

UNITED STATES OLYMPIC COMMITTEE

Michael Farry)	
)	ORDER VACATING
Complainant,)	SEPTEMBER 8, 2006
)	DECISION
v.)	AND
)	SCHEDULING
USRowing)	HEARING
)	
Respondent.)	May 4, 2007

I. BACKGROUND

On September 8, 2006 the Hearing Panel issued a Decision granting US Rowing's Motion to dismiss Michael Farry's Article VIII Complaint. The Complaint was dismissed on the grounds that Farry did not exhaust his administrative remedies, or show that to do so would have resulted in unnecessary delay, as is required by Section 20527(b)(1) of the Ted Stevens Olympic and Amateur Sports Act and Article VIII, Section 8.1 E. of the USOC Bylaws.

Rather than exhaust his administrative remedies by filing a complaint with USRowing, or requesting that the Hearing Panel reconsider its Decision, Farry instead filed an appeal with the American Arbitration Association (AAA) on October 9, 2006 seeking to reverse the Decision.¹ In Farry's appeal, he asserts that the Hearing Panel "refused to allow for the production of information which was central to a finding of fact upon which the Hearing Panel's decision hinged." Specifically, Farry wishes to provide

¹ USRowing objected to Farry's AAA appeal contending that it is fatally deficient for jurisdictional reasons.

evidence on whether or not USRowing had a grievance panel available to hear his complaint. Farry did not raise this as an issue in his Article VIII Complaint filed on January 16, 2006 and re-filed on July 24, 2006, or in the papers that he filed with the Hearing Panel in response to USRowings Motion to Dismiss, which he filed on August 7, 2006. It was only at argument on August 16, 2006 that Farry raised this as an issue. At the conclusion of argument, the Hearing Panel allowed both parties to make any further submissions that they felt appropriate by August 17, 2006. Both USRowing and Farry did so. As part of his submission, Farry produced an unsworn statement from Greg Ruckman. As part of its submission USRowing produced a sworn affidavit from Donovan Langford. Both the Ruckman statement and Langford affidavit related to whether or not a hearing panel was available to hear Farry's Article VIII Complaint. After his August 17 submission, Farry did not make a request to the Hearing Panel to submit additional information or to cross-examine Langford. Likewise, USRowing did not make a request to submit additional information or to cross-examine Ruckman.

Thus, the Hearing Panel is somewhat at a loss as to Farry's claim that the Hearing Panel refused to allow him the opportunity to produce information central to his opposition to the Motion to Dismiss. That being said, and in spite of the clear record showing that Farry never asked the Hearing Panel to cross-examine Langford, the Hearing Panel is especially sensitive to Farry's contention that he has additional evidence that may be relevant to the Motion to Dismiss. No party should feel that they were not fully heard, especially a party who is appearing pro se.

Further, both Farry and USRowing are entitled to have this matter fully and finally resolved one way or the other. It has been over a year since Farry filed his first

Article VIII Complaint, and nearly a year since he re-filed his Article VIII Complaint. Six months have passed since Farry filed an appeal with the AAA. Additionally, the Panel believes the interest of all rowing athletes is best served by bringing this matter to final conclusion.

Therefore, the Hearing Panel, sua sponte, has determined to reconsider its September 8 Decision to grant USRowing's Motion to Dismiss and thereby vacates that Decision. Further, Farry and USRowing may provide further evidence and argument on USRowing's Motion to Dismiss pursuant to the following scheduling order:

1. A hearing on the Motion to Dismiss is set for 1:00 pm Mountain Daylight Time on May 15, 2007, unless either party notifies the Hearing Panel with good reason that they are not available at that time and date.
2. Farry and USRowing shall have until May 11, 2007 to submit any documentary evidence that they wish the Hearing Panel to consider on the Motion to Dismiss.
3. Farry and USRowing shall have until May 11, 2007 to submit any testimony that they wish the Hearing Panel to consider in the form of a sworn affidavit on the Motion to Dismiss.
4. Any person who submits testimony by affidavit shall be available on May 15, 2007 for cross-examination by the other party.
5. US Rowing shall produce Mr. Langford for cross-examination by Farry on May 15, 2007.
6. Farry shall produce Mr. Ruckman for cross-examination by USRowing on May 15, 2007.

7. At the close of the hearing on May 15, 2007 no further evidence will be considered.
8. USRowing and Farry shall have until May 18, 2007 to submit a final brief on the Motion to Dismiss.

Dated this 4rd day of May, 2007.

James McCarthy by Ruby Haddock
James McCarthy, Chair

Ron Radigonda, Panel Member
Virginia Jasontek, Panel Member
Robert Latham, Panel Member
Courtney Johnson, Panel Member