



UNITED STATES OLYMPIC COMMITTEE

MARY DECKER SLANEY,

Complainant,

v.

USA TRACK & FIELD,

Respondent.

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DECISION

**MOTION
TO
DISMISS**

**© United States Olympic Committee,
Dated August 1, 1997**

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BACKGROUND

The National Governing Body ("NGB") for the Sport of Track & Field in the United States is the USA Track & Field ("USAT&F"). The USAT&F was recognized by the United States Olympic Committee ("USOC") as the NGB for the Sport of Track & Field pursuant to the Amateur Sports Act of 1978 (36 USC 371 *et. seq.*), ("ASA").

The ASA and the USOC Constitution & Bylaws provide for several processes by which an organization or individual may register a complaint against an NGB with respect to compliance with the USOC Constitution and Bylaws as well as the ASA. A Complaint may also challenge their status to be the NGB, or ask for mediation of such complaints. Included in these processes is the ultimate right to seek arbitration before the American Arbitration Association. These rights are outlined in Article VIII and Chapters VI and VIII of the USOC Constitution and Bylaws, and Section 205, (36 USC 395) of the Amateur Sports Act. These processes require that certain conditions, also outlined in these documents, be met. Article VIII, Chapters VI and VIII, and Section 205 are attached to this Decision.

Mary Decker Slaney, the **COMPLAINANT** in this matter, has filed two (2) documents requiring the review of the USOC. They are:

1. **COMPLAINT**
2. **OPPOSITION TO MOTION OF USAT&F TO DISMISS COMPLAINT.**

The USAT&F, the **RESPONDENT** in this matter, has filed its **MOTION TO DISMISS** requiring the review of the USOC.

In accordance with the USOC Bylaws (Chapters VI & VIII), the USOC President, William J. Hybl, appointed a Panel of five voting members of the USOC Board of Directors for the purpose of deciding the procedural and jurisdictional issues raised in this matter. The Panel members are:

Sandra Baldwin, Chair and USOC Vice President,

Maria Dennis, AAC/USA Hockey,
Ralph Hale, U. S. Water Polo, Inc.,
James Joy, U. S. Armed Forces/Marines,
Marty Mankamyer, U. S. Soccer Federation

A hearing was held in Colorado Springs, Colorado on Thursday, July 10, 1997 by Teleconference, as agreed to by the Parties. The Panel was present and chaired by Sandra Baldwin. USOC General Counsel, Ronald T.

Rowan, advised the Panel. The USAT&F was represented by its outside Counsel, Curt Holbreich. COMPLAINANT was represented by her Counsel, James Coleman.

The Parties were given the opportunity to provide oral argument for one hour each. The Hearing was stenographically recorded.

The burden of proof was on the USAT&F to sustain its Motion to Dismiss. The USAT&F was allowed to proceed first, the COMPLAINANT responded. The USAT&F was allowed a rebuttal. In addition, the Panel asked questions of the Parties. The Hearing began at 2:00 o'clock in the afternoon, Mountain Daylight Time and completed at 3:40 o'clock in the afternoon. The Chair of the Panel advised the Parties that the Panel would take the matter under consideration and both Parties agreed that the Panel would have up to 30 days to provide its written decision.

II.

ISSUE

Failure to Exhaust Remedies. The USAT&F argues that COMPLAINANT has not exhausted the remedies available to her since she

has not completed the hearing process outlined in Regulation 10 of the USAT&F Operating Regulations. It also argues that, following that procedure, COMPLAINANT is also entitled to pursue remedies under Article IX of the USOC Constitution which provides for speedy review before the USOC and the American Arbitration Association. It further argues that access to Article IX procedures avoids the need to rely on the "unnecessary delay" provision of Article VIII. It therefore argues that the COMPLAINANT should follow the regular requirements of Article VIII, which requires exhaustion of remedies within the NGB. Finally, USAT&F argues that COMPLAINANT may seek to have Article 19 of the USAT&F Bylaws amended by legislative action. This provision excludes the results from doping hearings under Regulation 10 from the Grievance Procedures of the USAT&F. The USAT&F argues that, if this exclusion is to be challenged as a violation of the ASA, then a part of the exhaustion of remedies requirement is the submission of changes through the legislative process.

COMPLAINANT argues that Article VIII and Article IX remedies exist for separate purposes and whether or not she has Article IX procedures available to her is not relevant to the remedies she seeks under Article VIII.

COMPLAINANT argues that she wishes to contest the procedures available [or not available] to her under Regulation 10 as being a violation of the ASA and the USOC Constitution. She argues that remedies available in the case of an Article IX complaint do not allow changes to the regulation and do not allow an arbitrator to order changes to the regulation or to be able to address the question of the exclusion of doping cases from the Article 19 Grievance Procedure. COMPLAINANT further argues that submission of legislative change to the Bylaws and Regulations is not a remedy as contemplated by the ASA and the USOC Constitution since the USAT&F must meet all requirements of the ASA and the USOC Constitution. Therefore, its Bylaws and Regulations cannot be in conflict with those requirements. The COMPLAINANT argues that there is no further remedy available to complain that the USAT&F is not in compliance with the ASA and the USOC Constitution. Finally, she argues that, even if there are further processes available, she has already been seriously damaged by the long delay in the application of the Regulation 10 process and, therefore, the "unnecessary delay" provision of Article VIII is available to her in order to address the compliance questions raised in her Complaint.

III.

DECISION

The Panel, after having considered all of the written documents submitted by the Parties, which are incorporated herein by reference, as well as the oral arguments presented at the Hearing, and answers to questions proposed to the Parties by the Panel, unanimously concurs in the following decision:

The Panel is of the opinion that the COMPLAINANT has exhausted all remedies reasonably available to her under the organic documents of the USAT&F.

The Panel determines that the availability of process under Article IX of the USOC Constitution does not preclude the right of a person to proceed under Article VIII in order to complain that an NGB is not in compliance with the Member requirements of the ASA. Further, the Panel determines that the remedies under an Article VIII complaint are separate and distinct from those available under Article IX and the argument that an arbitrator can craft the relief sought by the COMPLAINANT under an Article IX complaint

would, in all likelihood, render the process for which Article IX is intended useless.


The Panel determines that excluding doping cases described in Regulation 10 from the Article 19 Grievance Procedure eliminates any further process available to the COMPLAINANT under the USAT&F Bylaws. Therefore, the COMPLAINANT has exhausted her remedies. The argument made by the USAT&F that the COMPLAINANT may submit legislative changes to correct deficiencies related to ASA member requirements is specifically rejected, as this is not a grievance process as anticipated by the ASA and the USOC Constitution.

In reaching this Decision, the Panel has determined that it is unnecessary to address the question of whether this Complaint falls within the exception of the "unnecessary delay" provision of Article VIII.

For the above stated reasons, the USAT&F's Motion to Dismiss is denied. The USAT&F is directed to file an Answer with regard to each Claim of the Complaint in accordance with Section 4 of Chapter VIII of the USOC Bylaws in anticipation of a hearing on the merits of the Complaint.

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This Answer should be filed with the USOC Executive Director within 30 days following the date of this ruling.



Sandra Baldwin, Chair

Members: Ralph Hale
Marty Mankamyer
Jim Joy
Maria Dennis

Dated this 1st day of August, 1997.

Attachments