



2024/ADD/85 World Taekwondo v. Andres Mauricio Moreno Bedoya

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Ms. Carol Roberts, Attorney-at-Law, Vancouver, Canada

in the arbitration between

World Taekwondo, Switzerland

Represented by Mr. Adam Klevinas, External Legal Counsel, and Ms. Dominique Leroux-Lacroix, International Testing Agency, Lausanne, Switzerland, acting on behalf of World Taekwondo

Claimant

and

Andres Mauricio Moreno Bedoya, Colombia

Represented by Mr. Frank Huguet Oliviera, Attorney-at-Law, Sagamoso, Boyaca, Colombia

Respondent

I. PARTIES

1. World Taekwondo (“WT”) is the world governing body for the sport of taekwondo. As a signatory to the World Anti-Doping Code, WT has enacted the WT Anti-Doping Rules (“WT ADR”).
2. Although the WT ADR provides for the establishment of a Hearing Panel to hear and determine whether an Athlete has committed an anti-doping rule violation and, if applicable, to impose relevant Consequences (Article 8.1), the Athlete and the WT entered into a Disciplinary Proceeding Agreement on 23 July 2023 expressly agreeing to have these matters determined by the Anti-Doping Division of the Court of Arbitration for Sport (“CAS ADD”).
3. The International Testing Agency (“ITA”) filed a request to the CAS ADD on behalf of WT, to rule on the Athlete’s Adverse Analytical Finding (“AAF”) for furosemide, a Prohibited Substance.
4. Mr. Andres Mauricio Moreno Bedoya (the “Athlete”) is a 23-year-old Colombian taekwondo athlete who is considered an ‘international-level athlete’ within the meaning of the WT ADR. The Athlete was the gold medallist at the 2022 Pan American Championship in the 54 kg weight category.
5. The World Anti-Doping Agency (“WADA”), the Colombian Taekwondo Federation (“CTF”) and the National Anti-Doping Organization of Colombia are entitled to attend the hearing as observers pursuant to Article 8.1.2.5 of the WT ADR. WADA did not participate in the arbitration but reserved its right to appeal, if necessary.

II. FACTUAL BACKGROUND

6. Below is a summary of the relevant facts and allegations based on the written submissions and the evidence presented by WT and the Athlete in this procedure. Additional facts and allegations found in the written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, she has only referred to the submissions and evidence necessary to explain her reasoning.
7. On 3 July 2022, the Athlete competed in the Pan Am Series 2 in Heredia, Costa Rica (the “Competition”). As part of the anti-doping control programme at the Competition carried out under the Testing Authority and Results Management Authority of WT, the Athlete provided an In-Competition urine sample (sample no. 1048052) (the “Sample”).
8. In his Doping Control Form (“DCF”) the Athlete declared that he had not used any medications or supplements in the seven days prior to his sample collection. He also confirmed on his DCF that the sample collection was taken in accordance with WADA International Standards.
9. The Sample was analysed at the WADA accredited laboratory in Salt Lake City, Utah (the “Laboratory”).
10. On 12 August 2022, the Laboratory reported that the Athlete’s A Sample had returned an AAF for furosemide at an estimated concentration of 800 ng/ml.

11. Furosemide is a diuretic and masking agent that is prohibited at all times and is classified as a Specified Substance on the 2022 WADA prohibited list. According to the Athlete's Testing history in ADAMS, he had not been tested prior to 3 July 2022.
12. According to the Athlete's National Anti-Doping Organisation, the Athlete did not possess a Therapeutic Use Exemption allowing him to take any Prohibited Substances for medical purposes. The WT records state the same.
13. According to Article 2.1 and 2.1.2 of the WT ADR, confirmation of the presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's samples is sufficient proof of an anti-doping rule violation ("ADRV").
14. On 29 August 2022, the ITA notified the Athlete of the AAF and informed him of the possibility of providing Substantial Assistance. The Athlete expressed surprise at the AAF. He said that he had never taken any substances to influence his performance and did not know how the furosemide could have entered his system.
15. However, the Athlete did state that, a few days prior to the 3 July 2022 sample collection, he experienced COVID-19 like symptoms and went to the emergency room in a hospital where he received medication. He never tested positive for COVID-19. Although the Athlete said he would submit evidence of his hospital attendance, no evidence was ever provided to the ITA.
16. On 30 August 2022, the ITA, on WT's behalf, notified the Athlete in writing of the AAF and that the ITA was considering that he may have committed an anti-doping rule violation ("ADRV") pursuant to Articles 2.1 and/or 2.2 of the WT ADR. Specifically, the ITA notified the Athlete that due to the classification of furosemide as a Specified Substance, he could voluntarily accept a Provisional Suspension and that the time served under the voluntary Provisional Suspension would be deducted from any period of ineligibility that might be imposed against him. The Athlete was further informed of his right to request the analysis of his B Sample and of the Potential Consequences under the WT ADR and was invited to provide an explanation for the presence of furosemide.
17. The Athlete did not respond to the ITA's 30 August 2022 letter by 6 September 2022, as requested. On 8 September 2022, the ITA extended the Athlete's deadline for responding to 22 September 2022. The extension included providing the Athlete with the opportunity to request the analysis of his B Sample, failing which the ITA would deem that he had waived such right.
18. The Athlete did not respond to the ITA's 8 September 2022 letter. On 23 November 2022, the ITA issued a Notice of Charge against the Athlete, asserting an ADRV pursuant to Article 2.1 and/or 2.2 of the WT ADR due to his deemed waiver of the right to request an analysis of his B Sample. Therefore, the ADRV was confirmed pursuant to Article 2.1.1 of the WT ADR. The Notice of Charge also set out the potential consequences of the ADRV, the grounds for potential reductions in any eventual period of ineligibility imposed, and once again, sought the Athlete's explanations no later than 7 December 2022.
19. After being contacted by counsel for the Athlete, Mr. Huguett, on 6 December 2022, the ITA extended the deadline for the Athlete's explanations to 13 December 2022.
20. On 13 December 2022, the Athlete responded to the ITA through Mr. Huguett. Rather than providing an explanation as requested, the Athlete stated that he had not received the ITA's

