

REPUBLIC OF KENYA



THE JUDICIARY  
OFFICE OF THE SPORTS DISPUTES TRIBUNAL  
ANTI-DOPING CASE NO. 3 OF 2020

IN THE MATTER BETWEEN

ANTI- DOPING AGENCY OF KENYA.....APPLICANT

-VERSUS-

GEORGE NGANGA KIMOTHO.....RESPONDENT

DECISION

- Hearing** : 4th March 2020
- Panel** : Mrs. Njeri Onyango - Panel Chairperson  
Allan Owinyo - Member  
Ms. Mary Kimani - Member
- Appearances** : Mr. Bildad Rogoncho, Advocate for the Applicant;  
George Nganga Kimotho, Athlete in person.

## **Abbreviations and Definitions**

The following abbreviations used herein have the indicated

ADAK	-	Anti-Doping Agency of Kenya
ADR	-	Anti-doping Rule
ADRV	-	Anti Doping Rule Violation
AK	-	Athletics Kenya
IAAF	-	International Association of Athletics Federation
S.D.T	-	Sports Dispute Tribunal
WADA	-	World Anti-Doping Agency

All the definitions and interpretations shall be construed as defined and interpreted in the constitutive document both local and international.

## **The Parties**

1. The Applicant is the Anti-Doping Agency of Kenya (hereinafter 'ADAK') A State Corporation established under section 5 of the Anti-Doping Act No 5 of 2016 (as amended).
2. The Respondent is a Male adult of presumed sound mind and an Elite National Level Athlete.

## **Jurisdiction**

3. The Sports Disputes Tribunal has jurisdiction under Section 55, 58, and 59 of the Sports Act No 25 of 2013 and Section 31 and 32 of the Anti-Doping Act No. 5 of 2016 (as amended) to hear and determine this case.

## **Applicable Laws**

4. The Respondent is a Male athlete; therefore, the IAAF Competition Rules, IAAD Anti-Doping Regulations, the WADC, and the ADAK ADR apply.

## **Background**

5. On 22<sup>nd</sup> September 2019, during the 2019 Mombasa Marathon held in Mombasa, Kenya, ADAK Doping control officers (DCO's) collected two urine samples from the Respondent. Assisted by the DCO's, the

Respondent split the samples into two separate bottles according to the prescribed WADA procedures, and the samples were given reference Numbers A 4362623 (the 'A' sample) and B 4362623 (the 'B' sample) respectively.

6. The Samples were remitted to the Anti-Doping WADA accredited laboratory in SOUTH AFRICA ('the Laboratory'). The Laboratory then analyzed the samples in accordance with the procedures set out in WADA's International Standard for Laboratories (ISL). Analysis of the "A" Sample returned an Adverse Analytical Finding ("AAF") of using 19-Norandrosterone which is a Non-Specified Substance and is listed as an endogenous AAS under S. 1. 1B of the 2019 WADA Prohibited List.
7. The Respondent Athlete's AAF was not consistent with any applicable Therapeutic Use Exemption (TUE) recorded at the WA for the substances in question and there is no apparent departure from the WA Anti-Doping Regulations or from WADA International Standards for Laboratories, which may have caused analytical findings.
8. The findings were communicated to the Respondent athlete by a Letter from ADAK CEO Mr. Japheter K. Rugut through a Notice of Charge and mandatory provisional suspension dated 6<sup>th</sup> December 2019. In the said communication the Athlete was given an opportunity to explain the same by 20<sup>th</sup> December 2019.
9. The Respondent did give a response through his letter to ADAK dated 8<sup>th</sup> January. He admitted the charges and stated that he suffers from a stomach condition and a knee injury which he attends to by ingesting strong painkillers and supplements. He attached thereto medical records and prescription documents to support his assertion.
10. ADAK was dissatisfied with the Response and explanation given. ADAK further held that the Respondent was not consistent with any applicable Therapeutic Use Exemption (TUE) recorded at the WA for the substances in question and there is no apparent departure from the WA Anti-Doping regulations or from WADA International Standards for Laboratories, which may have caused adverse analytical findings. Accordingly, ADAK

determined that there was a violation of Article 2.1 ADR, "*Presence of a prohibited substance or its metabolites or markers in an athlete's sample.*"

11. The Respondent did not request for testing of the 'B' sample. ADAK, therefore, filed the current Charge; the Notice to Charge was filed on 14<sup>th</sup> January 2020.

