

**CAS 2025/A/11840 World Anti-Doping Agency (WADA) v. Anti-Doping Agency of Kenya (ADAK) & David Bett**

## **ARBITRAL AWARD**

delivered by the

### **COURT OF ARBITRATION FOR SPORT**

sitting in the following composition:

Sole Arbitrator: Ms Annett Rombach, Attorney-at-Law, Frankfurt am Main, Germany

in the arbitration between

**World Anti-Doping Agency (WADA), Montreal, Canada**

Represented by Messrs Nicolas Zbinden, David Baker and Mario Flores Chemor, Attorneys-at-Law at Kellerhals Carrard, Lausanne, Switzerland

**Appellant**

**and**

**Anti-Doping Agency of Kenya, Nairobi, Kenya**

Represented by Mr Bildad Rogoncho, Head of Legal Services at the Anti-Doping Agency of Kenya, Nairobi, Kenya

**First Respondent**

**&**

**David Bett, Hawaii, United States**

Represented by Gakii Nyamu & Co. Advocates, Kenol, Kenya

**Second Respondent**

## I. THE PARTIES

1. The World Anti-Doping Agency (“**WADA**” or the “**Appellant**”) is a private law foundation constituted under Swiss law in 1999 to promote and coordinate at international level the fight against doping in sport on the basis of the World Anti-Doping Code (the “**WADC**” or the “**Code**”). WADA has its registered seat in Lausanne, Switzerland, and its headquarters in Montreal, Canada.
2. The Anti-Doping Agency of Kenya (the “**ADAK**” or the “**First Respondent**”) is the national anti-doping organisation for the country of Kenya, recognized as such by WADA. It has its registered seat in Nairobi, Kenya.
3. Mr David Bett (the “**Athlete**” or the “**Second Respondent**”) is a long-distance runner from Kenya. The Athlete is considered an International-Level Athlete for the purposes of the ADAK Anti-Doping Regulations (the “**ADAK ADR**”) and has been competing in international-level running events since 2009.
4. ADAK and the Athlete are collectively referred to as the “**Respondents**”. The Appellant and the Respondents are collectively referred to as the “**Parties**”.<sup>1</sup>

## II. FACTUAL BACKGROUND

### A. Introduction

5. The present dispute arises from an appeal against a decision rendered on 15 May 2025 by the Sports Disputes Tribunal of Kenya (the “**SDT**”) (the “**Appealed Decision**”). In the Appealed Decision, the SDT determined that the Athlete had committed an anti-doping rule violation (the “**ADRV**”) pursuant to Article 2.1 of the ADAK ADR and imposed a period of Ineligibility of twenty (20) months on the Athlete.
6. It is undisputed in the present proceedings that the Athlete committed the ADRV. Accordingly, the scope of the appeal is confined to the determination of the appropriate length of the period of Ineligibility. The Appellant seeks the imposition of a period of Ineligibility of four (4) years. The Second Respondent requests that the Appealed Decision be upheld or varied only within the permissible No Significant Fault or Negligence reduction corridor, capped at two (2) years.
7. Below is a summary of the main relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced during these proceedings. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the present Award refers only to the submissions and evidence considered

---

<sup>1</sup> Capitalized terms not otherwise defined in this Award shall have the meaning assigned to them in Appendix: Definitions of the ADAK ADR and, where applicable, in the 2021 World Anti-Doping Code.

necessary to explain its reasoning.

## **B. The Doping Control**

8. On 3 March 2024, the Athlete was subject to an In-Competition doping control at the San Blas Half Marathon in Puerto Rico (the “**Doping Control**”), where he provided a urine sample (the “**Sample**”).
9. On 19 April 2024, the WADA-accredited Sports Medicine Research and Testing Laboratory in South Jordan, Utah (the “**SMRTL**”), issued a test report (the “**Test Report**”), which reported an Adverse Analytical Finding for “*S1.1 Anabolic Androgenic Steroids (AAS)/19-norandrosterone*” in the Athlete’s A Sample. 19-Norandrosterone is a metabolite of Nandrolone and is a non-Specified Substance prohibited at all times and classified under S1.1. (Anabolic Androgenic Steroids (AAS)) of the 2024 WADA Prohibited List (the “**Prohibited Substance**”).

## **C. Results Management**

10. On 14 May 2024, ADAK formally notified the Athlete of a potential breach of Article 2.1 (Presence) and Article 2.2 (Use) of the ADAK ADR and invited him to provide an explanation and to request the analysis of the B Sample. ADAK further informed the Athlete that he was provisionally suspended with effect from 3 June 2024.
11. In his undated written explanation, the Athlete submitted, *inter alia*, that: (i) he had been tested “*probably in excess, of 50 times, both in and out of competition*” and had never had any issues in the past; (ii) he was tested one week following the Doping Control without any issues; (iii) there are studies showing that the Prohibited Substance “*is a normally produced chemical that can elevate immediate [sic] after highly strenuous activities*”; (iv) he had concerns that the Test Report appeared to indicate that the results had been modified on 19 April 2024; and (v) there were mistakes in the sample collection process, including “*they messed up sealing his sample*”.
12. The Athlete did not request the analysis of his B Sample.

