# RUGBY FOOTBALL UNION DISCIPLINARY HEARING

### **Judgment**

At: Leeds Brighouse Holiday Inn

On: Monday, 8<sup>th</sup> December 2008

Player: MARSHALL GADD Club: Manchester RFC

**Match:** Coventry v Manchester

**Date of Match:** 25<sup>th</sup> October 2008

Panel: Antony Davies (Chairman), Clif Barker and

**David MacInnes** 

**Secretariat:** Bruce Reece-Russel (RFU Disciplinary Department)

**Attending:** Marshall Gadd ("the Player")

Neil Sykes (Manchester RFC)

**Present as** Gavin Dovey (RFU Anti-Doping Manager)

**Observers:** Tony Simpson (RFU Communications Department)

#### **Introduction and Preliminary Matters**

1. The procedure and offence were explained to the Player. He understood both and raised no objection to the composition of the Panel.

# **Charge and Plea**

2. The Player pleaded guilty to an Anti-Doping Rule Violation, accepting that a urine sample taken from him on 25<sup>th</sup> October 2008 was found to contain Stanozolol (an anabolic androgenic steroid prohibited under category S1 of the 2008 WADA Prohibited List).

#### **The Facts**

3. The essential facts were not in dispute. During the summer of 2008, the Player was using a supplement, Thermabol, to assist with weight loss. A colleague

recommended a better fat burner and gave him tablets to take. He took these for about three weeks, but they made him feel unwell. At the time he took them, he was not intending to return to an environment in which he might be subject to drug testing. However, by August 2008, he had decided to return to play for Manchester, but did not declare to that Club the substances he had been taking.

- 4. On 25<sup>th</sup> October 2008, he played for Manchester against Coventry. After the match, he was selected at random to provide a urine sample to a UK Sport Doping Control Officer. He did so and declared on the Sample Collection Form that he had only taken Ibuprofen in the previous seven days.
- 5. The Player's urine specimen was divided into "A" and "B" samples and sent to the WADA Accredited Laboratory Drug Control Centre, King's College, London. The DCC reported in a letter dated 17<sup>th</sup> November 2008 that the Player's "A" sample, reference A1059631, was found to contain 3-Hydroxystanozolol. Stanozolol is an anabolic androgenic steroid included in the list of prohibited substances in the 2008 Prohibited List World Anti-Doping Code
- 6. On 19<sup>th</sup> November 2008, the Player was notified of his rights to have his "B" sample analysed, but he elected not to exercise those rights.

# The Regulatory Scheme

7. Under IRB Regulation 21.2.1, the presence of a prohibited substance or its metabolites or markers in a player's bodily sample constitutes an Anti-Doping Rule violation. Regulation 21.22.1 provides in respect of sanctions:

"Except for the specified substances identified in Regulation 21.22.2, the period of ineligibility imposed for a violation of Regulation 21.2.1 ..... shall be:

First violation: Two (2) years' ineligibility

Second violation: Lifetime ineligibility

However, the player or other person shall have the opportunity in each case before a period of ineligibility is imposed to establish the basis for eliminating or 8. This is the Player's first Anti-Doping Rule violation.

