

INTERNATIONAL SKATING UNION

HEADQUARTERS ADDRESS: CHEMIN DE PRIMEROSE 2 - CH 1007 LAUSANNE - SWITZERLAND
TELEPHONE (+41) 21 612 66 66 TELEFAX (+41) 21 612 66 77 E-MAIL: info@isu.ch

Case No. 2014-06

July 3, 2014

DECISION

of the

ISU Disciplinary Commission

Panel: Volker Waldeck, Chair
Susan Petricevic
Dr. Allan Böhm

In the matter of

International Skating Union, Chemin de Primerose 2, 1007 Lausanne, Switzerland,
represented by its Legal Advisor, Prof. Dr. Michael Geistlinger,

- Complainant -

against

Mr. Erik WETTERDAL,
Sweden,

- Alleged Offender -

and

Svenska Skridskoförbundet,

- Interested Member -

Concerning the alleged violation of the ISU Anti-Doping Rules

I. History of the Procedure

On May 20, 2014, the ISU filed a complaint against the Alleged Offender, together with seven exhibits. On May 22, 2014 the Alleged Offender and the Interested Member were invited by the ISU Disciplinary Commission to file a statement of reply within 21 days upon receipt of the complaint. The Alleged Offender and the Interested Member filed a statement of reply on June 03, 2014.

II. Procedural Matters

According to Article 24, Paragraph 10 of the ISU Constitution 2012 and Article 8.1.1 of the ISU Anti-Doping Rules 2012 the ISU Disciplinary Commission has jurisdiction in anti-doping cases arising out of ISU Testing or Testing at International Events or Competitions. The present case arises out of testing at the ISU World Junior Speed Skating Championships 2014 in Bjugn, Norway, i.e. of testing at an International Event. Therefore, the ISU Disciplinary Commission has jurisdiction to hear and decide this case.

III. Facts

The Alleged Offender is an 18 years old Speed Skater, Member of the Swedish Member Association of the ISU (Speed Skating) (Svenska Skridskoförbundet), who competed in the ISU World Junior Speed Skating Championships 2014, which took place in Bjugn/Norway from 7th March to 9th March 2014. On March 8, 2014, he completed the 1,500m race as 39th and was selected by random for Anti-doping testing.

The Alleged Offender was tested and indicated on the Doping Control Form that he had used the forbidden substance Terbutaline. Terbutaline is a class S.3 Beta-2 agonist, which is a Specified Substance according to Article 4.2.2 World Anti-Doping Code (WADC). Its use by the Skater was confirmed by the analysis of the Norwegian Doping Control Laboratory as per its report dated March 25, 2014.

The Skater submitted a Therapeutic Use Exemption (TUE) (No 12-00160) issued by the Swedish Sports Confederation with effect for the period 2012-11-01 – 2016-10-31. The TUE issued by the Swedish Sports Confederation has not been submitted for recognition by the ISU. By letter dated April 24, 2014, the ISU informed the Swedish Member Association about the Adverse Analytical Finding and asked for a written explanation by the federation as well as the Skater and whether they wished to have the B-Sample opened.

By letter of May 7, 2014, the Swedish Member Association informed the ISU that Dr. Hannu Koivu had informed the Alleged Offender at the occasion of the above mentioned Anti-Doping test that the Skater needed to apply for an ISU TUE in addition to the Swedish TUE, which latter “was ok”, but not sufficient. Then a misunderstanding happened between the Alleged Offender and his federation. The Alleged Offender believed that his federation would report the medicine to the ISU, whereas the federation held that the Alleged Offender will submit a respective application to the ISU. Neither the federation nor the Alleged Offender asked for opening of the B-Sample.

Upon request of the ISU dated 9 May 2014, Dr. Hannu Koivu reported on May 12, 2014 that he had asked the Alleged Offender why he had not requested a TUE from the ISU. According to Dr. Koivu the Alleged Offender answered

“that in Sweden was said, the Swedish” (must read: Swedish) “TUE is enough also for terbutaline.” Dr. Koivu then told him and to the team representative according to his report *“that he has to request a TUE from ISU as soon as possible, while terbutaline is on the WADA list of forbidden substances. I also mentioned that if the test is positive, it*

can lead to further consequences. As I heard at ISU Medical Commission meeting at the end of March (about three weeks after Bjugn) there were no TUE request from above named skater/Swedish Skating Federation arrived at ISU Office.”