8 September 2022 notification regarding his right to have his B sample analysed. Counsel for the Athlete alleged that the ITA had not properly managed the administration of the case in accordance with the WADA Code, and sought, among other things, to have the Provisional Suspension lifted, the investigation terminated, and the Athlete acquitted of any doping charge. Counsel also questioned the National Anti-Doping Organization of Colombia's failure to notify the Athlete of the AAF.

21. On 13 December 2022, the ITA informed Mr. Huguett that the Results Management and prosecution of the Athlete's case was not referred to the National Anti-Doping Organization of Colombia since the Athlete's sample was collected under the 'Testing and Results Management Authority of the WT', that all correspondence had been sent to the Athlete's email address, the Colombian Taekwondo Federation, the National Anti-Doping Organization of Colombia and to WADA, and that the Athlete had not been provisionally suspended. The ITA extended the deadline for the Athlete's explanation to 28 December 2022.
22. On 28 December 2022, Mr. Huguett provided the ITA with the Athlete's explanations, which are summarized as follows:
 - It was difficult to logically and coherently explain why furosemide entered the Athlete's body;
 - He suspected that his hydration kit could have been contaminated while he was warming up. While the explanation is difficult to verify, it is the closest to reality since the Athlete is certain he did not consume any Prohibited Substances;
 - The Athlete did not receive any of the ITA's previous notifications;
 - The Athlete sought to have his B Sample opened and analysed;
 - The Athlete sought an early hearing date; and
 - The Provisional Suspension must be taken into account.
23. On 9 January 2023, the ITA confirmed that the Athlete's deadline to provide his explanations had been extended to 23 January 2023. On that day, Mr. Huguett re-sent the Athlete's 28 December 2022 explanations.
24. On 27 January 2023, the ITA informed Mr. Huguett that, as a courtesy and in good faith, the Athlete's B Sample analysis could be conducted on 7 February 2023, and that an independent witness could be appointed to verify the integrity of the analytical process. Mr. Huguett asked to be permitted to attend the opening and analysis of the sample and informed the ITA that the Athlete did not have the financial means to cover the cost of the B Sample analysis.
25. On 1 February 2023, the ITA informed Mr. Huguett that it would inform him of the time and identity of the independent witness and that the WT would assume the costs of the B Sample analysis, but that the ITA/WT could seek to recover the costs related to the AAF pursuant to Article 10.12.1 of the WT ADR, and that the athlete would be responsible for any travel expenses to attend the B Sample analysis.