## **D. The Proceedings Before the SDT**

13. On 26 July 2024, ADAK filed a charge document, together with supporting evidence (the “**Charge Document**”) with the SDT. In the Charge Document, ADAK sought, *inter alia*, that a four (4) year period of Ineligibility be imposed upon the Athlete.
14. On 29 August 2024, the Athlete filed a statement of defence (the “**Statement of Defence**”). The Statement of Defence contained witness statements from the Athlete and his manager/coach. The Athlete asserted, *inter alia*, that: (i) he was an athlete with 14 years of experience and had been “*tested severally when participating*”; (ii) on 2 February 2024, he had been admitted to hospital due to pain in his ankle; (iii) upon presenting himself at the hospital he was prescribed a medicine “*which he proceeded to buy and consume per the instructions of the prescribing doctor*”; (iv) his treating

physician “*did not know that the respondent was an athlete when prescribing the medication*” and that such physician had “*confirmed that one of the medicines he prescribed had potential to cause presence of a prohibited substance*” and that, in the circumstances, neither the Athlete nor the treating physician “*intentionally and wilfully [sic] intended to cause a violation of the rules*”; and (v) the Athlete “*wishes to state that he did not intentionally or wilfully [sic] consume any substance that would introduce a prohibited substance into his body and in bid to aid him in any competition*”.

15. In support of his explanations, the Athlete submitted the following documents:
  - i. a document issued by the hospital dated 2 February 2024, recording medical observations concerning the Athlete and containing a prescription, which lists the following medications administered to the Athlete:
    - (1) an intramuscular injection of “*Sustana 250mg*” and a further 250mg intramuscular injection of “*Sustana*” after 7 days: “*I.M Sustana 250mg stat [sic] then 250mg after 7 days*”;
    - (2) 7.5mg meloxicam tablets: “*Tabs Meloxicam 7.5mg B.D x [unreadable]/7*”; and
    - (3) 5mg “*pdl*” tablets: “*Tabs pdl 5mg B.D x [unreadable]/7*”.
  - ii. a letter dated 29 August 2024 purportedly issued by the Athlete’s treating physician at the hospital recording the following prescribed medications, which states, *inter alia*, that: he “*administered I.M Sustanon 250mg and a repeat dose on 7th Feb 2024 which produces/is an Anabolic Androgenic Steroids (AAS)/19-norandrosterone*”.
16. On 10 April 2025, a hearing took place before the SDT Panel.
17. On 24 April 2025, the Athlete produced a letter from Dr Christine Kendi Nyamu (the “**Nyamu Letter**”). The Nyamu Letter states the following:
 

*“19-Norandrosterone on the other hand is a norsteroid formed as a side product during the conversion by aromatization of steroids such as testosterone to estradiol in the body. Thus in cases here there is testosterone in the body, 19-Norandrosterone is bound to be present as a side product. Testosterone levels peak 24-48 hours after the administration of Sustana and the levels return to the lower limit of normal after 21 days after administration.*

*Therefore, the above explanation explains why after the administration of the medication Sustana one side product of testosterone, 19-Norandrosterone was present in the urine sample collected.”*
18. On 28 April 2025, ADAK filed its written submissions and requested that a two (2)-year period of Ineligibility be imposed on the Athlete.
19. On 15 May 2025, the SDT Panel rendered the Appealed Decision. The operative part

thereof provides as follows:

*“This Honourable Tribunal having considered the evidence placed before it contained in the witness statements and also the written submissions from the Applicant’s Counsel and the Respondent’s Counsel, hereby orders; [sic]*

- i. The Appellant ADAK has presented sufficient proof of the ADRV which has not been denied and the Respondent, David Bett is held to have contravened the provisions of the ADAK Anti-Doping Rules.*
- ii. The Respondent, David Bett is suspended and is ineligible to compete for a period of 20 months with effect from 14<sup>th</sup> May 2024 to 13<sup>th</sup> January 2026.*
- iii. The Respondent’s individual results obtained during the San Blas Half Marathon in Puerto Rico on 3rd March 2024 and thereafter, including any points gained and prizes, are disqualified.*
- iv. Parties have the right of Appeal as provided under Art. 13.2 of WADC and Art. 13 of ADAK Rules;*
- v. Each party shall bear its own costs.”*

20. The Appealed Decision found that the Athlete had committed the ADRV. With respect to whether the Athlete acted intentionally, the Appealed Decision established the following:

*“26. The Panel is of the view that the fact that the results of the AAF as per the Laboratory results is not disputed, as far as the ‘A’ Sample results produced an AAF and there was no request for ‘B’ Sample analysis. The Panel also notes that there was no applicable TUE at the time of Sample Collection. This Panel also finds that there being no contest, this Panel finds that the Charge in regard to presence of a Prohibited Substance **SI.1 Anabolic Androgenic Steroids (AAS)/19-norandrosterone** in the Athlete’s Sample has been proved to the required standard under the ADAK ADR.*

*27. Equally, the source and method of ingestion of the prohibited substance have not been contested by the Applicant. It was the athlete’s testimony during the hearing that the medication containing the prohibited substance that gave rise to [sic] Adverse Analytical Finding was administered as treatment for his joint pain. This position was further confirmed through a medical report dated 24<sup>th</sup> April, 2025 by Dr. Christine Nyamu.*

*28. In that regard, the Panel is of the view that the origin of the prohibited substance has been established.*

*29. Based on the above, this Panel finds that in this instance there is an AAF from a WADA accredited laboratory which has not been challenged. There is also*

*admission by the Respondent to receiving medication for treatment which is suspected to be the source of the AAF. Therefore, it is the Panel's Finding that there is an ADRV.*

[...]

