



# **FIVB**

# **Disciplinary Panel**

# **Decision**

In the matter of  
**Ms. Dariam ACEVEDO**  
(Puerto Rico)

**7 February 2014**

## **THE FIVB DISCIPLINARY PANEL**

Constituted in accordance with Article 8.1.2

of the FIVB Medical Regulations

and composed of

<b>Ms. Margaret Ann Fleming, Chair</b>	(Scotland) Disciplinary Panel Vice-Chair
<b>Mr. Mounir Ben Slimane</b>	(Tunisia) Disciplinary Panel Member
<b>Dr. Annie Peytavin</b>	(France) Medical Commission Member

At the hearing which took place via telephone conference

on 05 February 2014, 3.15 P.M. Swiss Time, heard the case identified as n. 2615765:

### **FACTUAL BACKGROUND**

1. On 06 January 2014, the FIVB was notified by the WADA-accredited Laboratory in Los Angeles, USA regarding an Adverse Analytical Finding for the A-sample 2615765, which contained the prohibited substance “Methylphenidate and its metabolite ritalinic acid”.
2. The above-mentioned urine sample was taken in-competition on 29 November 2013 in Trinidad and Tobago – Maraca during the 2013 NORCECA Beach Continental Tour and belongs to the athlete Ms. Dariam ACEVEDO (Puerto Rico, born 15.12.1984, hereinafter the “Athlete”).
3. On 14 January 2014, the FIVB contacted the Federación Puertorriqueña De Voleibol and through it informed the Athlete of the adverse analytical finding as well as of her right to request the analysis of the B sample and to attend the opening thereof.
4. By email of 21 January 2014 the Athlete sent a written statement dated 20 January 2014 to the FIVB explaining her position. The Athlete did not submit a request for the analysis of the B sample within the deadline provided to her and, therefore, was deemed to have waived the respective right.
5. By letter of 30 January 2014, the FIVB informed the Athlete that she had the right to be heard before the FIVB Disciplinary Panel either by telephone conference or by a hearing in person.

6. The Player opted for a telephone conference and, subsequently, filed with FIVB an “additional amended declaration” together with supporting documentation.
7. In her written statements and at the hearing, the Athlete stated – *inter alia* – the following:
  - She has a degree in kinesiology from the University of Texas since 2006. After the 2008-2012 Olympic Cycle came to an end, she decided that in 2013 she would try to study and become a physiotherapist.
  - In order to apply for admission at the School of Public Health in Puerto Rico, she had to take a comprehensive test, and she decided to prepare for the test administered in December 14, 2013. For that reason she had enrolled for a comprehensive review course that would take place between October and December 2013.
  - In early September 2013, she was recruited by her national federation to play for the last tournaments of the NORCECA beach volleyball circuit, with the aim to obtain the necessary ranking points for the national team to qualify for the Central American and Caribbean Games to be held in 2014. She accepted on the premise that her academic activity would be a priority, also because her partner was in a similar situation, working in a full-time job. They trained alone only 2 or 3 times a week.
  - Everything was going as planned until later in the same month her father started having serious health problems. He was hospitalized and the doctors were trying to come to a diagnosis through a series of tests for more than two weeks. In October her father was diagnosed with cancer (acute myeloid leukemia) and had to undergo the necessary treatment. The Athlete then had to deal with Beach Volleyball practices, long study hours, and had to take care of her hospitalized father by sharing “shifts” with her mother.
  - The Athlete faced serious stress and disrupted hours of sleep, which until now she is trying to regulate.
  - During this hard period she shared her personal situation with her study partners who commented on pills they were taking to concentrate and stay

focused in order to retain information during their study times. She asked for some pills and was given approximately fifteen (15) pills in a small bag by a fellow-student.

- She would take 1 pill approximately 30 minutes prior to studying for her exams. She was using the pills only to assist her studying skills and not in conjunction with her training or playing schedule.
- When travelling to Trinidad and Tobago in the evening of 28 November 2013, she took a pill because she wanted to study in the flight. The following day she competed and was submitted to doping control. The team was training and travelling alone, without a coach, a physiotherapist, a doctor or other support personnel.
- At the doping control station she informed the medical doctor who conducted the test, Dr. Victor Figueroa (a member of FIVB's medical commission), that she was taking a pill which helped her in focusing when studying. Dr. Figueroa replied that such supplements might contain banned substances. Knowing this, she respected the process and went through the test.
- The event in Trinidad and Tobago was the last official competition she participated in.
- Upon her return to Puerto Rico, her father went through chemotherapy but unfortunately passed away a few weeks later, on 30 December 2013.
- She did not know the brand of the pills because she took only some of them from a fellow-student on a trial basis. Upon being informed of the adverse analytical finding, she inquired and found out that they are "a bioequivalent of the brand Ritalin".
- Following the FIVB's notification, she respected the result, did not request an analysis of the B sample and has voluntarily withdrawn from competitions. She did not play any games since 29 November 2013, either in beach volleyball with the national team or in indoor volleyball with her club.

- She has always been an Athlete advocating for healthy living. She has been through at least 20 doping controls in her career, all of which produced a negative result. She started to take the pills to keep her focused during study hours. She recognizes that she was negligent and that she took a wrong decision trusting a fellow-student. It was never her intention to use supplements to increase her performance or gain an advantage during competition. She apologized for the violation and requested a reduced sanction.
8. On 05 February 2014 the hearing via telephone conference was attended –aside from the FIVB Disciplinary Panel– by the Athlete, the FIVB Medical and Anti-Doping Manager Mrs. Nadège Veintimilla, the FIVB legal advisor Mr. Andreas Zagklis and the FIVB legal affairs manager Mr. Mark Bovet.
  9. The Athlete answered questions from the Panel and was given ample opportunity to explain her position and request a reduced sanction.