26. On 3 February 2023, Mr. Huguett confirmed that neither he nor the Athlete would attend the B Sample opening and analysis. The ITA responded the same day, informing Mr. Huguett of the identity of the independent witness and advising Mr. Huguett that he would be informed of the B Sample analysis results.
27. On 7 March 2023, Mr. Huguett wrote to the ITA expressing his displeasure at how the Athlete had been treated, and particularly, about the delay between the 30 August 2022 notification and the date of his letter since a first instance hearing had not been held. Mr. Huguett relied upon Article 4.2 of the International Standard for Results Management (“ISRM”) which requires ADRVs to be prosecuted in a timely manner. Mr. Huguett noted that the Athlete had still not received B Sample results and again requested that the case not proceed.
28. On 21 March 2023, the ITA provided Mr. Huguett with the results of the Athlete’s B Sample analysis, which confirmed the detection of furosemide in the Athlete’s A Sample. The ITA also expressed its view that it did not consider that there had been unreasonable delays in the Results Management process. The ITA further noted that the Athlete had still not provided any explanation for how the furosemide had been detected in his Sample. The ITA informed Mr. Huguett that the Athlete had two options: to accept a two-year period of ineligibility and the Disqualification of all competitive results from 3 July 2022 or have his case referred to adjudication.
29. On 4 April 2023, Mr. Huguett expressed his dissatisfaction with the ITA’s response, stating that the Athlete was unable to explain how the Prohibited Substance entered his body since he had never willingly consumed it. Mr. Huguett also informed the ITA that he had filed a complaint with the General Prosecutor of Colombia to find out who had provided the furosemide to the Athlete and that an investigation had begun. On 25 April 2023, Mr. Huguett requested that ITA suspend the prosecution of the case for one year for the investigation to be completed.
30. On 28 April 2023, the ITA informed Mr. Huguett that while it could not give the Athlete a one-year extension, they would extend the deadline for him to decide whether he wanted to provide explanations regarding the furosemide, accept a two-year period of ineligibility or request a hearing.
31. On 3 May 2023, Mr. Huguett confirmed that the Athlete requested a hearing before the WT Hearing Panel.
32. On 9 May 2023, the ITA confirmed to Mr. Huguett that the Athlete’s case would be referred to the WT Hearing Panel. On 10 July 2023, the ITA asked Mr. Huguett to seek the Athlete’s agreement to have his case heard before the CAS ADD rather than the WT Hearing Panel.
33. On 7 August 2023, Mr. Huguett returned a signed copy of the Disciplinary Proceeding Agreement, confirming the Athlete’s desire to have the matter adjudicated by the CAS ADD.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

34. On 9 February 2024, the ITA filed a Request for Arbitration with the CAS ADD in accordance with Article A13 of the Arbitration Rules of the ADD (the “ADD Rules”).

35. On 9 February 2024, WADA informed CAS ADD that it did not intend to participate in the proceedings, but reserved its right of appeal, if necessary.
36. In its Request for Arbitration, and in accordance with Article A16 of the ADD Rules, WT requested that this procedure be referred to a Sole Arbitrator appointed by the President of the ADD.
37. On 6 March 2024, the ADD, on behalf of the President of the ADD, confirmed the appointment of Ms. Carol Roberts, Attorney-at-Law in Vancouver, Canada, as Sole Arbitrator in accordance with Article A16 of the ADD Rules.
38. On 10 March 2024, the Athlete filed his Answer to the Request, and sought an oral hearing.
39. On 8 July 2024, the ITA and the Athlete returned a signed copy of the Order of Procedure.
40. The Athlete requested an Oral Hearing, which was held virtually on 9 July 2024. The following people attended the hearing:
 - The Panel, assisted by Mr. Fabien Cagneux (Managing Counsel)
 - for the ITA: Mr. Adam Klevinas (External Counsel)
 - for the Athlete (who attended the hearing): Mr. Frank Antonio Huguet Oliviera (Counsel)
41. The Parties confirmed they had no objection to the composition of the Panel.
42. Although the Athlete indicated his intention to call four witnesses, due to difficulties with interpretation and internet connectivity, the Panel heard from only one witness, Nancy Orduz Hurtado, one of the Athlete's coaches, in addition to the Athlete himself.
43. The Athlete testified that he was aware of his anti-doping obligations including the responsibility for any substances entering his body. He denied taking furosemide and had no explanation for how it entered his system.
44. The Athlete testified that he was the sole Colombian athlete at the Competition, at which he participated to advance his world ranking. Because he was alone, he was unable to monitor his water bottles during his competition. Although the Athlete believes that his hydration kit was interfered with during the competition, he conceded that he had no evidence to support that belief.
45. The Athlete also testified that he had never had any difficulty achieving the necessary weight for his weight class and that he did not use furosemide as a diuretic.
46. Ms. Hurtado testified that she had coached the Athlete since he was very young. In her opinion, the Athlete was a hard-working, disciplined athlete and had never had any difficulty reaching the necessary weight for his weight class. Ms. Hurtado confirmed that the Athlete travelled to Costa Rica by himself and had no other team members to support him during the Competition.
47. The Athlete indicated an intention to also call the President of the Colombian Taekwondo Federation, Rene Forero Tavera, and William Duarte Toro, another of the Athlete's coaches. Due to the internet connectivity issues, neither of these witnesses attended the hearing or gave evidence.