37. *This Panel notes that, aside from disproving intention, the Respondent must demonstrate that the substance was not intended to enhance her [sic] performance. [...]*
38. *In this case, the Panel is convinced that the Athlete visited Keringet sub-County Hospital due to the leg pains, and was prescribed **Sustana 250mg**, which he ingested before the race. The same medication has been identified as the source of the Adverse Analytical Finding.*
39. *Based on the foregoing, and in light of the surrounding circumstances, including the fact that the Applicant has accepted that the ADRV was not intentional, and there being no evidence of intent to cheat or to deliberately enhance performance and having considered the circumstances advanced in the Respondent's defense, this Panel is of the view that the Respondent did not intend to cheat or unduly enhance his performance."*

(Emphasis in the original)

21. With respect to the Athlete's degree of fault, the Appealed Decision found the following:

*"51. Given the Respondent's significant experience, participation in anti-doping seminars, and awareness of doping risks, his failure to perform even a basic check on his medication constitutes significant Fault. This is not a case of inadvertent doping due to ignorance; it is a case of a seasoned athlete neglecting well-known obligations.*

53. *The Panel in this case, takes note that, the Respondent*

- a. Did not inform the treating doctor of his professional athletic status;*
- b. Failed to verify the contents of the prescribed medication;*
- c. Being well-versed in anti-doping education and procedures, and having undergone over 50 tests across a 14-year career.*
- d. Did not Consult with his coach to verify the contents of the Prescribed Medication.*
- e. Provided a full explanation of the events in a timely manner.*

[...]

55. *The Panel finds that the Athlete's fault is a Significant fault. Though he did not intend to enhance performance, his failure to inform the doctor, consult his coach, or verify the contents of the prescribed medication, despite his long career and doping education, demonstrates a departure from the standard of care expected of an elite athlete. The only mitigating factor is the fact that the Athlete provided a full and timely explanation, and was cooperative throughout.*

56. *In line with the CAS decision in Marin Čilić, a sanction of 20 months would be appropriate, reflecting both the mitigating and aggravating factors in this case."*

22. On 24 August 2025, the Appealed Decision was notified to WADA.

23. On 5 September 2025, WADA requested the case file.

24. On 23 September 2025, WADA received elements of the case file.<sup>2</sup>

### III. THE PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

25. On 14 October 2025, the Appellant filed its Statement of Appeal with the Court of Arbitration for Sport (the "CAS") against the Appealed Decision, pursuant to Articles R47 *et seq.* of the CAS Code of Sports-related Arbitration (the "CAS Code") (the "Appeal"). In its Statement of Appeal, the Appellant requested the appointment of a sole arbitrator.

26. On 16 October 2025, the CAS Court Office informed the Parties about the Appeal, requested the Appellant to file its Appeal Brief in accordance with Article R51 of the CAS Code and noted the Appellant's choice to proceed with its Appeal in the English language. In addition, the Respondents were invited to inform the CAS Court Office whether they agreed to the appointment of a sole arbitrator. The CAS Court Office further informed the Parties that WADA had filed additional appeals raising similar issues<sup>3</sup> and invited them to indicate whether they agreed to submit the present Appeal and the other similar appeals filed by WADA (collectively referred to as the "WADA Appeals") to the same sole arbitrator.

27. On 21 October 2025, the Appellant informed CAS Court Office that it did not object to the appointment of the same sole arbitrator for the WADA Appeals. The Appellant additionally requested the extension of the time limit for filing the Appeal Brief by 20 days, until 13 November 2025.

28. On 22 October 2025, the CAS Court Office invited the Respondents to inform by no later than 27 October 2025 whether they agreed with the Appellant's time limit for the Appeal Brief being extended by an additional 10 days (beyond a 10-day extension

---

<sup>2</sup> The case file uploaded by ADAK did not contain the relevant medical documents produced by the Athlete before the SDT.

<sup>3</sup> CAS 2025/A/11839; CAS 2025/A/11841; CAS 2025/A/11842.

already granted by the CAS Court Office).

29. On 24 October 2025, the First Respondent objected to the Appellant's request for an extension of the time limit to file its Appeal Brief.
30. On 30 October 2025, the CAS Court Office granted a partial extension for the Appellant to file its Appeal Brief until 6 November 2025.
31. On 1 November 2025, the Second Respondent's manager requested that the CAS remove the Second Respondent from the present proceedings on the grounds of financial constraints and on the basis that the Athlete was not involved in the issuance of the Appealed Decision (the "**Request to Withdraw**").
32. On 3 November 2025, the CAS invited the Appellant and the First Respondent to file their comments on the Request to Withdraw by no later than 10 November 2025.
33. On 6 November 2025, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code.
34. On 7 November 2025, the CAS Court Office acknowledged receipt of the Appeal Brief and invited the Respondents to submit their respective Answers within twenty (20) days, pursuant to Article R55 of the CAS Code.
35. On 10 November 2025, the Appellant objected to the Request to Withdraw.
36. On 11 November 2025, the CAS Court Office took note of the Appellant's objection and the First Respondent's failure to provide its position on the Request to Withdraw. Accordingly, the CAS Court Office informed the Parties that the Second Respondent would remain a party to the proceedings and that any suspension of time limits previously granted to the Second Respondent was lifted.
37. On the same day, the Second Respondent's manager sent a further request to remove the Second Respondent from the proceedings.
38. On 26 November 2025, the First Respondent submitted its Answer.
39. On 26 November 2025, the Second Respondent notified the CAS Court Office of the appointment of his legal representative. The Second Respondent further requested an extension of fourteen (14) days to file his Answer.
40. On 1 December 2025, the CAS Court Office informed the Parties that the Second Respondent's time limit to file the Answer was extended by ten (10) days and invited the Appellant and the First Respondent to state, by no later than 4 December 2025, whether they consented to an additional extension of four (4) days, as per the Second Respondent's request.
41. On 3 December 2025, the CAS Court Office informed the Parties that the Second Respondent's request for a total extension of fourteen (14) days of the time limit to file the Answer was granted.
42. On 23 December 2025, the Second Respondent submitted his Answer, via e-mail, and

belatedly.