#### **LEGAL CONSIDERATIONS**

10. According to the WADA 2013 Prohibited List, the substance methylphenidate is included in the category S.6.b (specified stimulants) and is prohibited in-competition.
11. According to Article 2.1 of the FIVB Medical Regulations and of the World Anti-Doping Code, the presence of a prohibited substance in an athlete's bodily specimen constitutes an anti-doping rule violation, sanctioned as per Article 10 of the FIVB Medical Regulations.
12. The above-mentioned sample (Nr. 2615765) belongs to the player Ms. Dariam ACEVEDO.
13. No Therapeutic Use Exception (T.U.E.) exists in this case, as per Article 4.4 of the FIVB Medical Regulations.
14. Therefore, being the presence of the prohibited substance in the Athlete's urine undisputed, the anti-doping rule violation is established. This fact remained uncontested.

15. The Panel emphasizes that, according to Article 2.1 of the FIVB Medical Regulations

*“It is each Athlete’s personal duty to ensure no Prohibited Substance enter his or her body. Athletes are responsible for any prohibited substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is no necessary that intent, fault, negligence or knowing use, by the athlete’s part, be demonstrated in order to establish an anti-doping violation under art. 2.1.”.*

*(emphasis added)*

16. Given that methylphenidate is a specified substance, the Panel shall now review whether Article 10.4 of the FIVB Medical Regulations is applicable to this case and, if so, what the applicable sanction is.

17. The Panel notes that the Doping Control Officer noted on the Doping Control Form “[athlete] refiere medicamento PARA defícits atención” (free English translation: Athlete declares medication for attention deficit). The Panel finds that this contemporary statement is corroborating evidence to the Athlete’s explanation on how the prohibited substance entered her body, namely through pills that are “a bioequivalent of the brand Ritalin”. It is common ground that Ritalin is a medication used to treat attention deficit disorders and contains methylphenidate.

18. In addition, it is evident from

- a. the playing level of the Athlete,
- b. the specific circumstances of her career at the time of the doping control (she had quit playing beach volleyball already since 2011 and resumed with very limited training and effort),
- c. the fact that the pills were consumed as part of her study plan, for the sole purpose of improving her focusing skills amidst a difficult personal period, that the Athlete did not use the prohibited substance to improve her performance.

19. Therefore, the Panel finds that Article 10.4 of the FIVB Medical Regulations applies to this case.

20. Turning now to the length of the sanction, the Panel notes the following in respect of the Athlete’s degree of fault:

- a. On the one hand, although she is an experienced athlete, having played also at professional level in the past and having participated for most part of the last decade in FIVB competitions, she failed to exercise the caution required by the applicable rules. In particular, she decided to trust blindly a fellow-student and to start taking unbranded pills. She did not seek any medical advice or inform her national federation about the intake of such medication.
- b. On the other hand, the circumstances in which the Athlete decided to start using said pills were truly extraordinary, since she had to cope with the stress of a difficult exam that would determine her professional, post-volleyball career and with the news of her father's medical condition, which deteriorated dramatically in the same period as the Athlete was using the pills.
- c. The Panel is convinced that the Athlete was indeed negligent in her conduct but, at the same time, acknowledges that she had no intention to cheat and made a poor decision under exceptional pressure from circumstances in her personal, professional and sporting environment.

21. In view of the above legal analysis and the evidence on file, considering also the principle of proportionality in calculating the sanction to be imposed, the CAS award in the matter CAS 2007A/1252 in relation to a student-athlete who uses medication to enhance only his *academic* performance, the fact that this is the Athlete's first anti-doping violation and that she did not participate in any official competitions since 29 November 2013,

**taking all the above into consideration**

**THE FIVB DISCIPLINARY PANEL**

**Concludes and Decides**

1. The athlete Ms. Dariam ACEVEDO (Puerto Rico) has committed an anti-doping rule violation according to Article 2.1 of the FIVB Medical Regulations.
2. A sanction of one (1) year of ineligibility shall be imposed on the athlete Ms. Dariam ACEVEDO, according to Article 10.2 of the FIVB Medical Regulations.
3. The period of ineligibility shall start on 30 November 2013 and end on 29 November 2014, as per Article 10.9 of the FIVB Medical Regulations.
4. This decision may be appealed in accordance with the attached Notice of Appeals.

Decided in Lausanne, on 07 February 2014

**For the FIVB DISCIPLINARY PANEL**

A handwritten signature in black ink that reads "Margaret Ann Fleming". The signature is written in a cursive style with a large initial 'M' and 'F'.

Ms. Margaret Ann Fleming  
Chair

## **NOTICE OF APPEALS**

### **(doping cases)**

An appeal may be filed against this decision exclusively before the Court of Arbitration for Sport (CAS), in accordance with Article 13 of the FIVB Medical Regulations and with the provisions of the Code of Sports-Related Arbitration (see [www.tas-cas.org](http://www.tas-cas.org)).

The time-limit to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of this decision by the appealing party.

In accordance with Article 18.6 of the FIVB Medical Regulations: "Notice to an Athlete or other Person who is a member of a National Federation may be accomplished by delivery of the notice to the National Federation."

In the event of an appeal, this decision shall remain in effect while under appeal unless the CAS orders otherwise.

The address and contact details of the CAS are the following:

Court of Arbitration for Sport  
Avenue de Beaumont 2  
1012 Lausanne, Switzerland  
Tel: +41 21 613 50 00  
Fax: +41 21 613 50 01  
e-mail: [info@tas-cas.org](mailto:info@tas-cas.org)  
[www.tas-cas.org](http://www.tas-cas.org)