48. The Athlete also indicated his intention to call Dr. Nelson Padilla Anaya as an expert in the proceedings. Article 19.1 of the ADD Rules requires that parties list the names of any witnesses/experts they intend to call and a summary of their expected testimony, as well as the names of any experts, stating their area of expertise. Counsel for the Athlete did not provide the ITA with a summary of Dr. Padilla Anaya's evidence despite several requests that he do so.
49. On 8 July 2024, the Sole Arbitrator asked Counsel for the Athlete to provide both Dr. Padilla Anaya's witness statement as well as a copy of his *curriculum vitae* before the commencement of the hearing. Counsel for the Athlete indicated that he had not provided a witness statement because there was "no previous statement" but indicated that Dr. Padilla Anaya's testimony would be "about the prohibited substance, its effects and use in sports" and "explain the consequences of misuse of furosemide and the risks in athletes." Counsel further indicated that Dr. Padilla Anaya would give evidence regarding the "useful life of furosemide in the body of athletes."
50. Counsel ultimately provided a copy of Dr. Padilla Anaya's *curriculum vitae* and indicated that although Dr. Padilla Anaya had never been qualified as an expert in any previous judicial proceedings, he had "extensive experience in sports medicine and anti-doping due to his medical expertise and work with the Colombian state."
51. It is not entirely clear why Dr. Padilla Anaya did not attend the hearing, as it is the Sole Arbitrator's understanding that he did appear in the virtual "waiting room" but did not remain there. In any event, due to the internet connection difficulties experienced by the interpreter, it is not clear he would have been able to provide his evidence in any event.
52. Ultimately, Counsel for the Athlete agreed to proceed without hearing from the remaining witnesses. He did not seek an adjournment of the hearing, ask for a break to secure a different interpreter or propose any other resolution to the difficulties encountered at the hearing.
53. It also became apparent during the hearing that Counsel for the Athlete was unable to effectively communicate in English, the language requested by ITA for the proceedings. Due to internet connectivity issues with the interpreter, the Sole Arbitrator offered Counsel for the Athlete the opportunity to make his final submissions in writing. The parties agreed on a deadline of 11 July 2024 for the Athlete's final submissions, followed by a deadline of 15 July 2024 for ITA reply submissions and 16 July 2024 for any rejoinder by the Athlete.
54. At the conclusion of the hearing, the parties agreed that their right to a fair hearing had been respected.

IV. SUBMISSIONS OF THE PARTIES

55. ITA's submissions may be summarised as follows:
 - The Athlete's B Sample confirmed the presence of the Prohibited Substance Furosemide found in his A Sample, thereby confirming the ADRV.
 - The Athlete does not have a Therapeutic Use Exemption for the use of Furosemide. The Athlete has not challenged the validity of the AAF at any point.

- There has been no deviation from any International Standards. The Athlete confirmed that the sample collection was taken in accordance with WADA International Standards. The AAF was reported by a WADA-accredited laboratory for both the A and B Samples. WADA-accredited laboratories are presumed to have conducted the analysis in compliance with International Standards, and the Athlete has not provided any evidence rebutting this presumption.
- According to Article 2.1.1 of the WT ADR, WT does not have to demonstrate intent, Fault, Negligence or Knowing Use on the part of the Athlete to establish an ADRV for presence under Article 2.1.
- WT has discharged its burden of proof to establish the ADRV for the Presence of a Prohibited Substance in accordance with Article 2.1 and/or 2.2. of the WT ADR to the comfortable satisfaction of the Panel.
- Article 10.2 of the WT ADR specifies a period of ineligibility of two years for the violation of Article 2.1 for a Specified Substance, unless WT establishes that the Athlete's ADRV was intentional.
- The sport of taekwondo is divided into weight categories and the Athlete competed in the 54k category in 2022. Furosemide is commonly known to be used to induce artificial weight loss in sports where athletes need to meet weight standards. The amount of furosemide in the Athlete's sample is not insignificant. Considering that the half-life of furosemide is approximately two hours, it cannot be excluded that the AAF was caused by the Athlete's intentional use of a therapeutic dose of furosemide.
- To date, and despite repeated requests by the ITA, the Athlete has not provided any explanation about how furosemide entered his system.
- In the absence of any explanation or evidence from the Athlete that establishes how the furosemide entered his system, there are no mitigating circumstances that justify a reduction to the applicable two-year period of ineligibility. Therefore, the Athlete is not eligible for any reduction to the otherwise two-year period of ineligibility on the basis of either No Fault or Negligence, or No Significant Fault or Negligence.
- Although the Athlete has said he suspects that someone put furosemide into his water bottle when he was warming up to compete or when he was competing, mere suspicion is insufficient to establish, on a balance of probabilities, how the furosemide entered his system. To discharge his burden of proof, an athlete must satisfy the Panel that it is more likely than not that the Prohibited Substance entered his system through the actions of a third party. To claim only that it is possible does not meet the test.
- An allegation of sabotage is serious and the strength of the evidence required to prove such an allegation must meet a higher standard of proof.
- All competitive results obtained by the Athlete from the date of sample collection (i.e. after 3 July 2022) including his results at the Competition, shall be disqualified, including the forfeiture of any medals, prizes and point, pursuant to Article 10.10 of the WT ADR.