43. On 5 January 2026, following a respective invitation from the CAS Court Office, the Appellant indicated its preference for a hearing to be held and did not request a case management conference before the Sole Arbitrator. Neither of the Respondents provided their position as regards the holding of a hearing or a case management conference.
44. On 13 January 2026, pursuant to Article R54 of the CAS Code, and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the CAS Court Office informed the Parties that the Panel appointed to decide the present matter was constituted as follows:  
  
Sole Arbitrator: Ms Annett Rombach, Attorney-at-law, Frankfurt am Main
45. On 15 January 2026, the CAS Court Office informed the Parties of the Sole Arbitrator's decision to hold a hearing via videoconference and suggested various hearing dates.
46. On 5 February 2026, the CAS Court Office informed the Parties that the hearing would take place on 9 March 2026 (via videoconference).
47. On 24 February 2026, upon a respective request by the Second Respondent, the CAS Court Office again transmitted the expert report of Professor Martial Saugy that had been submitted by the Appellant with its Appeal Brief (the "**Saugy Expert Report**"), to the Second Respondent.
48. On 2 March 2026, the CAS Court Office transmitted the Order of Procedure to the Parties, together with a tentative hearing schedule.
49. On 4 March 2026, the Appellant returned a duly signed copy of the Order of Procedure. It further transmitted comments on the draft hearing schedule. The Respondents were invited to comment thereon by no later than 6 March 2026.
50. On 6 March 2026, both Respondents returned duly signed copies of the Order of Procedure to the CAS Court Office. The Second Respondent confirmed that he would cross-examine the Appellant's witnesses.
51. On 9 March 2026, a hearing was held by video-conference. In addition to the Sole Arbitrator, Ms Andrea Sherpa-Zimmermann, CAS Counsel, and Ms Agnė Leonavičienė, Legal Counsel at the Sole Arbitrator's firm, the following persons attended the hearing:

|                    |                                                                                                                    |
|--------------------|--------------------------------------------------------------------------------------------------------------------|
| For the Appellant: | Mr Nicolas Zbinden, Counsel<br>Mr David Baker, Counsel<br>Ms Marissa Sunio, Counsel<br>Mr Cyril Troussard, Counsel |
|--------------------|--------------------------------------------------------------------------------------------------------------------|

|                           |                                                        |
|---------------------------|--------------------------------------------------------|
| For the First Respondent: | Ms Phyllis Mwangi, Counsel<br>Ms Daisy Kurgat, Counsel |
|---------------------------|--------------------------------------------------------|

For the Second Respondent:      Mr David Bett, the Second Respondent  
                                                 Mr Gaki I. Nyamu, Counsel  
                                                 Mr Keith Olson, Manager / Coach.

The following expert was examined:

Professor Martial Saugy, Independent Anti-Doping Scientific Advisor, expert witness called by the Appellant.

52. At the outset of the hearing, all Parties confirmed that they had no objection to the constitution of the panel. The Parties were given the opportunity to present their cases, to make their submissions and arguments and to answer questions posed by the Sole Arbitrator. The expert was questioned by the Parties and the Sole Arbitrator.
53. Before the hearing was concluded, all Parties expressly stated that they had no objections to the procedure adopted by the Sole Arbitrator and that their respective right to be heard, including by videoconference, as well as their right to be treated equally, had been respected.
54. After the Parties' final and closing submissions, the hearing was closed and the Sole Arbitrator reserved her detailed decision for this written Award.
55. In reaching the present decision, the Sole Arbitrator has carefully taken into account all the evidence and the arguments presented by the Parties, even if they have not been summarised in the present Award.

#### **IV. THE POSITIONS OF THE PARTIES**

56. The following outline of the Parties' positions is illustrative only and does not necessarily comprise every submission advanced by the Parties. The Sole Arbitrator confirms, however, that she has carefully considered all the submissions made by the Parties, whether or not there is specific reference to them in the following summary.

##### **A. The Appellant's Position**

57. The Appellant submits the following in substance:
  - The Appealed Decision cannot stand. The Athlete has failed to establish the source of the Prohibited Substance in his Sample, has failed to rebut the presumption that his ADRV was intentional and, as such, the standard (and mandatory) four (4) year period of Ineligibility must apply.
  - The presence of the Prohibited Substance in the Athlete's A Sample, combined with the Athlete waiving his right to have his B Sample analysed, is sufficient to establish an ADRV under Article 2.1 (Presence).
  - The SDT Panel erred in accepting the Athlete's explanation that the presence of the Prohibited Substance in his Sample resulted from a 250 mg injection of "Sustana" (Sustanon) allegedly administered one month prior to the Doping Control. Sustanon

neither contains nandrolone nor produces the Prohibited Substance. The Athlete's explanation is therefore scientifically implausible, which means that he has failed to prove the source of the Prohibited Substance.

- The SDT Panel further erred in finding that the Athlete had established that his ADRV was not intentional. The Athlete's conduct amounts to (at least) a clear case of indirect intent: He took the risk that his conduct could constitute or result in an ADRV and nevertheless consciously disregarded that risk.
- The Athlete's protestations of innocence, statements regarding his character, and alleged commitment to clean sport do not establish lack of intent. Likewise, the character evidence provided by the Athlete's coach or manager carries little or no evidentiary value in establishing lack of intent. The Athlete's clean record and alleged lack of sporting incentive to dope are likewise insufficient to demonstrate absence of intent.
- The SDT Panel finally erred in applying the provision on No Significant Fault or Negligence, such provisions being unavailable to the Athlete in circumstances where he had not established source and had not rebutted the presumption of intent. Accordingly, the SDT Panel erred in departing from the standard four (4) year period of Ineligibility.

