



Press release

Two months of ineligibility,
The Norwegian Ski Federation assumes responsibility

The Court of Arbitration for Sport (CAS) has concluded that Martin Johnsrud Sundby has violated the WADA-rules through wrongful use of the legal asthma drug Ventoline. The Norwegian Ski Federation (NSF) assumes full responsibility in the matter, as the federation was of the opinion that it was not necessary to apply for a therapeutic use exemption (TUE).

If a therapeutic use exemption (TUE) had been applied for, the use of the asthma drug would have been in accordance with the rules, and no case would have been opened.

The award imposes a period of ineligibility of two months, starting from 11 July 2016. The results of two races during the season of 2014/2015 are disqualified. Consequently, Mr. Johnsrud Sundby will be deprived of the victories of Tour de Ski and World Cup for the season of 2014/2015.

The CAS award was delivered in an appeal case, after the acquittal of Martin Johnsrud Sundby by the FIS Doping Panel. The award does not influence any results from the 2015/2016 season.

- We are disappointed with the award and are of the opinion that it affects Martin Johnsrud Sundby in an unreasonable manner. The case has revealed that the rules are unclear. Our experienced team doctor was of the opinion that he treated Martin within the scope of the rules. The NSF emphasizes that Martin is not to blame in the matter. The athlete has acted upon advice from NSF's team doctor, as instructed in his contract with the national team, NSF President Mr. Erik Røste states.

The NSF has accordingly decided to compensate Mr. Johnsrud Sundby for the loss of prize money as a consequence of the award, in total approximately 1,1 million kroner. Mr. Erik Røste also emphasizes that NSF as a consequence of this award will comply with the interpretation of the provision as laid down by CAS. The NSF will furthermore ensure that all Norwegian skiers comply with this interpretation.

- We are content that CAS in the award clearly determines that Mr. Johnsrud Sundby's case is based on a genuine misunderstanding of the meaning of the rule, and that the Panel observes that it was never Martin's intention to violate the rules. There is no competitive advantage to suffer from severe asthma, quite on the contrary, Mr. Erik Røste points out.

The origin of the case

As a child, Martin Johnsrud Sundby has been diagnosed with asthma by the Oslo University Hospital.. His illness and associated medication are well-known. The diagnose has a later stage, when he became an active athlete, been confirmed by the Norwegian School of Sports Sciences. Despite the illness, Johnsrud Sundby has achieved the position as one of the world's leading cross country skiers.

In December 2014, during an acute exacerbation of the illness, the team doctor Knut Gabrielsen recommended the usage of up to three doses Ventoline (each containing 5000 micrograms salbutamol) over 24 hours, administered by a nebulizer.

According to his contract with the Ski Federation, Mr. Johnsrud Sundby is required to follow the team doctor's advice.

According to the rules of the international Anti-Doping agency WADA, salbutamol can only be taken by inhalation, and at a maximal dosage of 1600 micrograms over 24 hours. The team doctor was of the opinion that the prescribed treatment was in accordance with these rules, hence no reason to apply for a therapeutic use exemption (referred to as TUE).

The inhalation was administered by a nebulizer, where studies show that approximately 10 per cent of the dose installed in the device, actually is inhaled and reaches the body.

After the races in Davos 13 December 2014 and Toblach 8 January 2015, «in competition» testing was executed. Mr. Johnsrud Sundby declared salbutamol as part of his medication in the doping control form. The samples revealed a presence of 1340 and 1360 nanograms per milliliter of urine. The decision limit is 1200.

Values above the decision limit are not equivalent to the fact that the athlete has done something wrong, but that further investigations have to be made concerning the reason of the values.

Different interpretations

Based on the WADA report, NSF was notified by the international ski federation FIS on 23 January 2015 that further investigations on the case would be made.

WADA is of the opinion that the rules specify the quantity of medication to be put in the nebulizer, regardless of what comes out in the patient's body, whereas the NSF team doctor understood the provision to specify the quantity of medication that actually could be inhaled and thus delivered to the body. Since the team doctor considered the treatment to be in line with the WADA provision, consequently a TUE was not requested for Mr. Johnsrud Sundby's use of the medication.

Acquitted by FIS Doping Panel

An comprehensive procedure lasting more than 18 months has been in progress prior to the CAS-award on 11 July this year.

- **Testing**

Two different tests were conducted. Both international and national experts are of the opinion that these tests and the urine samples together prove that no more than 1600 micrograms salbutamol actually entered Mr. Johnsrud Sundby's body.

- Acquitted by FIS Doping Panel

9 august 2015 a hearing was held before the FIS Doping Panel. On 4 September 2015 the FIS Doping Panel acquitted Mr. Johnsrud Sundby, as it was of the opinion that the WADA-rules were not sufficiently clear on this point.

- AntiDoping Norway did not appeal

On the basis of a full and thorough assessment of the case, the prosecution committee of Anti-doping Norway did not appeal the case. The committee considered that the rule was not sufficiently specific, and that the lack of clarity in the rule could not be to the detriment of the athlete.

- WADA appealed

On 12 October 2015 WADA appealed the case to the international court of arbitration for sport. (CAS).

- CAS proceedings

The hearing before the CAS panel was held in Lausanne on 25 and 26 May 2016. The award was delivered on 11 July 2016.

