLD.
13. On 6 June 2022, ADAK provided the AIU with a letter from the Medical Superintendent of the Hospital dated 2 June 2022 according to which:
 - 13.1. the Athlete attended the Hospital on 20 August 2021; however,
 - 13.2. she did not receive an intramuscular injection of triamcinolone acetonide at the Hospital on this date;
 - 13.3. the postal address and phone number appearing on the documents were both incorrect;
 - 13.4. the Hospital did not employ a Dr Philip Murey, and the Doctor’s registration number was falsified; and
 - 13.5. the documents bearing the Athlete’s name and Dr Murey were not issued by the Hospital.
14. On 29 June 2022, the Athlete was interviewed by the AIU as part of its investigation. She repeated her explanation for the Adverse Analytical Finding and, in doing so, relied on the same medical documents from the Hospital as she had previously submitted to the AFLD.
15. When confronted at interview with the information from the Hospital as set out above, and, in particular, that the AIU considered the documents to be forged/falsified, the Athlete did not admit to having obtained forged/falsified medical documents. To the contrary, she maintained that she had been treated by Dr Murey at the Hospital and had been given the medical documents by him.
16. During the interview, the Athlete was also issued with a Demand pursuant to which she was required, *inter alia*, to provide the AIU with the original copy of her outpatient records/record book from the Hospital relating to all outpatient treatment received at the Hospital in 2021 and any other records or files in hardcopy or electronic format that may contain information of relevance to the investigation (including, but not limited to, documentation, emails, correspondence, communications and messages).
17. On 6 July 2022, the Athlete submitted to the AIU (via ADAK) the original document titled ‘patient treatment card’ dated 20 August 2021 but did not respond with any other information or documents of relevance, as requested.

18. Based on the above evidence, the AIU concluded that the Athlete had (i) provided false/misleading information to the AIU in the context of Rule 5.7.9 ADR⁵ and (ii) that the outpatient treatment card and prescription submitted to support her explanation for the Adverse Analytical Finding to the AFLD (and further relied upon in the context of the AIU's investigation) were forged/falsified documents, constituting a further violation of Tampering in accordance with Rule 2.5.
19. Consequently, on 14 October 2022, the AIU issued the Athlete with a Notice of Allegation (the "AIU Notice of Allegation") for an anti-doping rule violation under Rule 2.5 (Tampering) and gave her the opportunity, *inter alia*, to provide an explanation or to admit the anti-doping rule violation under Rule 10.8.1.
20. On the same day, in accordance with Rule 5.7.1, the AIU communicated the results of its investigation into the medical documents to the AFLD, together with a copy of the letter of the Medical Superintendent of the Hospital dated 2 June 2022.
21. On 20 October 2022, the Athlete wrote to the AIU and admitted the Rule 2.5 anti-doping rule violation.
22. Following this admission, on 5 November 2022, the Athlete was interviewed again by representatives of the AIU in Kenya. However, the Athlete failed to provide any new information during this interview.
23. On 16 November 2022, the AFLD revoked the AFLD Decision⁶ and referred the results management of the Adverse Analytical Finding to the AIU so that it could be treated together with the Tampering violation that the AIU had alleged against the Athlete on 14 October 2022.
24. On 19 December 2022, the AIU issued the Athlete with a Notice of Charge in accordance with Rule 8.5.1 ADR and Article 7.1 ISRM confirming that she was being charged with anti-doping rule violations under Rule 2.1 ADR and Rule 2.5 ADR ("the Charge") and that those anti-doping rule violations warranted a total period of Ineligibility of six (6) years pursuant to Rules 10.2.1(a) ADR and 10.9.3(c) ADR (i.e., two (2) years for the Presence of a Specified Prohibited Substance and four (4) years for Tampering or Attempted Tampering to be served consecutively).
25. The AIU invited the Athlete to respond to the Charge confirming how she wished to proceed by no later than 2 January 2023⁷.

⁵ Under Rule 5.7.9 ADR: "*If an Athlete or other Person obstructs or delays an investigation (e.g., by providing false, misleading or incomplete information or documentation and/or by tampering or destroying any documentation or other information that may be relevant to the investigation), proceedings may be brought against them for violation of Rule 2.5 (Tampering or Attempted Tampering).*"

⁶ The AFLD informed the Athlete that, in light of the information provided by the AIU, its presiding Collège had decided, at its meeting on 10 November 2022, to withdraw its previous decision not to take the case forward since the evidence she submitted that led to that decision had been obtained fraudulently and was therefore illegal.

⁷ The AIU informed the Athlete that she had until 2 January 2023 (and in any event until no later than 8 January 2023) to sign and return an Admission of Anti-Doping Rule Violation and Acceptance of Consequences Form (enclosed with the Notice of Charge) to benefit from an automatic one (1)-year reduction in the six (6)-

26. On 1 January 2023, the Athlete wrote to the AIU admitting the anti-doping rule violations set out in the Charge.
27. On 4 January 2023, the AIU received an Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form signed by the Athlete.