58. The Appellant requests the following relief:

*“WADA respectfully requests the CAS to rule as follows:*

- 1. The appeal of WADA is admissible.*
- 2. The decision dated 15 May 2025 rendered by the ADAK Sports Disputes Tribunal in the matter of David Bett is set aside.*
- 3. David Bett is found to have committed an anti-doping rule violation under Articles 2.1 and/or Article 2.2 of the ADAK ADR.*
- 4. David Bett is sanctioned with a period of ineligibility of four years starting on the date on which the CAS award enters into force. Any period of ineligibility and/or period of provisional suspension or ineligibility effectively served by David Bett before the entry into force of the CAS award shall be credited against the total period of ineligibility to be served.*
- 5. All competitive results obtained by David Bett from and including 3 March 2024 are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).*
- 6. The arbitration costs shall be borne by ADAK, or in the alternative by the Respondents jointly and severally.*
- 7. WADA is granted a significant contribution to its legal and other costs.”*

## B. The First Respondent's Position

59. The First Respondent's position evolved in the course of the proceedings. Initially, it defended against WADA's Appeal and submitted that the SDT Panel had correctly applied the ADAK ADR and had correctly established the imposed sanction.

60. In its Answer, the First Respondent initially requested the following relief:

*"ADAK respectfully requests the Panel to rule that:*

- 1. The appeal is **admissible**, but all relief sought **against ADAK on costs or 4-year mandatory sanction is dismissed**.*
- 2. The finding of an ADRV is **confirmed**, but the **20-month period** as imposed by the Sports Disputes Tribunal Decision is:*
  - **upheld; or***
  - **varied only within the permissible NSFN reduction corridor, capped at 2 years, granting full credit for provisional suspension served from 14 May 2024.***
- 3. The arbitration costs and legal fees sought by the Appellant are **not imposed on ADAK**".*

(Emphasis in the original)

61. At the hearing held on 9 March 2026, the First Respondent modified its position. In particular, it submitted that the Athlete's explanation as to how the Prohibited Substance entered his body is not scientifically plausible. Accordingly, the First Respondent maintained that the Athlete has failed to rebut the presumption of intent and should be sanctioned with a four (4) year period of Ineligibility.

## C. The Second Respondent's Position

62. The Second Respondent submits the following in substance:

- The SDT Panel properly established the sanction of twenty (20) months. While he accepts the commission of an ADRV, he did not act with intent.
- The Prohibited Substance originated from the prescribed medication. The Athlete submitted evidence explaining the origin of the substance. He also demonstrated cooperative conduct and relied on evidence relating to his lifestyle and sporting history, which was reflected in the witness testimonies and materials on record.
- An additional independent medical report (the Nyamu Letter) provided a scientific explanation demonstrating the possible route through which the substance entered the Athlete's system and why the substance remained detectable in the Athlete's system after the prescribed medication had been administered. Hence, the Athlete satisfied the applicable standard of proof regarding the origin of the substance.

- The timeline between the administration of the prescribed medication and the Doping Control indicates that the substance was consumed several weeks before the relevant competition and testing. Had the Athlete intended to enhance performance, the substance would likely have been consumed closer to the competition period. The available records and unrebutted evidence demonstrate that the substance originated from medication administered earlier for medical purposes. On that basis, the presence of the substance is consistent with the established medical explanation and does not support a finding of intentional use.
- The Athlete was not required to prove lack of intent once he had provided evidence explaining the origin and presence of the substance in his body.
- The Second Respondent has competed as an International-Level Athlete for approximately fourteen (14) years and had no prior anti-doping violations. Following the Doping Control, the Athlete competed in another race on 17 March 2024 in Macao (Sun Ching), where he was again tested, and the test results were negative.

63. The Second Respondent requests the following relief:

*“REASONS WHEREFORE the 2nd Respondent/Athlete prays that:*

- a) This Appeal is inadmissible whose remedy is an outright dismissal in totality with costs to the 2nd Respondent/Athlete.*
- b) This Honourable Court does uphold the decision of the Tribunal and allows for a completion of the sanction by the 2nd Respondent.*
- c) The Arbitration costs and legal fees sought by the Appellant be **not imposed** upon the 2nd Respondent/Athlete”.*

(Emphasis in original)

## V. JURISDICTION

64. Article R47 para. 1 of the CAS Code provides – in its pertinent parts – as follows:

*“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.”*

65. It is uncontested that the Athlete is an “International-Level Athlete” for the purpose of the ADAK ADR.

66. Article 13.2.1 of the ADAK ADR provides that cases involving International-Level Athletes may be appealed exclusively to CAS:

*“13.2.1 In cases arising from participation in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to*

CAS.”

67. Article 13.2.3.1 para. (f) of the ADAK ADR provides that WADA has the right to appeal decisions involving International-Level Athletes:

*“13.2.3.1 In cases under Article 13.2.1, the following parties shall have the right to appeal to CAS:*

*[...]*

*(f) WADA.”*

68. The Parties did not contest the jurisdiction of the CAS. Rather, they expressly confirmed it through their respective signing of the Order of Procedure.