12. On 30<sup>th</sup> January 2020, the SDT Chairperson received the Notice of Charge and issued the following directions:

- i) The Applicant shall serve the Mention Notice, the Notice to Charge, the Notice of ADRV, the Doping Control Form, and all relevant documents on the Respondent by Thursday 20<sup>th</sup> February 2020.
- ii) The Panel Constituted to hear this matter shall be as follows:
  - a. Ms. Njeri Onyango;
  - b. Gilbert M T Ottieno;( later replaced by Mr Allan Owinyi)
  - c. Mary N Kimani
- iii) The matter shall be mentioned on **Wednesday 26<sup>th</sup> February 2020** to confirm compliance and for further directions.

13. The matter came up for mention on 26<sup>th</sup> February 2020. ADAK had filed and served the Substantive Charge with relevant supporting documents as follows;

1. Doping Control Form dated 22<sup>nd</sup> September 2019
2. Test report dated 17<sup>th</sup> October 2019
3. ADRV Notice dated 6<sup>th</sup> December 2019
4. Letter dated 8<sup>th</sup> January 2019
5. Supporting documents
6. Undated letter
7. World Anti-Doping Code
8. World Athletics Rules
9. ADAK Anti-Doping Rules

14. At the mention on 26<sup>th</sup> February 2020, Mr. Rogoncho appeared for ADAK. The Athlete/Respondent had been served and was present (I.D. NO. 28086425). He indicated that he did not require

Legal representation and that he would represent himself in the matter.  
The matter was set for hearing on 4<sup>th</sup> March 2020.

### Hearing and Submissions

15. At the hearing on 4<sup>th</sup> March 2020, the Respondent attended in person. ADAK was represented by Mr. Rogoncho. Mr. Rogoncho relied on the Charge document and the documents filed therewith and did not call any witnesses.

16. The Respondent swore oral testimony. His testimony is as follows;

*“My name is George Nganga Kimotho. I live in Ngong. I am an athlete and a farmer. I am 30 years old. I am married and I have two children a girl aged 4 years and a boy aged 1 year and 4 months old. I have Secondary School Education. I completed 4<sup>th</sup> form in 2009 obtained a D Plain and then repeated the 3<sup>rd</sup> form and sat for my KCSE in 2011 where I obtained a C Plain.*

*I started running in late 2017. I do 10 Km and below races. My best performance so far is position 3. I have done about 15 local runs. I participated in Stanchart 10 Km marathon in 2018 where I finished at position 3 and the Beyond Zero Campaign Marathon in 2019 where I finished at position 13. I have also competed in about 8 International races. (France, Germany, Netherlands). In France, I finished at position 1 in 2019 whereas in other races I finished at positions 2, 3, or 4. In both the Stanchart and Beyond Zero races, I provided samples for testing. In all the 8 International races samples were collected for testing. I know that samples are collected for doping purposes. I have only had one manager by the name Brahim Chelgum, a Moroccan based in Geru. At Ngong, a former Athlete by the name Makau brought some doping officials to talk to us in December after my current offense. On 22<sup>nd</sup> September 2019, I participated in Mombasa Marathon 10 Km category and I finished at position 6. I gave urine samples and received results later in January 2020. I googled the results (**Norandrosterone**) and discovered that it was a steroid.*

*When I started practicing, I got pains; left leg and on the stomach. I would get serious abdominal pains, running stomach, and pass blood-stained stool. I took photos of the stool and took them to a health facility in November 2017. The medical personnel advised me to get an x-ray done but the x-rays showed no defect. I stopped training for a while then resumed in February 2018, I again passed blood stool. I visited Dr. Njoroge at Trimex Clinic, a private facility. Dr. Njoroge gave a prescription of vitamin K (page 22 of the Charge*

*document). As I googled the results, I noted one of the injections I received contained Nandrophren which was the source of the offending substance. Before going to Mombasa, I had lots of pain while training so 3 weeks to the competition I went to Dr. Njoroge and he gave injection and medication. My medical summary also shows erectile dysfunction. After bleeding my blood count would go down, I would then not have a sexual urge. I had informed the Doctor so he told me he would give me the injection and some tablet (Tadalafil 5 mg) I still use it. I had used it before the Mombasa Sample collection. I believe Nandrophren is the cause of the AAF. I informed the Doctor that I was an Athlete. I know the Prohibited List, but I did not counter check what the Doctor gave me. I blame no one, only used the medication because of my condition. I would not use the same medication now. The statement on page 15 and 16 is by me. I own it. I signed it.*