## The Player's Case

- 9. The Panel were assisted by a written statement from the Player and written Minutes of a Disciplinary Meeting held by Manchester Rugby Club on 26<sup>th</sup> November 2008. The Player is a self-employed plumber. At the end of the previous season, Manchester were promoted to Level 2 (FDR) and a meeting was arranged to discuss the training schedule for the coming season. That schedule was onerous and, as the Player was busy with his business, was not able to commit to training. As he was no longer in training, he began to put on weight so went back to the gym and commenced taking Thermabol fat burners to help shed weight. After taking Thermabol for a number of weeks, he was not seeing enough evidence of weight loss and a long-standing friend with whom he had played rugby at a previous Club suggested a better fat burner which he was told was "Winstrol". After he had taken these for about three weeks, he started developing bad side effects, so decided to come off them. He had stopped taking them by the end of July 2008. By this time, his workload had decreased and he was struggling financially. He decided to return to rugby and contacted Manchester to arrange a meeting to discuss contracts. On 10<sup>th</sup> August 2008, he signed a contract for the forthcoming season with Manchester. He did not give any thought to what he had taken earlier in the summer.
- 10. Under questioning from the Panel, the Player confirmed that he had not previously been drug tested, but had witnessed team mates giving samples in the previous season. He understood the purpose of the regime was to stop drug cheats and he knew that to take any form of supplement was a risk. The tablets given to him were small yellow triangular tablets, but did not come in any recognisable packaging just a see-through plastic wallet of the type used to take coins to the Bank. He accepted that his Club had given him advice on the doping regime and he had picked up at the Club the UK Sport Anti-Doping Advice card. He had not however taken the opportunity of reading that card. At the time, his income from his plumbing business had reduced. His

major concern was returning to play rugby on a pay to play contract, thus supplementing his reducing income from his plumbing business.

- 11. The Player accepted that he had always been aware of the possibility of drug testing. He felt very nervous when he was selected to give a sample and had immediately been worried about the effects of what he had taken in the summer. He maintained that when he had taken the tablets, he had not anticipated being in an environment where he was likely to be drug tested. He did though consider at the time the possibility of having taken an illegal substance, but did not see fit to mention that to Manchester RFC. His decision in this regard was dictated by the need to supplement his income. He felt let down by his friend and was disappointed, angry and ashamed by the positive test for anabolic steroids, which he understood were for muscle growth. Until the test, he maintained he had no idea that he had been taking anabolic steroids, though he did concede that he had made absolutely no efforts to investigate or check what he was taking.
- 12. On behalf of the Club, Mr. Sykes confirmed that immediately they had been aware of the position a disciplinary meeting had been held and the Player had been suspended. Mr. Sykes outlined the steps the Club had taken to comply with the Anti-Doping Rules. The Player he described as a popular squad member, who had coaching responsibilities in the Junior Section.

#### **Decision**

13. In the light of his plea, and the evidence, there was no issue that the Player had used a prohibited substance and had thereby committed an Anti-Doping Rule violation. The Player has not put forward any evidence to show that the Prohibited substance was not intended to enhance sport performance. Neither had he established that he bore no fault or negligence or no significant fault or negligence. Indeed, he candidly accepted that he had had plenty of anti-doping advice, was aware of his responsibilities and made absolutely no attempt to discover the nature and effect of what he had voluntarily ingested. He knew that he was returning to an environment where he was susceptible to testing and immediately after he was selected for testing became nervous about what he

had taken. His efforts to ascertain what he was taking were woefully inadequate. He had relied on an assertion from a friend that the tablets were fat burners. He made no additional enquiries, though he knew he was taking Winstrol. He accepted there were a host of things he could and should have done to check. Less than one minute's research on the internet will disclose Winstrol tablets are anabolic steroids. He had access to all relevant written advice and documentation, but he had not even read that. He is a semi-professional rugby player, well aware of the Anti-Doping provisions. His culpable lack of care and attention fell well below conduct to be expected of a semi-professional athlete. It was unsustainable to conclude that he bore no fault or negligence.

- 14. As we find none of the exceptions apply, we default to Regulation 21.22.1, which does not admit a discount for such factors as guilty plea, good character and the like. The only option open to us is to suspend the Player for a period of two years.
- 15. Accordingly the Player is suspended from all participation in Rugby Union for two years from 19<sup>th</sup> November 2008 to 18<sup>th</sup> November 2010. He may play again on 19<sup>th</sup> November 2010. During the period of suspension, his status within the game is in accordance with IRB Regulation 21.22.7.

### **Costs**

16. The Panel makes an award of costs against the Player of £200.00.

# **Right of Appeal**

17. The Player was informed of his right of appeal.

#### Antony Davies

Antony Davies,

Chairman

9<sup>th</sup> December 2008