56. In its Request for Arbitration, ITA requested the following relief:

- 1) *Mr Andres Mauricio Moreno Bedoya is found to have committed an ADRV of Article 2.1 and/ or 2.2 of the WT Anti-Doping Rules.*
- 2) *Mr Andres Mauricio Moreno Bedoya is sanctioned with a period of ineligibility of two years.*
- 3) *The period of Ineligibility imposed shall commence as of the date of the Panel's decision.*
- 4) *All competitive results of Mr Andres Mauricio Moreno Bedoya from the date of Sample collection (i.e., from 3 July 2022) are Disqualified, with all resulting Consequences, including forfeiture of any medals, points, and prizes.*
- 5) *The costs of the proceedings, if any, shall be borne by Mr Andres Mauricio Moreno Bedoya.*
- 6) *The Athlete is asked to reimburse all costs associated with the ADRV.*
- 7) *Any other prayer for relief that the Panel deems fit in the facts and circumstances of the present case.*

57. The Athlete's arguments are as follows:

- He never received any communications from the ITA after 30 August 2022. The first email he received regarding his AAF was on 23 November 2022.
- He has never failed an anti-doping test prior to 3 July 2022. He did not consume any performance enhancing substance at the Pan American Championships.
- He has never knowingly taken furosemide. Accordingly, the only way it could have entered his system is through deception or by someone trying to harm his career (sabotage). He has made a complaint to the Chief Prosecutor's office in Boyaca, Colombia to determine who may be responsible for this sabotage.
- He either drank a contaminated product or he was the victim of sabotage and has no idea who could be responsible for such conduct. He could not ingest furosemide during a competition because it causes dehydration. If he competed while dehydrated, he risked experiencing cramps.
- He agrees with ITA that furosemide is a powerful diuretic that helps athletes lose weight, but he has never had difficulty reaching the weight for his weight class.
- Although he acknowledges responsibility for some of the delays in having this matter resolved, the ITA is responsible for failing to meet more than three reasonable deadlines. Because the ITA failed to prosecute this in a timely manner, he should be acquitted.

58. In his Answer, the Athlete requested the following prayers for relief:

1. *Do not accept the sanctioning requests presented by the ITA.*
2. *That Your Honor Arbitror, accept as true and sent in time the explanation sent by the athlete Andrés Moreno Bedoya.*
3. *DECREE that the athlete had no fault or responsibility in the ADRV and eliminate the period of inability and consequently acquit the athlete ANDRES MORENO BEDOYA.*

4. *that the athlete maintains the titles, prizes and medals that he obtained in the previous period, during and after.*
5. *that the ITA assumes its own costs and pays the expenses of interpreter, lawyers and travel expenses to the athlete ANDRES MORENO.*
6. *That the ITA assumes its own costs and pays the expenses of interpreter lawyers and travel expenses to the athlete ANDRES MORENO.*
7. *Recognize the athlete ANDRES MORENO BEDOYA as a victim of sabotage.*

V. JURISDICTION

59. Article 8.1 of the 2021 WT ADR, which governs the procedural aspects of this proceeding, provides that the WT Hearing Panel has jurisdiction to adjudicate matters concerning the assertion of ADRVs:

8.1.1 WT shall establish a Hearing Panel ("WT Hearing Panel") which has jurisdiction to hear and determine whether an Athlete or other Persons subject to these Anti-Doping Rules, has committed an anti-doping rule violation, and if applicable, to impose relevant Consequences.

8.1.1.2 WT shall ensure that the WT Hearing Panel is free of conflict of interest and that its composition, term of office, professional experience, Operational Independence and adequate financing comply with the requirements of the International Standard for Results Management.

60. However, the Disciplinary Proceeding Agreement between the Athlete and the WT provides the CAS ADD with jurisdiction in this matter.

61. Article A2 of the ADD Rules provides as follows:

CAS ADD shall be the first-instance authority to conduct proceedings and issue decisions when an alleged anti-doping rule violation has been filed with it and for imposition of any sanctions resulting from a finding that an anti-doping rule violation has occurred. CAS ADD has jurisdiction to rule as a first-instance authority on behalf of any sports entity which has formally delegated its powers to CAS ADD to conduct anti-doping proceedings and impose applicable sanctions.

These Rules apply whenever a case is filed with CAS ADD. Such filing may arise by reason of an arbitration clause in the Anti-Doping Rules of a sports entity, by contract or by specific agreement.

These Rules apply only to the resolution by first instance arbitration of alleged anti-doping rule violations filed with CAS ADD. They neither apply with respect to appeals against any other decision rendered by an entity referred to in this Article nor against any decision rendered by CAS ADD.

Decisions rendered by CAS ADD shall be applied and recognized in accordance with the WADC.

62. No party has otherwise objected to the jurisdiction of the CAS ADD.
63. In consideration of the foregoing, the Sole Arbitrator confirms the jurisdiction of the ADD to decide this matter.

