



AFRICA ALLIANCE FOR HEALTH, RESEARCH AND ECONOMIC DEVELOPMENT

For Social & Economic Well-being of Communities

PRESS STATEMENT

26th February 2020

ANTI-DOPING SUSPENSIONS BASED ON QUESTIONABLE ERRORS

Observation: Doping allegations against Mrs. Mercy Jerotich Kibarus

History has demonstrated that lives of hundreds of athletes have been to a great extent affected by anti-doping program. Positive consequence offers athletes, sponsors, support personnel and the general sport fraternity at large a satisfaction of fair play, genuine earnings, honorable titles, practical deterrence and dignity.

Lately Suspension and banning of athletes due to anti-doping rule violation has become a common observable fact of concern based on Kenyan and East Africa's athletic context. Some athletes admit the violation and some have perpetually denied the allegations contravening the indisputable WADA Code thus laying the grounds for this statement.

The negative effects of the anti-doping program present misery and painful punitive actions specifically to those who deny the charges of doping but are found guilty on evidence of results with discrepancies from both human and equipment technicalities leave alone the naturally occurring biological conditions beyond their control requiring extensive research.

We examined the steps; *Sample Processing, laboratory chain of custody, A-Sample Confirmation and Analysis process* because these are the most important steps that determine credibility of the doping test results that leads to either positive or negative doping test results and raised serious doubts .

The case of Mrs. Mercy Kibarus is one among many suppressed voices of athletes affected by the anti-doping control procedures whereby she articulates to the world how Athletics Integrity Unit (AIU) and doping testing institutions doping control procedures have casted doubts over positive test allegation amounting to infringement of her liberal rights. The Suspension renders her Jobless and with no livelihood.

Since Mrs. Mercy Kibarus was not accorded reasonable time to read, comprehend and reply a defense against accusations, but instead a publication of her name as a doper by AIU, we seek to understand how erroneous doping control procedure (sample transportation, storage and testing) is up to standard and accepted by AIU to justify such suspension declaration.

For the purpose of better understanding, the chronology on one Mrs. Mercy Kibarus's case is that;

- Ms. Mercy travelled to South Africa in second week of September 2019 for the purpose of participating in Sanlam Cape Town Marathon on 15th September 2019
- while she was at her hotel room on Friday, 13th September 2019, she was called to doping control station for sample collection purposes whereby Blood sample (Sample No. 457956) and Urine sample (Sample No. 4456412) with a Specific Gravity of 1.005 was collected and sealed at 7:27PM and 7:50PM respectively. She entirely cooperated with official during this doping control process.
- on Sunday 15th September 2019 in the city of Cape Town, she competed in Sanlam Cape Town Marathon and she attended doping control process where Urine sample (Sample No. 4456433) with a Specific Gravity of 1.005 and was collected and sealed at 11:18AM.
- as stipulated by the rules, she declared all medications and nutritional supplements she had taken in the past 7 days prior to 13th Friday, September 2019 and 15th Sunday, September 2019
- on 5th December 2019 at 7PM she received letter of Notice of Allegation of an Adverse Analytical Finding and Provisional Suspension from Mr. Clottier, head of Athletics Integrity Unit (AIU). The letter pointed that the sample collected in-competition contained prohibited substance (19- norandrosterone).
- on 5th December of 2019, AIU contrary to her rights added the name of Mercy Jerotich Kibarus to its website list of provisional suspensions in force.
- on 6th December 2019, at 4.AM ,Less than 12 hours after notification ,AIU published on its news site-twitter handle.
- the Test Report shows Sample No. 4456433 had a *Specific Gravity of 1.006* contradicting with Sample No. 4456433 with a *Specific Gravity of 1.005* collected on 15th Sunday, September 2019.
- That reply to AIU allegation letter was done on 9th December 2019.
- That Sample No. 4456412 collected on 13th September 2019 was tested and the Test Report indicates a Specific Gravity of 1.005 confirming that no variance from the Specific Gravity

2

recorded during collection time which indicates that specific gravity was not affected compared to what was collected on 15th Sunday, September 2019.

- GC-MS/MS method was used in concluding the adverse analytical finding.

Since the variance of the specific gravity casted uncertainty on the sample analysis procedure/testing process we sought to know how justified was the process of Sample Processing, A-Sample Confirmation and Analysis whereby AIU categorically confirmed that;

1. “the tool at the disposal of the doping control officer (DCO) to measure the specific gravity (SG) is not extremely precise and it is common to find discrepancies between doping control form(DCF) and the report on test result since the determination made by the laboratory is logically much more precise”
2. On 15th September 2019, package containing samples was sealed with Seal No. A069025 and company Courier IT commenced the transportation process to the WADA accredited laboratory .On 17th September 2019 the package was delivered by the courier with the seal number A063751 contrary to the seal recorded on 15th September 2019. Courier codes were labeled as onset.
3. Seals of samples inclusive of sample 4456433 were broken to check for anomalies whereby AIU reported that *“No anomalies were observed related to extreme conditions or significant differences between the A- and B- samples”*.