*I did not mention the Nandrophren because there were so many people and I could not state my erectile dysfunction issues. I had also left my prescription at Ngong. This matter has put my life on hold. I have complied with all conditions and I have been co-operative. I do not believe in short cuts. I did not go out to cheat for money, I went out to earn a living to bring up my children. I pray that I be pardoned. During the Stanchart Marathon, we were told the impact of blood boosters, EPO, Steroids, and anti-diuretic hormones. We were also asked to train clean as those drugs can cause heart attacks, stroke, and blindness. About the TUE I cannot recall."*

### **ADAK Submissions**

17. ADAK filed written submissions on 16<sup>th</sup> June 2020. It is ADAK's position that under Article 3.2 that facts relating to Anti-Doping rule violation may be established by **reliable means**, including **admissions** and the methods of establishing facts and sets out the presumptions. Which include;
- a) **Analytical methods or decision limits....**
  - b) WADA accredited Laboratories and other Laboratories approved by WADA are **presumed to have conducted Sample analysis** and custodial procedures in accordance with the international standards for laboratories procedures in accordance with the international standards for laboratories.
  - c) Departures from any other International Standards or other anti-doping rule or policy outlined in the code or these Anti-Doping **Rules which did not cause an Adverse Analytical Finding** or

other Anti-Doping rule violation shall **not invalidate** such evidence or results.

- d) The facts established by a decision of a court or a professional disciplinary tribunal of competent jurisdiction which is not a subject of the pending appeal shall be irrebuttable evidence against an athlete or other person to whom the decision pertained of those facts unless the athlete or other persons establishes that the decision violated principles of natural justice.
- e) The hearing panel in a hearing.

18. ADAK submits that in this instance, an analytical method has established the presence of a prohibited substance. The Athlete did not challenge the process and outcome and did not request for testing of the '*B*' Sample. ADAK thus poses that it has met its burden of proving the ADRV to the comfortable satisfaction of the hearing panel.

19. ADAK also submits that under Article 22.1 the athlete has a duty to;
- a. To be knowledgeable of and comply with anti-doping rules,
  - b. To be available for sample collection always,
  - c. To take responsibility, in the context of anti-doping, for what they ingest and use,
  - d. To inform medical personnel of their obligation not to use Prohibited Substances and Prohibited Methods and to take responsibility to make sure that any medical treatment received does not violate these Anti-doping rules.
  - e. To disclose to his or her International federation and to the agency any decision by a non-signatory finding that he or she committed an Anti-Doping rule violation within the previous 10 years.
  - f. To cooperate with Anti-doping organizations investigating Anti-doping rule violations.

20. ADAK holds the position that the Respondent made several admissions and a few general denials. It submits that in his evidence in chief, the Respondent made the following admissions

- a) He admitted to being aware of prohibited substances such as steroids.
- b) He admitted having undergone sample collection previously in his athletics career.
- c) The Respondent admitted to having been administered with the prohibited substances.

- d) He admitted to not confirming and crosschecking the ingredients of the medication before ingesting them.
- e) He admitted to never taking time to do any research on the fight against doping.

21. ADAK further submitted that the Respondent had confirmed the presence of the prohibited substance in his sample through the ingestion of *19-Norandrosterone* which is the origin of the prohibited substance and thus origin of the offending substance has been established.

22. ADAK submits that Rule 40.3 of the IAAF Rules, the term '*intentional*' is meant to

***"Identify those athletes who cheat. The term, therefore, requires that the athlete or other person engaged in conduct which he or she knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute an anti-doping rule violation and manifestly disregarded that risk"***

23. ADAK places reliance on CAS 2014/A/3820, par 77 – and submits that to prove a lack of intention, the athlete must clearly demonstrate that the substance was not intended to enhance her performance. ADAK also relies on the case of **Kurt Foggo -vs- National Rugby League (NRL) CAS A2/2011**, where the Panel observed that;

***"The athlete must demonstrate that the substance was not intended to enhance the athlete's performance. The mere fact that the athlete did not know that the substance contained a prohibited ingredient does not establish the absence of intent."***

It is ADAK's position therefore that CAS Jurisprudence is that the athlete bears the burden of establishing that violation was not intentional. And that in this instance the Respondent has failed to prove a lack of intention to cheat based on his inability to prove his knowledge on the overall fight against doping as premised by his participation in local events.