On June 3, 2014 the Swedish Skating Association and the Alleged Offender replied to the complaint that they

“have read the statement from ISU and we have nothing more to include. We are really sorry about this case and we will work even harder to inform our athletes about how important it is to take part of the anti doping work and also which documents the athletes need to fill in. Of course we hope this never will happen again.”

Neither the Alleged Offender nor the Swedish Skating Association asked for an oral hearing.

The Complainant moves:

1. To find the Alleged Offender guilty of a violation of the ISU Anti-Doping Rules.
2. To impose upon the Alleged Offender a Reprimand and a period of Ineligibility of one month.
3. To declare disqualification of the result obtained by the Alleged Offender at the ISU World Junior Speed Skating Championships 2014, Bjugn, 1500m Race (39th rank).

IV. Law

It is uncontested that the Prohibited Substance Terbutaline was found in the Alleged Offender’s A-Sample taken on March 8, 2014 at an in-competition test at the ISU Event in Bjugn. The Alleged Offender and his federation did not contest the result of the laboratory’s analysis and did not ask for confirmation by opening the B Sample.

The Alleged Offender had indicated the substance “terbutaline” on the Doping control form and showed to the Doping Control Official a TUE issued by the Swedish Sports Confederation. This TUE is not sufficient.

Article 4.4.2 ISU Anti-Doping Rules 2012 states:

Skaters included by the ISU in its Registered Skating Testing Pool and other Skaters participating in any International Event must obtain a TUE from or recognized by the ISU. The application for a TUE must be made as soon as possible ... and in any event ... no later than 30 days before the Skater’s participation in the Event or Competition ...

The application process is prescribed in detail in Chapter D.1 of the ISU Anti-Doping Procedures (ISU Communication No. 1800).

The TUE presented by the Alleged Offender does not correspond with the form requested by the ISU Anti-Doping Rules. Therefore the finding of the Prohibited Substance Terbutaline constitutes an ISU Anti-Doping Rules violation as stated in Article 2.1 of the ISU Anti-Doping Rules 2012.

According to Article 10.2 of the ISU Anti-Doping Rules 2012 a sanction of 2 years Ineligibility in principle shall apply for the offence committed by the Alleged Offender. The Alleged Offender could establish, however, that Terbutaline, a Specified Substance, entered his body due to medical needs and based on a TUE issued by the Swedish Sports Confederation, nevertheless, not recognized by the ISU failing such request. The Alleged Offender also could establish that the substance had not been taken in order to enhance his sport performance, but was required to cure his disease. Thus, Article 10.4 ISU Anti-Doping Rules applies. This article provides that, at a minimum, a reprimand and no period of

Ineligibility from future Events, and at a maximum, two (2) years" Ineligibility shall be imposed.

Given the explanation of the federation of the Alleged Offender and of Dr. Koivu, the ISU Medical Advisor, there was a misunderstanding between the Alleged Offender and his federation. The federation relied on the Alleged Offender submitting a request for an ISU TUE, whereas the Alleged Offender thought his federation would inform the ISU on the medicine taken by him.

The Panel finds that the degree of fault of the skater is low and that the provisions of Article 10.4 of the ISU Anti-Doping Rules to reduce the sanction to a reprimand are met.

But according to Article 9 of the ISU Anti-Doping Rules the violation of the ISU Anti-Doping Rules automatically leads to disqualification of the result obtained in the ISU World Junior Speed Skating Championships 2014, Bjugn, 1500 m race, with all resulting consequences, including forfeiture of any medals, points and prizes.

V. Decision

1. Erik Wetterdal is declared responsible for an Anti-Doping violation, committed on March 8, 2014 at the ISU World Junior Speed Skating Championships 2014 in Bjugn/Norway.
2. Erik Wetterdal is reprimanded and warned to not engage in similar conduct in the future, which conduct will cause a more severe action.
3. Erik Wetterdal's competitive result (39st rank) obtained on March 8, 2014 at the ISU World Junior Speed Skating Championships 2014 in Bjugn/Norway, 1500 m race, is disqualified with all the resulting consequences including forfeiture of any medals, points and prizes.
4. The Svenska Skridskoförbundet has to reimburse the ISU for the costs of these proceedings.
5. The skater bears his own costs.

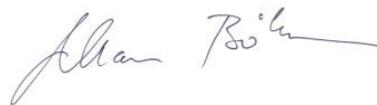
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