VI. APPLICABLE LAW

64. Article A20 of the ADD Rules provides as follows:

The Panel shall decide the dispute in accordance with the WADC and with the applicable ADR or with the laws of a particular jurisdiction chosen by agreement of the parties or, in the absence of such a choice, according to Swiss law.

65. The 2021 WT ADR was in effect at the time of the ADRV. The WT ADR applies, without limitation, to all athletes who are members of WT. The Athlete does not dispute that he is bound by the WT ADR.

66. No party objected to the application of the WT ADR.

67. The Sole Arbitrator, therefore, confirms that the WT ADR applies to this procedure.

VII. MERITS

A. The Anti-Doping Rule Violation

Did the Athlete commit an ADRV?

68. Article 3.1 of the WT ADR provides that WT has the burden of establishing, to the comfortable satisfaction of the Panel, an ADRV. Once an ADRV has been established by WT, the burden then shifts to the Athlete to demonstrate, on a balance of probabilities, that the ADRV was not intentional.

69. Article 2 of the WT ADR provides that the presence of a Prohibited Substance or its metabolites constitutes an ADRV:

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

2.1.1 It is the Athlete's personal duty to ensure that no Prohibited Substance enters their bodies. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.

70. Article 2.1.2 provides that sufficient proof of an anti-doping violation under Article 2.1.2 of WT ADR is established by the presence of a Prohibited Substance or its metabolites or markers in an Athlete's Sample "... where the Athlete's B Sample is analyzed and the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample..."

71. As the Athlete did not dispute the presence of furosemide in either his A or B Samples, the Sole Arbitrator finds that the Athlete committed an anti-doping rule violation under Article 2.1 of the WT ADR.

B. The Applicable Sanction

72. Under Article 10.2 of the WT ADR, the period of ineligibility imposed for an ADRV for a specified substance is two years, unless WT can establish that the Athlete's ADRV was intentional, in which case the period of ineligibility shall be four years.
73. WT did not assert that the Athlete's ADRV was intentional. Therefore, any period of ineligibility is two years:

10.2 Ineligibility for Presence, Use, or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method

The period of ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential elimination, reduction or suspension pursuant to Articles 10.5, 10.6 or 10.7:

10.2.1 The period of ineligibility, subject to Article 10.2.4 shall be four (4) years where:

10.2.1.1 The anti-doping rule violations 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...

10.2.2 If Article 10.2.1 does not apply, subject to Article 10.2.1, the period of ineligibility shall be two years.

74. Article 10.5 provides that if an Athlete or other Person can establish that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated.
75. The WT ADR defines "No Fault or Negligence" as:

The Athlete or other Person's establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had Used or been administered the prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Protected Person or Recreational Athlete, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Athlete's system.

76. Article 10.6 of the WT ADR provides for a Reduction of the Period of Ineligibility where there is No Significant Fault or Negligence.

10.6.1 Reduction of Sanctions in Particular Circumstances for Violations of Article 2.1, 2.2 or 2.6.

All reductions are mutually exclusive and not cumulative.

10.6.1.1 Specified Substances or Specified Methods

Where the anti-doping rule violation involves a Specified Substance (other than a Substance of Abuse) or Specified Method, and the Athlete or other Person can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of ineligibility, and at a maximum, two (2) years of Ineligibility, depending on the Athlete's or other Person's degree of fault.

10.6.1.1 Contaminated Products

In cases where the Athlete or other Person can establish both No Significant Fault or Negligence and that the detected Prohibited Substance (other than a Substance of Abuse) came from a Contaminated

Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of ineligibility, and at a maximum, two (2) years Ineligibility, depending on the Athlete or other Person's degree of Fault.

77. The WT ADR defines “No Significant Fault or Negligence” as

The Athlete or other Person's establishing that any Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the anti-doing rule violation. Except in the case of a Protected Person or Recreational Athlete for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Athlete's system.

78. CAS jurisprudence has consistently determined that establishing how the Prohibited Substance entered an athlete's system is a “threshold requirement” (CAS 2010/A/2277) or “condition precedent” (CAS 2014/A/3615) to any argument of No Significant Fault or Negligence. As expressed by the CAS panel in CAS 2006/A/1130:

Obviously this precondition [establishing how the prohibited substance entered the Athlete's system] is important and necessary otherwise an athlete's degree of diligence or absence of fault would be examined in relation to circumstances that are speculative and that could be partly or entirely made up. To allow such speculation as the circumstances in which an athlete ingested a prohibited substance would undermine the strict liability rules underlying Swiss Olympic's doping statute and the World Anti-Doing Code, thereby defeating their purpose. (at para. 39)