24. On fault and negligence, ADAK submits that the Respondent is charged with the responsibility to be knowledgeable and to comply with Anti-doping rules and take responsibility in the anti-doping context for what

they ingest and use. In this case, the Respondent failed to do so thus breached rules 22.1.1 and 22.1.3 of ADAK ADR.

#### 2.1.2

*"Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any of the following: the presence of a **Prohibited Substance** or its **Metabolites** or **Markers** in the **Athlete's A sample** where the **Athlete** waives analysis of the **B sample** and the **B sample** is not analyzed, or 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**; or where the **Athlete's B sample** is split into two bottles and the analysis of the second bottle confirms the presence of the **Prohibited Substance** or its **Metabolites** or **Markers** found in the first bottle.*

25. ADAK relies on the decisions of CAS 2012/A/2804-DIMIYA KUTROVSKY v. ITF – Page 26 the Panel observed that;  
*'the athlete's fault is measured against the fundamental duty that he or she owes under the Programme and the WADC to do everything in his or her power to avoid ingesting any Prohibited Substance.'*
26. ADAK argued that the Respondent failed to carefully consider the consequences of whatever was ingested and administered into him. Further, the Respondent was not keen on upholding his duties under the rules and regulations and that he ought to have known better the responsibilities bestowed upon him as a national level athlete.
27. On the issue of knowledge, ADAK argued that ignorance is no excuse and that it is prudent for an athlete to make reasonable inquiries on an ongoing basis whenever the athlete uses any product.
28. On Sanctions, ADAK proposes a period of ineligibility of 4 years on the basis that no plausible explanation has been given for the presence of a Prohibited Substance in the Respondent's system.

### Decision

29. A review of the Doping Control Form completed by the Respondent at the time of Sample collection dated 22/09/2019 shows that the Respondent did

disclose that he was on medication and he listed painkillers and supplements.

30. Upon notification of the AAF by the letter of 6<sup>th</sup> December 2019, the Respondent responded by his letter of 8<sup>th</sup> January 2020 wherein he admitted all the charges. In the said letter the Respondent stated that he had developed a stomach and knee problem to which he attended to by ingesting strong painkillers and supplements.
31. During the hearing, the Respondent confirmed his letter aforementioned. He also stated that he was aware of doping matters and that he had only used the medication prescribed for him by the Doctor. The Respondent further stated that he had informed the attending doctor of his status as an athlete.
32. At the hearing, the Respondent also confirmed the source of the AAF in his sample as Nandrophren from the injection he received ostensibly to treat his erectile dysfunction. He stated that he had received the injection 3 weeks before the competition. However, this panel notes that the Respondent had not disclosed the injection in the Doping Control Form. When asked, the Respondent responded that he was embarrassed to mention erectile dysfunction before a huge number of people who were present at the time of filing the Doping Control Form before sample collection.

### **Analysis and Merits**

33. The Panel in making its determination will consider
  - a) Whether the ADRV has been proved to the Required Standard of proof
  - b) Whether or not there was an intention to violate the applicable anti-doping regulations
  - c) What degree of fault and/or negligence to be assigned to the athlete's conduct.
  - d) What period of ineligibility to be imposed
34. The Panel is of the view that the fact of the AAF as per the Laboratory results is not disputed, as far as the '*A*' *Sample* results go and that there was no request for '*B*' *sample* analysis.

35. The Panel also notes that there was no applicable TUE at the time of Sample Collection. Further, it is noted that ADAK did not question or doubt the authenticity of the Respondent's medical records. Those records had been in the possession of ADAK since January 2020 when the Respondent sent them to ADAK upon receiving the ADRV Notice.

36. This Panel from the foregoing therefore finds that the fact of the AAF has not been contested, there being no contest, this Panel finds that the Charge regarding the presence of a Prohibited Substance "Norandrosterone" in the Athlete's Sample has been proved to the required standard under both the ADAK ADR and WADC article 3.2.

*"The facts relating to the anti-doping rule violation may be established by any reliable Means including admissions and methods of establishing facts and set out the presumptions which include, results obtained by*

*a) Analytical methods or decision limits*

*b) WADA accredited Laboratories approved by WADA...."*

37. 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 an admission by the Respondent to receiving medication for an alleged erectile dysfunction which is stated to be the source of the AAF. ADAK has also stated and it is on record that it has received substantial assistance from the Respondent in pursuing the source of the AAF.