CAS award

The award delivered by CAS settles that the team doctor's interpretation of the regulation is based on a «genuine misunderstanding» of the meaning of the relevant provision. The judges also state that regulations could have been more precise in order to prevent misunderstandings among athletes and their advisers. Nevertheless, CAS is of the opinion that one should have applied for a therapeutic use exemption (TUE) in order for Mr. Johnsrud Sundby to use the salbutamol in the way he did. When no TUE was obtained, the rule was violated.

From the CAS award:

"The need for a TUE for use of a nebulizer is itself a consequence of the provision on its proper interpretation. The Athlete's fault lies indeed in failing to request a TUE, the grant of which would have enabled him to compete without breach of the rules. The Panel acknowledges nonetheless that it would have been better if the provision had more clearly stated its consequence for use of nebulizers."

CAS finds a number of circumstances in favour of Mr. Johnsrud Sundby:

- That Mr. Johnsrud Sundby has a medical condition that requires treatment by salbutamol.
- That he did not try to hide the use of salbutamol.
- That medication was upon prescription of the doctor
- That regulations do not precisely exclude the use of a nebulizer, and could for all practical reasons have done so in order to avoid possible misunderstandings among athletes (and their advisers).
- That USADA's (USA's parallel to Anti-Doping Norway) assessment of nebulizer as method of medication reached the same conclusion as the Norwegian team doctor; the rule applies to the quantity of salbutamol that actually reaches the athlete's body when using a nebulizer.
- The nebulizer was openly used prior to the races in Davos and Toblach.

However, CAS also determines that Mr. Johnsrud Sundby is an experienced athlete who is familiar with his anti-doping commitments, and that no external advice seems to be obtained from FIS, WADA or other instances, neither by himself nor the team doctor.

Even though NSF is of the opinion that their understanding of the regulation is the obvious understanding, NSF accepts that its view is not shared by CAS. NSF will respect the award, and ensure that similar situations are avoided.

- We agree with the FIS Doping Panel and the prosecution committee of Anti-Doping Norway that the WADA-rules are ambiguous to such a degree that Martin Johnsrud Sundby should be acquitted. NSF is an international driving force for clean sports and fair play. We strongly dissociate from athletes who use prohibited drugs to achieve competitive advantages. This, however is not the issue in this case, Mr. Røste observes.

NSF is satisfied that FIS and WADA have stated during the proceedings that Martin Johnsrud Sundby has not cheated. It is obvious for them that Mr. Johnsrud Sundby suffers from severe asthma and that the intention with his medication has not been to achieve a performance-enhancing effect. Also CAS shares this view.

- The essence of the award is not about achieving advantages in competitions, but about our doctors' misunderstanding of unclear technical regulations of how to administer legal medicine. Martin has not gained any competition advantages by following the doctor's prescription of how to use Ventoline against asthma that he has suffered from since early childhood, Mr. Røste observes.

Attorney-at-law Ms. Anne-Lise H. Rolland has pleaded the case on behalf of Mr. Johnsrud Sundby before the Doping Panels of FIS and CAS.

- CAS states in the award that the athlete's degree of fault is light, and that there was a medical justification for the use of salbutamol. As the CAS concluded with a suspension of "only" two months, I assume that the judges to a large extent have appreciated our arguments, even though WADA in the end convinced the CAS Panel with their understanding of the rule, Ms. Rolland says.

Martin is very disappointed and tormented

Martin Johnsrud Sundby is very disappointed with the CAS award, and by the disqualifications of the victories in Tour de Ski and World Cup for the 2014/2015 season. After the acquittal by the FIS Doping Panel and the decision by Anti-Doping Norway not to appeal the case, Mr. Johnsrud Sundby experiences the award as highly unexpected.

- Naturally, this has been a major burden for me and my family for the past 18 months. The CAS award is difficult to understand. CAS finds the rule to be unclear and the degree of fault is light. Still I am severely punished. I have always been careful with my medication and followed the NSF regulations and the doctor's recommendations exactly. With support from the best team of doctors in the world, I had no reason to doubt their understanding of the regulations, Mr. Johnsrud Sundby remarks. He says the certainty of being innocent has given him strength and motivation to perform as he did in the season of 2015/2016, in which Mr. Johnsrud Sundby delivered some of the best results in his career, and entirely without the use of nebulizer to administer salbutamol.

- I am glad that NSF clearly assumes responsibility for what has happened, and specifically emphasizes that no personal fault is committed from my side.

Asks for privacy for himself and his family

For Johnsrud Sundby and his family the proceedings have been lengthy, demanding and exhausting. Mr. Johnsrud Sundby and his support team have tried to let the case have the lowest possible impact on training and competitions. As the case now has become public, he kindly asks for his privacy to be respected in order to be able to continue the preparations for the upcoming and important season. On behalf of the team doctor, NSF asks for the same.

- I am aware that this case is of great public interest. Thus, I present my view today at this press conference and for media that wants to hear my view. After today's session, however, I ask for understanding to be able to focus on the two most essential parts of my life; my closest family and my further career as skier, Mr. Johnsrud Sundby says – and then concludes:

- The situation in which I find myself, is an athlete's worst nightmare. I have always competed on clean and honest terms. I hope and believe that this case will not have major consequences for my further career, nor for the preparations of the upcoming season.

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