CONSEQUENCES

28. Collectively, the anti-doping rule violations pursuant to Rule 2.1 ADR and Rule 2.5 ADR constitute the Athlete's first anti-doping rule violation in accordance with Rule 10.9.3 ADR.
29. Rule 10.2 ADR specifies that the period of Ineligibility for an anti-doping rule violation under Rule 2.1 ADR shall be as follows:

“10.2.1 Save where 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.*
- (b) The anti-doping rule violation involves a Specified Substance or a Specified Method and the Integrity Unit can establish that the anti-doping rule violation was intentional.”*

30. Triamcinolone acetonide is a Specified Substance under the WADA 2021 Prohibited List. The mandatory period of Ineligibility to be imposed for the anti-doping rule violation pursuant to Rule 2.1 ADR is therefore a period of two (2) years, unless the AIU can demonstrate that the violation was intentional.
31. The AIU has no evidence demonstrating that the Rule 2.1 anti-doping rule violation committed by the Athlete was intentional. Therefore, the period of Ineligibility for this violation is a period of Ineligibility of two (2) years in accordance with Rule 10.2.2 ADR.
32. In addition, Rule 10.3.1 ADR specifies the period of Ineligibility to be imposed for a breach of Rule 2.5 ADR (Tampering or Attempted Tampering) as follows:

“10.3.1 For violations of Rule 2.3 or Rule 2.5, the period of Ineligibility will be four (4) years except: (i) in the case of failing to submit to Sample collection, if the Athlete can establish that the commission of the anti-doping rule violation was not intentional, the period of Ineligibility will be two (2) years; (ii) in all other cases, if the Athlete or other Person can establish exceptional circumstances that justify a reduction of the period of Ineligibility, the period of Ineligibility will be in a range from two (2) years to four (4) years depending on the Athlete's or other Person's degree of Fault; or (iii) in a case involving a Protected Person or Recreational Athlete, the period of Ineligibility will be in a range between a maximum of two (2) years and, at a minimum, a reprimand and no period of Ineligibility, depending on the Protected Person or Recreational Athlete's degree of Fault.”

year period of Ineligibility pursuant to Rule 10.8.1 ADR and that, if she failed to do so by that date, she would be deemed to have admitted the anti-doping rule violations and accepted the Consequences set out in the Charge, and the AIU would then issue a final decision in her case.

33. The Athlete has not established any exceptional circumstances that exist to justify any reduction in the period of Ineligibility of four (4) years to be imposed for the anti-doping rule violation committed pursuant to Rule 2.5 ADR.

34. Rule 10.9.3(c) ADR states as follows:

10.9.3 Additional rules for certain potential multiple violations

[...]

(c) If the Integrity Unit establishes that an Athlete or other Person committed a violation of Rule 2.5 in connection with the Doping Control process for an underlying asserted anti-doping rule violation, the violation of Rule 2.5 will be treated as a stand-alone first violation and the period of Ineligibility for such violation must be served consecutively (rather than concurrently) with the period of Ineligibility, if any, imposed for the underlying anti-doping rule violation. Where this Rule 10.9.3(c) is applied, the violations taken together will constitute a single violation for purposes of Rule 10.9.1.

35. The Athlete committed the violation of Rule 2.5 ADR in connection with the Doping Control Process (specifically during Results Management of the Adverse Analytical Finding) and therefore falls squarely within this provision. The violation of Rule 2.5 ADR shall therefore be treated as a standalone first violation and the four (4)-year period of Ineligibility must be served consecutively to the two (2)-year period of Ineligibility to be imposed for the violation of Rule 2.1 ADR (i.e., a total period of Ineligibility of six (6) years).

36. However, Rule 10.8.1 ADR provides that an athlete potentially subject to an asserted period of Ineligibility of four (4) years or more may benefit from a one (1)-year reduction in the period of Ineligibility based on an early admission and acceptance of sanction:

“10.8.1 One year reduction for certain anti-doping rule violations based on early admission and acceptance of sanction.

Where the Integrity Unit notifies an Athlete or other Person of an anti-doping rule violation charge that carries an asserted period of Ineligibility of four (4) or more years (including any period of Ineligibility asserted under Rule 10.4), if the Athlete or other Person admits the violation and accepts the asserted period of Ineligibility no later than 20 days after receiving the Notice of Charge, the Athlete or other Person may receive a one (1) year reduction in the period of Ineligibility asserted by the Integrity Unit. Where the Athlete or other Person receives the one (1) year reduction in the asserted period of Ineligibility under this Rule 10.8.1, no further reduction in the asserted period of Ineligibility will be allowed under any other Rule.”

37. The Charge was issued to the Athlete on 19 December 2022. On 4 January 2023, the AIU received an Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form signed by the Athlete in which the Athlete admitted the anti-doping rule violations and accepted the asserted period of Ineligibility of six (6) years.

38. The Athlete shall therefore receive a one (1) year reduction in the asserted period of Ineligibility pursuant to Rule 10.8.1 based on an early admission and acceptance of sanction.

39. On the basis that the Athlete has admitted the anti-doping rule violations under Rule 2.1 ADR and Rule 2.5 ADR and in accordance with Rule 10.9.3(c) ADR and the application of Rule 10.8.1 ADR, the AIU confirms by this decision the following Consequences for a first anti-doping rule violation:

39.1. a period of Ineligibility of five (5) years commencing on 14 October 2022 (the date of Provisional Suspension); and

39.2. disqualification of the Athlete's results on and since 5 September 2021, with all resulting Consequences, including the forfeiture of any titles, awards, medals, points prizes and appearance money.

40. The Athlete has accepted the above Consequences for her anti-doping rule violations and has expressly waived her right to have those Consequences determined by the Disciplinary Tribunal at a hearing.

PUBLICATION

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

RIGHTS OF APPEAL

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

43. Further to Rule 13.2.3 ADR, WADA and 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.

44. If an appeal is filed against this decision by WADA or ADAK, the Athlete will be entitled to exercise her right of cross-appeal in accordance with Rule 13.2.4 ADR.

Monaco, 13 January 2022