69. Accordingly, CAS has jurisdiction to entertain WADA’s appeal.

## **VI. ADMISSIBILITY**

70. Article R49 of the CAS Code provides – in its pertinent parts – as follows:

*“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document.”*

71. The ADAK ADR provides as follows:

*“Art. 13.6.1. – [...] the filing deadline for an appeal filed by WADA shall be the later of:*

*(a) Twenty-one (21) days after the last day on which any other party having a right to appeal could have appealed, or*

*(b) Twenty-one (21) days after WADA’s receipt of the complete file relating to the decision.”*

72. WADA received the complete case file on 23 September 2025. Hence, the 21-day time limit to file the Appeal expired at 11:59 PM on 14 October 2025. WADA’s Statement of Appeal submitted on 14 October 2025 was, therefore, filed in time.

73. The Statement of Appeal also complied with the requirements of Article R48 of the CAS Code. In addition, the admissibility of the Appeal is not challenged by any Party.

74. The Appeal is therefore admissible.

75. The Sole Arbitrator further notes that the Second Respondent, contrary to Article R31(3) of the CAS Code, only submitted the Answer by e-mail, without a follow-up upload on the CAS e-filing platform or courier delivery. The Answer was also filed late. However,

given that none of the Parties objected to the admissibility of the Second Respondent's Answer, the Sole Arbitrator decided to exceptionally admit the Answer to the case file.

## **VII. APPLICABLE LAW**

76. For Appeal proceedings, Article R58 of the CAS Code provides the following:

*“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

77. The “*applicable regulations*” for the purposes of Article R58 of the CAS Code are those contained in the ADAK ADR because the Appeal is directed against a decision which was passed applying the ADAK ADR.

## **VIII. SCOPE OF REVIEW**

78. According to Article R57 of the CAS Code:

*“The Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. [...]”*

79. The unlimited scope of review is also confirmed by Article 13.1.1 (“Scope of Review Not Limited”) of the ADAK ADR which provides as follows:

*“The scope of review on appeal includes all issues relevant to the matter and is expressly not limited to the issues or scope of review before the initial decision maker. Any Party to the appeal may submit evidence, legal arguments and claims that were not raised in the first instance hearing so long as they arise from the same cause of action or same general facts or circumstances raised or addressed in the first instance hearing.”*

80. Against this background, the Sole Arbitrator finds that her power to review the facts and the law of the present case is not limited.

## **IX. MERITS**

### **A. The Issues**

81. At the outset, the Sole Arbitrator has to identify the issues which must be resolved in the present Appeal.

82. Some of them are not in dispute between the Parties. In particular, the Parties agree and do not challenge that:

- The Athlete committed – and admitted – the ADRV under Article 2.1 (Presence) and Article 2.2 (Use) of the ADAK ADR, as evidenced by the AAF;
  - The prohibited substance found in the Athlete’s A Sample is 19-Norandrosterone, a metabolite of Nandrolone, which is a non-Specified Substance;
  - The Athlete waived the analysis of the B Sample.
83. What is at the centre of the dispute between the Parties is the applicable consequences to the ADRV. In this respect, it is disputed between the Parties:
- Whether the ADRV was committed intentionally (below at **B.1**);
  - What the consequences of the findings under Section B.1 are regarding the Athlete’s sanction (below at **B.2**).

## **B. The Analysis**

84. The Second Respondent accepts that his Sample collected in-competition on 3 March 2024 contained the Prohibited Substance, a metabolite of Nandrolone, a non-Specified Substance prohibited at all times and classified under S1.1. (Anabolic Androgenic Steroids (AAS)) of the 2024 WADA Prohibited List. In other words, the Athlete accepts that he has committed the ADRV. The applicable sanction to the Athlete’s ADRV depends on whether the ADRV was committed intentionally or not.

### **1. Was the ADRV committed intentionally?**

85. The SDT rejected a finding of Intent for the ADRV, arguing that the Athlete successfully established the origin of the Prohibited Substance (a medication prescribed during his hospital visit on 2 February 2024) and that there was “*no evidence of intent to cheat or to deliberately enhance performance*”. The SDT identified as the source of the Prohibited Substance a 250mg “*Sustana injection*” that had been administered on the Athlete twice, in the hospital (on 2 February 2024), and a few days afterwards (on 7 February 2024). WADA submits that, from a scientific perspective, it is not possible that the alleged “*Sustana injection*” caused the AAF.
86. According to Article 10.2.1 of the ADAK ADR, the standard period of Ineligibility is four (4) years for an ADRV involving a non-Specified Substance, unless the Athlete can establish that the ADRV was not intentional. Hence, it is for the Athlete to demonstrate that he did not act with Intent. The applicable standard of proof for such demonstration is “balance of probability” (Article 3.1 of the ADAK ADR).
87. Article 10.2.3 of the ADAK ADR defines the term “intentional” as follows:

*“[...] the term intentional is meant to identify those Athletes or other Persons who engage in conduct which they knew constituted an Anti-Doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping rule violation and manifestly disregarded that risk. [...]”*