What is an anomaly? ‘In the natural sciences, especially in atmospheric and Earth sciences involving applied statistics, an anomaly is the deviation in a quantity from its expected value’-wikipd .

The comparison described herein is not of the bottles but of the samples! Take note that WADA CODE declares that when A-Sample results are disputed, B-Sample is reanalyzed. The B-sample will only be opened before the athlete or a representative. The fact that logical comparison between A-sample and B-sample would not have been ascertained and recorded in the statement had it not for the seal to be broken and opened

4. Statement from the lab state that A-sample was removed from storage 3^{0th} September 2019 returned on 30th September 2019 contrary to the fact that it was returned on 1st October 2019 with Specific Gravity of 1.0057 and not 1.0062 as earlier recorded.
5. there was unacceptable difference between peak areas of the internal standard in the reference and the sample and a confirmation procedure was repeated using the same sample that stayed overnight from 30th September 2019 to 1st October 2019.

Why was the repeat done using sample that stayed overnight from 30th September 2019 to 1st October 2019 is a question that AIU decided not to answer.

3

75 days later after Sanlam Marathon an in-competition doping test was conducted at Macau Galaxy Marathon 2019 where samples we collected tested and the result was negative.

The request for test only targeted the Steroid that resulted positive and not other tests cognizant to doping in sports like Erythropoiesis-stimulating agents (ESA) test.

We still insist that A-Sample Confirmation and Analysis processes for sample collected on 13th September 2019 inclusive of report on values of Human chorionic gonadotropin (hCG) urine sample results and hCG blood sample results be provided and be received in an authentic totality.

Despite AIU claim that procedures performed in the laboratory are precise and from scrutiny it is evident that still the specific gravity kept on changing which casts doubts on storage and testing equipment/tools.

It is therefore our strong position that:

1. Sampling, transportation and sample test procedures were erroneous
2. AIU and WADA should be clear on provisions of liberty to protest against erroneous wrong laboratory findings without persecution ,
3. The costs pertaining to any protest or questioning of procedures of laboratory test is met by the athlete and athletes from poor backgrounds mainly developing country as Kenya often surrender under this prohibitive rule that would have had AIU to intervene making this rule oppressive dictatorial and amounts to breach of justice for the poor and emerging talents.
4. WADA should have a clear means to justice for the athletes disputing a laboratory process and provide disciplinary measures against crimes committed in the lab,
5. AIU being result management authority should scale up the fairness standards in respect with athletes' rights before subjective suspension.
6. AIU has reported that it has “determined that there was no apparent departure from the International Standards that could have reasonably caused the Adverse Analytical Finding” without giving a reason on the above serious uncertainties that are against logic of international standard and leading to suffering and immense emotional depression initiated by the suspension.
7. We therefore raise red flag over suspensions that are brewed out of such serious unjustified acts. As an organization promoting integrity works of AIU, we call for better handling of testing processes by WADA as we demand further investigation on this matter to unearth possible evils, omissions or committed acts and amounting to violations and propose a lasting solution based on scientifically proven, accepted concepts responsible to integrity and justice.

4

8. Questioning of integrity of this procedures and the penalties imposed, the fears and suspicion of possible results manipulation, corruption, discrimination and unethical behavior backed with administrative injustices are doubts dished up before the court of public opinion of which we hold to represent.
9. The infringement of athletes freedom of association and the criminalization of association with a suspended or banned Athlete is a violation ,
10. The delay in resolving of anti doping cases and the long window of non participation leads one to be immobilized, segregated and subjected to trauma, loss of income and bankruptcy and prolonged period of suffering and hopelessness.

We recognize the efforts of Anti-Doping Agency of Kenya and Athletics Kenya Federation in their anti-doping campaigns. We call the government of Kenya to support by funding research on biological factors, environmental doping causatives agents for the sake of justice and accountability in sport. By doing this, we reduce the possible discrepancies and increase public and all stakeholder confidence in the process of attaining indisputable results and honesty suspension or banning as justified punitive measure against doping for the goodness of the sport and the image of Kenya.

In view of the above, let it be known that suspension or banning of athletes/officials causes irreversible damage to human lives if done without justice in due process.

The errors preceding suspension cannot and MUST not be neglected as it can portray the highest level of impunity and presumptive outcome that can damage lives and destroy the future athletes like Mrs. Mercy Kibarus.

5



Sign:.....
CEO- Justine Kurui



Sign:.....
Gilbert Kiplom-Program Officer-Sports & Human Rights

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26th February 2020