

FINDING OF FACTS AND AWARD

8-17-88

In the Matter of the Arbitration between

Kenneth R.C. Adams, Jr.
and
USA Amateur Boxing Federation, Inc.

77 E199 197 ss

An arbitration hearing in the above matter was held at the offices of the American Arbitration Association, 1775 Sherman Street, Suite 1717, Denver, Colorado 80203-4318 during the hours of 1:00 p.m. and 3:00 p.m. on Sunday, August 14, 1988.

Present were:

Kenneth A.C. Adams, Jr., claimant
Robert Lloyd Turmond, claimant's attorney
Col. Don Hull, representative of Respondent
James J. Fox, representative of Respondent
Paul Konnor, Respondent's Attorney
Charles E. Grover, Arbitrator

At the outset of the arbitration hearing, both attorneys, Robert Lloyd Turmond and Paul Konnor agreed that:

1. Charles E. Grover was acceptable as Arbitrator to consider and rule upon this matter.
2. The Dahl-Adams incident of 5-12-88 is the sole incident which is the basis of this dispute.
3. The Arbitrator's Findings and Award shall be based upon:
 - A. Reviews of the transcript of record and exhibits of the 6-11-88 hearing before USA/ABF National Board of Review; and
 - B. Review of the transcript of record and exhibits of the 7-14-88 hearing before USA/ABF Board of Directors; and
 - C. Consideration of the oral arguments about to be made by both legal counsel this 14th day of August, 1988.

The May 19, 1988 Dahl-Adams Incident.

J. Keratan Dahl testimony of 6-11-88:

Mr. Dahl stated that about 12:30 p.m. on May 18, 1988, while on the telephone with his office door shut, he heard three heavy knocks almost like it was pounding on his door. He was upset. He set the phone down, ran over to the door and blurted out: "Get the fuck away from my door." About three seconds later, Coach Adams' hand was on his throat and Adams said: "What the fuck do you mean, get the fuck away from my door? Who the hell do you think you are talking to? I'm going to break your fucking neck." Dahl replied, "Get your hands off me, I understand you can break my neck." After a few more heated words, Adams left and Dahl went back in and shut his door.

Dahl stated that Adams put his hands directly upon his neck and that Adams didn't grab him by the collar.

About five minutes later, Adams came back and apologized and Dahl apologized. This lasted maybe 10 seconds. We had an understanding at that point. We both regretted the incident. Dahl also stated they shook hands.

Dahl stated there was a bruise on the right side of his neck. "There's a slight scratch and I just picked the skin off that night...but the bruise was evident, and was maybe the size of a finger, a thumb. It was still evident the following Monday."

When Adams grabbed Dahl by the throat, it was with one hand. He definitely had a grab of the vocal cords but he didn't crush them and Dahl was still able to talk. He did not hurt physically. It wasn't painful but it was hard enough to cause the bruise.

When Dahl opened the door, he saw McCoy and Adams standing there. Dahl thought McCoy couldn't see exactly what was going on, but that wasn't the focus of Dahl's attention.

Dahl had never before addressed anyone at his door using the language he did with Adams and McCoy. Dahl had been under some distress because of two recent deaths in his family. Dahl stated that it was very possible that he was in such an emotional state that that helped precipitate this matter. Dahl did not feel that his statement in any way provoked Adams to grab his throat or collar. Dahl did not direct his remarks at any individual. When he opened the door, the words were coming out and he did not know who was outside the door.

When Dahl opened the door, there was three feet between Adams and the door. McCoy was to the left rear of Adams. McCoy was facing Adams back. Dahl thought it was possible that McCoy would not be privy to what exactly happened.

When Dahl heard someone pounding overhead with their fist, that is basically what caused him to blurt out what he did. It's just stress and there's not a real reason. The pounding irritated him.

Dahl had no business with Adams at that particular time. The business (getting a meal ticket) was solely with Ralph McCoy.

At the initial contact of Adams with Dahl, Dahl didn't believe McCoy could have seen Adams grab Dahl. But then they turned a bit and Adams was to Dahl's left front, and Adams hand was still on Dahl's throat. At that time McCoy was in a position to see where Adams' hand was.

Dahl did not feel that a reasonable person in the position of Adams at the time of this incident would have been provoked by Dahl's words.

Dahl felt that Adams was physically capable of hurting him and Dahl told Adams he was capable of breaking Dahl's neck.

Kenneth R. S. Adams, Jr., the claimant, did not testify at the 6-11-88 hearing before the National Board of Review. However, the National Board of Review did have before it a four page letter dated May 31, 1988 from Adams to Omar Green, Chairman, USA/ABP Registration Committee. Regarding the incident of 5-12-88, the pertinent portions of Adams letter are as follows:

1. The altercation between Mr. Dahl and me is regrettable and I am very sorry that it happened. My response to that provocation was inappropriate and was more instinctive than premeditated. I sincerely apologize to Kerstan and did express my remorse to him, face to face, while at the OTC.