88. Very clearly, the definition of Intent is not limited to athletes who cheat. Rather, Article 10.2.3 of the ADAK ADR includes indirect Intent in the definition of “intentional”, and establishes the following requirements:
- (i) the Athlete knew that there was a significant risk that his conduct might constitute or result in an anti-doping rule violation; and
  - (ii) he manifestly disregarded that risk.
89. The Appealed Decision entirely disregards the concept of indirect Intent and simply finds that the Athlete did not act with Intent, based on general credibility considerations and the assumption that the Athlete did not intend to cheat. It bases this conclusion on its finding that the Athlete successfully established the source of the Prohibited Substance.
90. The significance of the establishment of source for a finding of (non-)intent is described in footnote no. 58 to Article 10.2.1.1 of the WADA Code<sup>4</sup> as follows:
- “While it is theoretically possible for an Athlete or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one’s system, it is highly unlikely that in a doping case under Article 2.1 an Athlete will be successful in proving that the Athlete acted unintentionally without establishing the source of the Prohibited Substance.”*
91. Regarding the establishment of source, CAS jurisprudence (e.g. CAS 2017/A/5260, para. 153; CAS 2021/O/8111, para. 76) has repeatedly emphasized that an athlete must present objective and persuasive evidence in order to establish the source of a prohibited substance. In this respect, it has been held that (CAS 2017/A/5260, para. 153):
- “[...] the mere allegation of a possible occurrence of a fact cannot amount to a demonstration that that fact did actually occur (CAS 2010/A/2268; CAS 2014/A/3820): **unverified hypotheses are not sufficient** (CAS 99/A/234- 235). Instead, the CAS has been clear that an athlete has a stringent requirement **to offer persuasive evidence** that the explanation he offers for an AAF is more likely than not to be correct, by providing specific, objective and persuasive evidence of his submissions. In short, the Sole Arbitrator cannot base his decision on some speculative guess uncorroborated in any manner”.*
- (Emphasis added)
92. Hence, the Sole Arbitrator’s initial task is to assess, based on the (additional) evidence presented in these CAS appeals proceedings, whether the Athlete succeeded, on the balance of probabilities, to establish the source of the Prohibited Substance. If this is not the case, the threshold for the Athlete to establish lack of Intent becomes significantly

---

<sup>4</sup> While this footnote is not contained in the ADAK ADR, the Sole Arbitrator may still take it into consideration, because Article 10 of the WADA Code (including its footnotes) belongs to those Code provisions which must be implemented by the signatories without substantive change, Article 23.2.1 WADA Code.

higher.

93. Just as in the first instance proceedings, the Athlete – in these appeals proceedings – asserts that the “*Sustana*” injection administered on him twice, on 2 and 7 February 2024, is the source of the Prohibited Substance. The Athlete primarily relies on the Nyamu Letter (quoted above at para. 17) to support this assertion scientifically.
94. Just like the SDT, Dr Nyamu refers to “*Sustana*” as the relevant medication. WADA asserts that no medication named “*Sustana*” exists, which was not challenged by either of the Respondents. Additional internet research conducted by the Sole Arbitrator also triggered no results for a medication called “*Sustana*”, thereby confirming WADA’s unchallenged submission that this product does not exist. For the benefit of the Athlete, the Sole Arbitrator assumes that both the SDT and Dr Nyamu meant to refer to “*Sustanon*”, the very medication referred to by the Athlete’s treating physician in his letter dated 29 August 2024 (“*I administered I.M Sustanon 250mg and a repeat dose on 7th Feb 2024 which produces/is an Anabolic Androgenic Steroids (AAS)/19-norandrosterone*”).
95. While the Athlete’s treating physician as well as his expert, Dr Nyamu, assert that 19-Norandrosterone is formed as a side product of Sustanon following a respective injection, with testosterone levels peaking 24-48 hours after the administration of Sustanon and returning to the lower limit of normal after 21 days, WADA maintains that Sustanon does not contain 19-Norandrosterone. WADA relies on the Saugy Expert Report, which refutes the Athlete’s theory on several grounds, to be summarised as follows:
  - Although Sustanon contains testosterone, testosterone does not metabolize into the Prohibited Substance (19-Norandrosterone) in men, and such a metabolic pathway has never been demonstrated for men in scientific studies.
  - The pharmacokinetic profile relied upon by the Athlete is inconsistent with the timing of the sample collection. In particular, the relevant excretion period is approximately 14 days, whereas the Athlete’s samples were collected three to four weeks after the alleged last administration of Sustanon.
  - The levels of the Prohibited Substance detected in the Athlete’s sample can only be explained by an exogenous source, whereas Professor Saugy excludes the possibility of an endogenous origin.
96. Unlike the Athlete’s treating physician and Dr Nyamu, whose oral testimony was not offered by the Second Respondent, Professor Saugy testified during the oral hearing. Based on his Expert Report and his oral examination, the Sole Arbitrator finds Professor Saugy’s expert evidence to be persuasive and reliable. Professor Saugy’s conclusions are scientifically coherent, supported by established pharmacological knowledge and consistent with the evidence on record. The Sole Arbitrator has no reason to question Professor Saugy’s credibility, particularly in light of his extensive experience of more than three decades in the field of anti-doping science.