79. The Athlete has not provided any evidence about how the Prohibited Substance entered his system. While Ms. Hurtado's evidence describes the Athlete's character, it does not establish how the Prohibited Substance entered the Athlete's body.
80. Given the internet connectivity issues at the hearing, the Sole Arbitrator has also considered the anticipated evidence of the other non-expert witnesses, having received a summary of that evidence prior to the hearing. Although the Sole Arbitrator places little weight on those summaries, the anticipated evidence, like that of Ms. Hurtado, focussed on the Athlete's discipline, the importance he placed on his health, and the claim that, to the witnesses' knowledge, the Athlete had never taken prohibited substances. The Sole Arbitrator concludes that, even if that evidence been presented, it would not have assisted the Athlete in establishing how furosemide entered his system. The Sole Arbitrator is not persuaded that the inability or failure of those parties to give evidence would have had any impact on the outcome of these proceedings.
81. Similarly, the Sole Arbitrator understands that Dr. Padilla Anaya's evidence would have been, in essence, that there would have been no reason for the Athlete to ingest the Prohibited Substance because it would not have benefitted his performance.
82. The Sole Arbitrator has concluded, for the reasons that follow, that even had Dr. Padilla Anaya given evidence, that evidence would also not have affected her conclusion in this matter.
83. The Sole Arbitrator understands that Dr. Padilla Anaya's evidence was to respond, at least in part, to WT's assertion that furosemide was a potent diuretic commonly used to induce artificial weight loss. WT asserted that because the amount of furosemide found in the Athlete's system was significant, it could not be excluded that the AAF was caused by an

intentional ingestion of a therapeutic dose of the substance. However, WT did not take the position that the Athlete's ADRV was intentional.

84. Furthermore, WT has no obligation to present an alternative theory for the presence of a Prohibited Substance (see, CAS 2018/A/5571 and CAS 2014/A/3615) and any expert evidence regarding WT's theory is of no assistance to the Athlete in establishing how the Prohibited Substance entered his system.
85. Although Counsel for the Athlete has asked the Chief Prosecutor of Colombia to investigate the circumstances of how furosemide entered the Athlete's system approximately 18 months ago, no results have been forthcoming and there is no information about when the investigation may be completed.
86. The Athlete speculated that someone might have put the furosemide in his water bottle to sabotage him. Mere speculation or arguments about contamination or sabotage, without evidence, falls well short of establishing, on a balance of probabilities, how the Prohibited Substance entered his system and caused the ADRV:

The Panel emphasises that to permit an athlete to establish how a substance came to be present in his body by little more than a denial that he took it would undermine the objectives of the Code and Rules. Spiking and contamination – two prevalent explanations often put forth by athletes to explain the presence of a banned substance – can and do occur. That said, it is an easy assertion to make, particularly if unsupported by any evidence. To be effective as a system, more must be required by way of proof, having regard to the athlete's general duty to ensure that no prohibited substance enters his body. If the athlete's statement of denial alone were to be considered sufficient evidence to establish how the prohibited substance entered his body, the condition precedent set forth by Articles 10.5.1 and 10.5.2 of the FIM Code and WADAC would be deprived of effectiveness and utility. (CAS 2014/A/3615, para. 58)

87. The Athlete also contended that, because he participated in the Competition without either a coach, support staff or any fellow team members, other athletes or third parties had an opportunity to contaminate his hydration kit. A theoretical possibility that a third party had such an opportunity is also insufficient to meet the burden of establishing how the Prohibited Substance entered his system. The Athlete must provide corroborative evidence that it is more likely than not that the alleged sabotage occurred. (see, for example, *ITF v. Able*, ITF Anti-Doping Tribunal decision of 29 April 2008).
88. Additionally, in CAS 2016/A4627, 4628 and 5283, the CAS Panel determined that serious allegations, such as sabotage, must be established on strong evidence:

...Such a so-called third party attack [such as spiking food and/or drinking water] requires a specific and substantial amount of criminal energy and must be regarded as a serious offence comparable to corruption and match-fixing charges. Therefore, as far as the quality of evidence is concerned, the Sole Arbitrator would like to refer from the outset to the standards that have been developed by CAS panels in the areas of corruption and match-fixing. (at para. 50)

89. In the absence of any evidence that establishes how the Prohibited Substance entered the Athlete's system, the Sole Arbitrator finds that the Athlete is unable to justify any reduction to the applicable period of ineligibility of two years based on either No Fault or Negligence or No Significant Fault or Negligence.

Were there serious delays in the results Management Process?