38. The provisions of Article 10.2.3 of the WADC and ADAK rules provide that in order for a violation under the code to be deemed "intentional" the athlete should have known that the conduct constitutes an anti-doping rule violation and that there was a significant risk that the conduct could constitute or result in an anti-doping rule violation and that he or she manifestly disregarded that risk.

39. It is this panel's position that a failure to explain to a reasonable satisfaction the origin of the prohibited substance would mean that the athlete cannot prove lack of intent. In the words of Arbitrator Yves Frontier on page 77.

**77. " it appears to me that logically I cannot fathom nor rule on the intention of an athlete without having initially been provided with evidence as to how she had ingested the product which, she says**

**contained clenbuterol; with respect to the contrary view I fail to see how I can determine whether or not an athlete intended to cheat if I do not know how the substance entered her body"**

40. This panel is also of the view that apart from proving lack of intention, the Respondent must show as well that the substance was not intended to enhance his performance in the CAS decision of **CAS A2/2011 KURT FOGGO VS NATIONAL RUGBY LEAGUE (NRL)** the panel was of the view that:

*"The athlete must demonstrate the substance was not intended to enhance the athlete's performance. The mere fact that the athlete did not know the substance contained a prohibited ingredient does not establish absence of intent..."*

41. In the present case, the Respondent gave a sworn oral testimony at the hearing on 4<sup>th</sup> March 2020 which we have fully set out above. It is notable that the Respondent has in the panel's view made efforts to establish the origin of the substance stated in the AAF. According to the undated letter (page 22), the Respondent visited Trimex Clinic on 24<sup>th</sup> August 2019 with a severe joint pain and erectile dysfunction. The letter also indicates that the Respondent visited the clinic again on 8<sup>th</sup> September 2019 before he participated in the Mombasa Marathon on 22<sup>nd</sup> September 2019 whereupon the prohibited substance was introduced into his body by way of an injection. ADAK informed the hearing panel that the Respondent has provided substantial assistance and that it is satisfied with the same. ADAK for that reason made submissions on the matter and submitted that the Respondent disclosed satisfactorily the origin of the prohibited substance.
42. The Respondent in his testimony contended that the Prohibited Substance was injected into his body as part of an ongoing treatment for Erectile Dysfunction. He stated that he informed the Doctor of his status as an athlete and he blames himself for not counterchecking the medication he received whether it contained any substance in the Prohibited List. He has provided medical reports detailing the above treatment within the times he was tested for the Prohibited Substance. This Panel notes that ADAK has not countered these assertions.
43. Based on the foregoing, the panel having considered the circumstances as set out in the sworn testimony is of the view that the athlete did not intend

to cheat or to unduly enhance his performance. For his part, he said that he informed the Doctor that he was a participating athlete therefore banned or estopped from using certain medical substances. The onus and responsibility of disclosing participating status rests with the athlete pursuant to Article 22.1 on additional the Roles and Responsibilities of Athletes and other Persons. Specifically, Article 22.1.4 states thus:

**22.1.4 To inform medical personnel of their obligation not to Use Prohibited Substances and Prohibited Methods and to take responsibility to make sure that any medical treatment received does not violate these Anti-Doping Rules.**

Based on the foregoing this Panel is of the view that the Respondent did not fully discharge his responsibility by making sure the medication he received did not violate the anti-doping rules.

44. The rule is that the Respondent is under strict liability and is responsible to ensure that no Prohibited Substance enters his body. It is his duty, in this case, to establish circumstances for consideration in the reduction of the period of ineligibility from the prescribed period under the Code. The standard of proof is to the comfortable satisfaction of the panel and calls for the Respondent to demonstrate that he made an effort to ensure that what he received, consumed, or entered his body was safe and not offending the anti-doping rules.

45. However, even though the Respondent seemed to be aware of some of his responsibilities, this Panel notes that he may have not undergone proper training and his standard of education may not support the full appreciation of the permissible conduct of an athlete as prescribed by the anti-doping rules.