97. In contrast, neither WADA nor the Sole Arbitrator was in a position to question the Athlete's treating physician or Dr Nyamu on their respective statements that Sustanon metabolises into 19-Norandrosterone, a statement that neither of those persons corroborated through scientific evidence. Without any scientific support countering or at least addressing Professor Saugy's coherent conclusions, the Sole Arbitrator is not prepared to accept, on the balance of probabilities, that Sustanon contains the Prohibited Substance.
98. What is more, on Dr Nyamu's own account, the assumed levels of testosterone (she does not speak of 19-Norandrosterone) "*return to the lower limit of normal after 21 days after administration*" (see above at para. 17). The Athlete's Doping Control (on 3 March 2024) took place 25 days after the last administration of Sustanon (on 7 February 2024), which means that the Athlete's testosterone levels had returned to normal even according to the Athlete's own expert. They can, therefore, not scientifically explain the level of the Prohibited Substance found in the Athlete's Sample.
99. In light of the foregoing, the Sole Arbitrator concludes that the Athlete has failed to establish, on a balance of probabilities, that the Sustanon injections were the source of the Prohibited Substance.
100. In the absence of proof of source, and while it remains theoretically possible for an athlete to establish that the ADRV was not intentional, it is "*highly unlikely*" (according to footnote no. 58 to Article 10.2.1 of the WADA Code, quoted above at para. 90), that an athlete will be successful in proving that he or she acted without Intent. While CAS jurisprudence is not entirely consistent on what it requires for an Athlete to prove an unintentional ADRV despite failure to prove source, it is common sense that such Athlete needs to walk through the "*narrowest of corridors*" (e.g. CAS 2016/A/4534) and that "*in all but the rarest cases the issue is academic*" (CAS 2016/A/4676 & 4919).
101. In the present case, the Athlete has not presented any evidence that would take him even close to a walk through "*the narrowest of corridors*". He relies solely on the Sustanon injection, failing to submit any "*rare set of facts*" (CAS 2019/A/6313) which could allow for the theoretical possibility to exclude Intent despite his failure to prove source, beyond the scientifically implausible theory invoked in these proceedings.
102. Consequently, the Sole Arbitrator finds that the Athlete has failed to rebut the presumption of Intent enshrined in Article 10.2.1 of the ADAK ADR.

## **2. What is the Athlete's sanction?**

103. With respect to the applicable period of Ineligibility, Article 10.2.1 of the ADAK ADR provides for a standard period of Ineligibility of four (4) years. For intentional ADRVs, the provisions on No Fault or Negligence (Article 10.5 of the ADAK ADR) and No Significant Fault or Negligence (Article 10.6.2 of the ADAK ADR) do not apply. Accordingly, the Athlete cannot benefit from any fault-based reductions.
104. The period of Ineligibility shall principally commence upon notification of the Award

(Article 10.13 of the ADAK ADR), with credit to be given for any period of Provisional Suspension and/or period of Ineligibility served by the Athlete, provided that it has been effectively served (Article 10.13.2.1 of the ADAK ADR).

105. Pursuant to Article 10.13.1 of the ADAK ADR, where there have been substantial delays in the hearing process or other aspects of Doping Control, and the Athlete can establish that such delays are not attributable to him, the period of Ineligibility may start at an earlier date commencing as early as the date of Sample collection.
106. In the present case, the result of a strict application of Article 10.13 of the ADAK ADR (with the period of Ineligibility to start on the date of the notification of this Award on 31 July 2026) would be that the Athlete would be ineligible to compete until 30 November 2028 (with credit of the 20-months period of Ineligibility which had been imposed by the SDT Panel and served by the Athlete). In view of Article 10.10 of the ADAK ADR, pursuant to which WADA requests that all competitive results of the Athlete obtained from the date the Sample was collected (i.e. from 3 March 2024) be disqualified, the Athlete would be effectively barred from winning any medals, points or prizes (and thus effectively be “erased” from his sport) for a period of 4 years and 9 months from the date of sample collection. Had the SDT Panel worked properly, it would have found, based on the rather clear facts of the case, that the Athlete had acted intentionally, and it would have imposed the proper sanction of 4 years, to expire on 13 May 2028. This detrimental difference of 6.5 months is the result of the blatantly erroneous application of the ADAK ADR by the SDT Panel, and it is significant, in view of the fact that the delay could bar the Athlete, *inter alia*, from participation in 2028 Olympic Games (beginning on 14 July 2028), for which he would be principally eligible to compete had the SDT Panel applied the correct sanction.
107. The Sole Arbitrator finds that the failure of the SDT Panel to correctly apply the law is not attributable to the Athlete. Irrespective of whether the Athlete formally raised Article 10.13.1 of the ADAK ADR as a defence, it is clear to the Sole Arbitrator that the Athlete had not submitted any facts at first instance which would have justified a finding of non-intent. In such circumstances, it would be unfair for the Athlete to bear the consequences and be ineligible to win any points or prizes for effectively 4 years and 9 months (including through the 2028 Olympic Games). Hence, the Sole Arbitrator finds that, based on Article 10.13.1 of the ADAK ADR, the period of Ineligibility shall start from 14 May 2024, *i.e.* on the first day of the period of Ineligibility imposed by the SDT Panel.
108. Furthermore, based on Article 10.10 of the ADAK ADR, all competitive results of the Athlete obtained from the date the positive sample was collected (i.e. 3 March 2024) shall be disqualified, with all resulting consequences, including forfeiture of any medals, points and prizes.

## **X. COSTS**

(...)

## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules that:**

1. The Appeal filed by the World Anti-Doping Agency on 14 October 2025 against the Anti-Doping Agency of Kenya and David Bett with respect to the decision rendered on 15 May 2025 by the Sports Disputes Tribunal is upheld.
2. The decision rendered on 15 May 2025 by the Sports Disputes Tribunal is amended as follows:
  - a. David Bett is found to have infringed Article 2.1 and Article 2.2 of the ADAK ADR.
  - b. David Bett is sanctioned with a period of ineligibility of four (4) years, commencing on 14 May 2024, with credit to be given for any period of Provisional Suspension and/or period of Ineligibility served by the Athlete, provided that it has been effectively served before 14 May 2024.
3. All competitive results obtained by David Bett from and including 3 March 2024 until the date of this Award are disqualified, with all the resulting consequences (including the forfeiture of medals, points and prizes).
4. (...).
5. (...).
6. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 31 July 2026

## **THE COURT OF ARBITRATION FOR SPORT**

Annett Rombach  
Sole Arbitrator