90. Counsel contended that WT's delays in notifying the Athlete of his AAF constituted such a significant departure from International Standard for Results Management ("ISRM") that the Athlete was entitled to an acquittal under Article 13.3 of the WT ADR. Counsel concedes that he was responsible for a delay of approximately three months, but the balance of the delay was attributable to the ITA. Counsel contends that the delays have caused significant anguish to the Athlete and were unreasonable.
91. Having regard to the communications between the parties, the Sole Arbitrator accepts that there were delays in the process, both in the notification of the results, some of which were attributable to the Athlete's mailbox being full and the ITA receiving no "bounce back" messages, others relating to the logistical difficulties regarding the testing of the B Sample, and yet others attributable to discussions relating to the suitable hearing panel. The Sole Arbitrator also notes that Counsel for the Athlete requested a one-year delay to await the results of the requested criminal investigation. The Sole Arbitrator also notes an unexplained six-month delay in prosecuting this matter between 7 August 2023, when the parties agreed to have CAS ADD decide this matter, and 9 February 2024, when the request was filed.
92. Section 4.2 of the ISRM provides:

In the interest of fair and effective sport justice, anti-doping rule violations should be prosecuted in a timely manner. Irrespective of the type of anti-doping rule violation involved, and save for cases involving complex issues or delays not in the control of the Anti-Doping Organization (e.g., delays attributable to the Athlete or other Person), Anti-Doping Organizations should be able to conclude Results Management (including the Hearing Process at first instance) within six (6) months from the notification as per Article 5 below.

[Comment to Article 4.2: The six (6) months' period is a guideline, which may lead to consequences in terms of compliance for the Results Management Authority only in case of severe and/or repeated failure(s).]

93. Section 13.3 of the WT ADR provides:

Where, in a particular case, WT fails to render a decision with respect to whether an anti-doping rule violation was committed within a reasonable deadline set by WADA, WADA may elect to appeal directly to CAS as if WT had rendered a decision finding no anti-doping rule violation. ...

94. The Sole Arbitrator is unable to find that the Athlete is entitled to an acquittal under these provisions. Firstly, Section 13.3 of the WT ADR applies only to WT's failure to render decisions with respect to anti-doping rule violations within a "reasonable deadline." With the express agreement of the parties, the responsibility to determine whether an ADRV had been committed was submitted to CAS ADD for determination.
95. Secondly, and in any event, as Section 4.2 of the ISRM specifically states, the six-month period is only a guideline.
96. Furthermore, the ISRM expressly states that departures from the standards neither constitute defences to anti-doping rule violations nor invalidate analytical results:

Notwithstanding the mandatory nature of this International Standard and the possibility that departures by Anti-Doping Organizations may give rise to compliance consequences under the International Standard for Code Compliance by Signatories, departures from this International Standard shall not invalidate

analytical results or other evidence of an anti-doping rule violation and shall not constitute a defense to an anti-doping rule violation, except as expressly provided for under Code Article 3.2.3.

Period of ineligibility

97. The Sole Arbitrator finds that the Athlete's period of ineligibility for the violation of Article 2.1 of the WT ADR is two years.
98. Although there was an unexplained delay of approximately six months in prosecuting this matter, the Sole Arbitrator notes that the Athlete himself requested a one-year delay. For this reason, and in the absence of any authority for reducing the period of ineligibility solely on this basis, the Sole Arbitrator is not persuaded that there should be any deductions from the period of ineligibility.
99. The two-year period of ineligibility is to commence on the date of this Award, as the Athlete was not subject to a Provisional Suspension.
100. Further, pursuant to Article 9 of the WT ADR, all competitive results of the Athlete from 3 July 2022 until the date of notification of the present Award are disqualified, including his results at the Pan Am Series 2 Competition. The Athlete is directed to return his gold medal obtained at the at the 2022 Pan American Championship and to forfeit any diplomas, points and prizes awarded to him (if any).

VIII. COSTS

(...)

IX. APPEAL

106. Pursuant to Article A21 of the ADD Rules, this award may be appealed to the CAS Appeals Arbitration Division within 21 days from receipt of the notification of the final award with reasons in accordance with Articles R47 *et seq.* of the Code of Sports-Related Arbitration, applicable to appeals procedures.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Request for Arbitration filed by the International Testing Agency on behalf of World Taekwondo on 9 February 2024 against Andres Mauricio Moreno Bedoya is upheld.
2. Andres Mauricio Moreno Bedoya committed an anti-doping rule violation of Articles 2.1 and/or 2.2 of the World Taekwondo Anti-Doping Rules.
3. Andres Mauricio Moreno Bedoya is sanctioned with a period of ineligibility of two (2) years.
4. The period of ineligibility shall commence on the date of notification of the present Award.
5. All competitive results obtained by Andres Mauricio Moreno Bedoya from the date of sample collection (3 July 2022) until the date of notification of the present Award are disqualified with all resulting consequences. The Athlete is ordered to return his gold medal obtained at the 2022 Pan American Championship and, if applicable, forfeit any other medals, points and prizes.
6. (...).
7. (...).
8. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 25 April 2025

THE ANTI-DOPING DIVISION OF THE COURT OF ARBITRATION FOR SPORT

Carol Roberts
Sole Arbitrator