As you know, I've been at the Olympic Training Center for some time and the pressure of preparing USA teams for some very critical events was ever present. When I approached Mr. Dahl's office, I was not aware of the personal tragedies he has experienced lately.

While I recognize my actions were inappropriate, I feel that Mr. Dahl contributed and provoked the incident with the statement - "get the fuck away from my door."

He "briskly" opened the door and held a telephone receiver in his hand. Quite candidly, I wasn't sure what Mr. Dahl's intentions were with his hand cocked. I did feel threatened at this explosion and responded in haste.

In Kerstan's 5-16-88 statement, you will note he characterized his emotional state: he attested he was "in emotional shock, experiencing upheaval; I had an emotional conversation, and indicated there were other stressful incidents that had happened recently." Kerstan probably should have stayed home from the office during this very difficult time.

About five minutes after the confrontation, I felt extremely bad and returned to Kerstan's office. I apologized profusely and Mr. Dahl expressed his regrets as well. We talked for a while, shook hands and agreed to forget the incident.

Because of our acknowledge complicity, Kerstan had no intention of pressing charges against me. He was satisfied with our reconciliation and was willing to put it in the past and move forward. He attested that to Mr. Jim Fox and others.

Ralph McCoy, witness to the 5-12-88 incident, was not present at the 6-11-88 hearing before the National Board of Review. However, the Board had before it a signed unsworn written statement dated May 16, 1988, which in pertinent part is as follows:

To Whom It May Concern:

This is a statement I was asked to write concerning the incident between Mr. Ken Adams and Mr. Kerstan Dahl.

I was standing in the USA Amateur Boxing Federation's (USA/ABF) office waiting to purchase some meal tickets. I was talking to Mr. Adams when he asked why I was waiting, after being there about seven minutes. I told him I wanted to purchase meal tickets, and he then knocked on Mr. Dahl's door.

Mr. Dahl opened the door looking very upset and said to Mr. Adams, "Get the fuck away from my door!" Mr. Adams grabbed him by the collar, and they had harsh words with one another, then Mr. Adams left the office.

I bought the meal tickets and talked to Mr. Dahl for a few minutes. He told me about a member of his family passing away.

7. I feel that the six (6) month suspension handed down against Coach Adams is extreme in light of the fact that I later learned that after this incident occurred that both Coach Adams and Mr. Dahl had apologized to one another, and shook hands. In my opinion, the exchange of apologies and hand shakes should have been the end of the incident, and Coach Adams should not be prevented or suspended from coaching the United States Olympic Boxing Team due to his actions in this incident.

8. This Affidavit is provided to completely and fully explain my position with respect to the incident occurring on May 12, 1988, between Coach Adams and Mr. Dahl, and to add additional clarity to my earlier statement dated May 16, 1988.

Signed this 30th day of June, 1988.

* RALPH E. MCCOY

Subscribed and sworn to before me this 30th day of June, 1988, by Ralph E. McCoy.

Witness my hand and official seal.

* ALICE LEE TURNER

My commission expires on the 11th day of October, 1989.

Kenneth Adams, Claimant, was present at the 7-14-88 hearing before the USA/ABF Board of Directors, and testified as follows:

MR. ADAMS: But, it was something that happened even so and with the Kerstan Dahl incident once again, we both at that particular time were regrettable that it happened and once again, we didn't try or I didn't try to hurt the individual involved and by the same token, I would like to say that both of us, I was particularly more, as far as the incident that happened, that's why we came back in to apologize to him and vice versa.

Further, at the 7-14-88 hearing, legal counsel for claimant Adams made the statement:

"Coach Adams is also willing to answer questions if there are any to be directed to him as well, and I wanted to make that point."

No questions were asked by any members of the Board of Directors or by Paul Konnor, attorney for the Respondent.

Decision of the National Board of Review on 6-11-88: By majority vote, Kenneth Adams is suspended from all activities at the USA/ABF Federation for a period of six months.

Decision of the USA/ABF Board of Directors on 7-14-88: The decision of the National Board of Review is affirmed.

Findings of Fact:

1. On May 13, 1988 Karsten Dahl had the right to report to James J. FOX, Executive Director, the facts concerning the 5-12-88 incident, notwithstanding any statements previously made by Dahl to Adams or by Adams to Dahl.
2. James J. FOX, Executive Director, had the right to recommend to the National Registration Committee and to the Board of Directors of the USA Amateur Boxing Federation that charges be pressed against Mr. Adams, notwithstanding the statements which had been made between Dahl and Adams, Dahl and FOX, and Adams and FOX.
3. The letter of James J. FOX, Executive Director, to Ken Adams dated 5-13-88 advising him that charges would be filed against Adams and that until this matter could be settled, Adams was not welcome at the U.S. Olympic Training Center or at the National Headquarters was not unreasonable or in violation of Adams' Due Process Rights. Further, Mr. FOX's actions on May 13, 1988 were not in violation of the 1988-89 Offered Rules, the Constitution or Bylaws.
4. The letter notice of charges and notice of hearing set for 6-11-88 on the charges as sent by Omar Green to Ken Adams on May 19, 1988 was appropriate and did not violate Adams' Due Process rights.
5. At any time between May 13, 1988 and June 11, 1988, the date set for hearing on the charges, Adams and/or FOX had the right to request that an emergency hearing be held, but no such request was made.
6. Exhibit Q, the sworn statement of Ralph McCoy dated 6-30-88, should have been admitted into evidence in the 7-14-88 hearing before the Board of Directors. An apparent foul up occurred when this statement was included in Appellant's Designation of Record transmitted by Mr. Turmond, attorney for Claimant, by Certified Mail, Return Receipt Requested to USA Amateur Boxing Federation, Inc., Attention Board of Directors, Colonel Don Hull, President, on July 1, 1988, and the same was not thereafter transmitted to Paul Konnor, attorney for Respondent. As a matter of professional courtesy and propriety, Mr. Turmond should have copied Mr. Konnor with these documents.

The written statement of Ralph McCoy dated May 16, 1988 was admitted in evidence in the hearing on 6-11-88 before the National Board of Review, although Mr. Turmond, attorney for claimant, had no opportunity for cross examination of Mr. McCoy. The same treatment should have been afforded as to Exhibit Q, even though Mr. Kennor had no opportunity to cross examine Mr. McCoy. While admissible, the weight, if any, to be given to these two statements was entirely up to the respective reviewing bodies.

The sworn statement of Mr. McCoy was in no way dispositive of the facts in this matter. All evidence should be and was duly considered.

7. The six month suspension of Coach Adams handed down by the National Board of Review was excessive and extreme in light of all facts related concerning the 5-12-88 Dahl-Adams incident.

Mr. Dahl apparently was under considerable stress from personal circumstances he recently had endured and upon hearing the pounding on his office door while he was talking on his phone, irritated and upset him to the point that he uttered an expletive remark as he opened his office door, not knowing who was there or why. Mr. Adams, upon hearing the remarks of Dahl, spontaneously reacted unreasonably and excessively in grabbing Dahl by the throat or collar with one hand. Both Dahl and Adams acted improperly.

No severe physical damage was done to Mr. Dahl. As late as 6-11-88 Mr. Dahl testified he was not hurt physically and he did not suffer painfully. No blows were thrown by a trained boxer such as Coach Adams. Five minutes after the incident both men apologized to each other and shook hands. There was no apparent or expressed animosity by either man toward the other.

There is no evidence in the record that prior to the 5-12-88 incident Dahl or Adams had any prior encounters or had expressed any animosity toward each other. There is no evidence in the record that Mr. Adams, prior to the 5-12-88 incident, had ever conducted himself in an improper manner, had threatened or struck anyone, had spoken injudiciously to anyone or had been warned of any prior misconduct or misstatements, which if not corrected, would lead to censure. There is no evidence in the record that Mr. Adams is not capable of conducting himself as a respected, courteous and exemplary representative of the USA/ABF.

In Mr. Fox's letter of May 16, 1988 addressed to Col. Don Hull, Paul Kennor and Omar Greene, he stated, "At this point, I want to interject this is not an isolated incident. Over the

last six to eight months, several occasions have occurred where either Adams has offended someone or created an undesirable situation." However, in neither hearing was any such evidence presented, nor was Adams given any opportunity to refute this behind the scene innuendo,

The decision of the National Board of Review that Kenneth Adams was suspended from all activities at the USA/ABF Federation for a period of six months, in effect was a decision that Adams was summarily fired and that he was barred from participating in the 1988 Olympics as a boxing coach.

In my considered opinion, in light of all the evidence of record, this decision and its affirmation by the USA/ABF Board of Directors was unreasonably harsh, punitive and unjust.

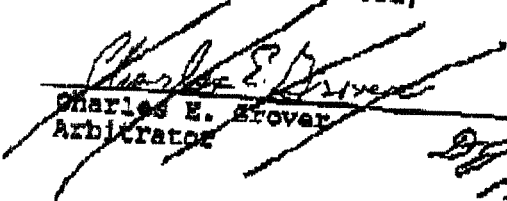
Award

1. A letter of reprimand should be directed to Kenneth R. C. Adams, Jr. advising him that any future conduct similar to that of the 5-12-88 incident or otherwise ill advised conduct on his part will not be tolerated and may serve as a basis for disciplinary action and/or discharge.

2. However, notwithstanding the reprimand, Kenneth R. C. Adams, Jr. should be reinstated immediately as the 1988 United States Olympic Boxing Coach, with full privileges.

3. Respondent shall pay for all expenses, costs and ~~reasonable attorneys fees~~ incurred by Mr. Adams in connection with the hearings before the National Board of Review, the USA/ABF Board of Directors, and this arbitration conducted under the auspices of the American Arbitration Association. DPA
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Respectfully submitted,


Charles E. Grover
Arbitrator DPA
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