46. In **CAS 2018/A/4643 Maria Sharapova -vs- International Tennis Federation**, the panel therein set out factors for consideration in the assessment of the degree of fault on the part of the athlete as follows;

- i) Professional Experience
- ii) Age
- iii) Perceived and actual degree of risk
- iv) Any impairment
- v) Disclosure of Medication on the Doping Control form
- vi) Admission of the ADRV in a timely manner

- vii) Any other relevant factors and specific circumstances that can explain the Athlete's conduct.

47. Article 2 of the WADC states that'

**"Athletes or other persons** shall be responsible for knowing what constitutes ADRV and the substances and methods which have been included on the Prohibited list"

48. Additionally, Article 2.1 WADC states that;

**"It is each athlete's personal duty to ensure that no Prohibited Substance enters his/her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their sample. Accordingly, it is not necessary that intent, fault, negligence or knowing on the athlete's part be demonstrated in order to establish an ADRV under this Article.**

49. Article 10.2 of the WADA Code,

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

The period of *Ineligibility* for a violation of **Article 2.1, 2.2 or 2.6** shall be as follows, **subject to potential reduction or suspension pursuant to Article 10.4, 10.5 or 10.6: 10.2.1** **The period of *Ineligibility* shall be four years where:**

**10.2.1.1 The anti-doping rule violation does not involve a *Specified Substance*, unless the *athlete* or other *Person* can establish that the anti-doping rule violation was not intentional.**

10.2.1.2 T h e anti-doping rule violation involves a *Specified Substance* and the *anti-doping organization* can establish that the anti- doping rule violation was intentional.

10.2.2 if Article 10.2.1 does not apply, the period of *Ineligibility* shall be two years."

50. In this instance, we find that the Respondent should bear normal fault having failed in conducting any of the basic objective elements of fault such as:

- a. Failing to take responsibility, in the context of anti-doping, for what he ingested and used. Noting that an injection was administered, he ought to have been more cautious.
- b. Failing to familiarize himself with the Anti-doping rules, or to make further inquiry as he seemed to have self-acquired some knowledge on doping.

51. This panel finds that:

- a. The ADRV has been admitted
- b. The admission was timeously given
- c. The Respondent did not intend to cheat
- d. The Respondent was at fault and negligent in his conduct leading to ingesting and using the purported medication which resulted in the AAF
- e. The origin of the offending substance has been established

52. The Panel notes that the Respondent has no known previous charge (s) or ADRV.

53. Under Article 10.1.2 of ADAK ADR, the period of 4 years may be avoided or reduced by establishing that the violation was not intentional in which case a reduction of up to two years may apply.

54. Any period of ineligibility may be eliminated under article 10.4 if it can be established that there was "*no significant fault or negligence*"

55. The period of ineligibility can be reduced to a maximum of 2 years if the ADRV is promptly admitted (Article 10.6.3) but contingent upon:

- i. The athlete's degree of fault and
- ii. Assessment of the seriousness of the ADRV, contrary to article 10.2 ADR

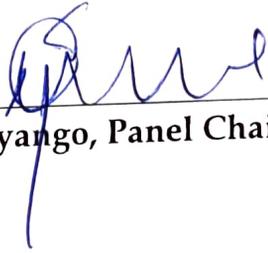
56. Considering the panel's finding on the degree of fault, further considering the substance leading to the AAF and the manner of entry to the body, this panel is of the view that the Respondent may benefit from prompt admission made as his fault is significant

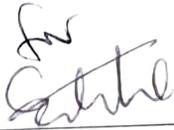
### Sanction

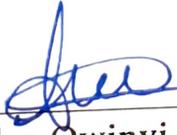
57. Having reviewed the circumstances of this matter, the panel imposes the following sanctions:

- a) The period of ineligibility for the Respondent shall be for two (2) years from 6<sup>th</sup> December 2019, this being the date of the provisional suspension pursuant to Article 10.2.2 of the WADC. The end date shall be 6<sup>th</sup> December 2021;
- b) The disqualification of the Mombasa Marathon results of 22<sup>nd</sup> September, 2019 and any subsequent event pursuant to Article 9 and 10 of the WADA code;
- c) Each party to bear its own costs;
- d) Parties have a right to appeal pursuant to Article 13 of the WADC and ADAK ADR;
- e) Any other prayers and motions are dismissed.

Dated at Nairobi this 28<sup>th</sup> day of July 2020

  
\_\_\_\_\_  
Mrs. Njeri Onyango, Panel Chairperson

  
\_\_\_\_\_  
Ms. Mary N. Kimani, Member

  
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Mr. Allan Owinyi, Member