

AMERICAN ARBITRATION ASSOCIATION

AMANDA SCOTT,

Claimant,

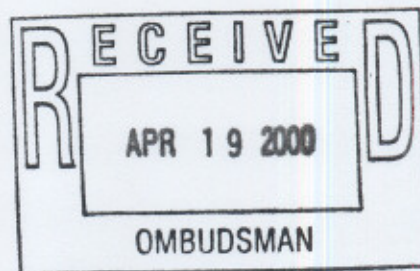
v.

AMATEUR SOFTBALL ASSOCIATION,

Respondent.

AAA Case No. 301901500

AWARD



This arbitration arises from the fact that the USA Women's Softball 2000 National Team Selection Committee ("Selection Committee") did not select Claimant, Amanda Scott, to the 2000 USA Women's Olympic Softball Team ("National Team"). Claimant contends that she was not selected to the National Team because Respondent, the Amateur Softball Association ("ASA"), failed to follow the 2000 USA Softball Women's Olympic Athlete Selection Procedure ("Selection Procedure"). Respondent denies this contention and asserts that the Selection Committee followed the Selection Procedure approved by the United States Olympic Committee ("USOC") when it considered Claimant for a position on the National Team.

The arbitration hearing was conducted on April 6, 2000. Both parties were represented by experienced counsel, both sides' positions were ably and professionally presented and the matter was fully briefed and argued. Both parties submitted post-hearing briefs on April 10, 2000. The arbitration was closed on April 11, 2000.

The Arbitrator has fully considered the testimony, exhibits, briefs and argument. Based on the preceding, the Arbitrator finds that: (1) Respondent complied with the Selection Procedure as approved by the USOC; (2) Respondent denied Claimant the opportunity to have a "free and fair" hearing before the USOC, as contemplated by the Ted Stevens Olympic and Amateur Sports Act (the "Act"), the USOC Constitution and the USOC Bylaws, on Claimant's appeal of Respondent's decision not to select her to the National Team; and (3) Claimant is entitled to all costs, including attorneys fees, associated with both this arbitration and her preceding appeal to the USOC. The reasons are set forth, briefly, below under Jurisdiction (Part I), Hearing (Part II), Team Selection (Part III) and Costs (Part IV).

I. JURISDICTION

A preliminary hearing was held in this arbitration on March 30, 2000. At that time Respondent stipulated to a finding that the Arbitrator had jurisdiction over this matter, subject to its right to appeal. Independent of Respondent's stipulation, the Arbitrator finds that the American Arbitration Association ("AAA") has jurisdiction over this matter because it involves denial of Claimant's opportunity to compete in the 2000 Olympic Games.

II. HEARING

The essence of Claimant's claim is that because the Selection Committee failed to follow the Selection Procedure she was denied the opportunity to be selected to the National Team for the 2000 Olympics. This claim was presented to the USOC but not settled to Claimant's satisfaction. As a result, Claimant was entitled under Article IX of the USOC Constitution to submit her claim to the AAA for binding arbitration. In order to have a full and fair hearing as contemplated by the Act, the USOC Constitution, the USOC Bylaws and the

AAA Commercial Arbitration Rules, Claimant was entitled to examine witnesses on both ASA's application of the Selection Procedure and the basis for ASA's decision not to select Claimant to the National Team.

III. TEAM SELECTION

Claimant is a world class pitcher. This fact is undisputed. According to Respondent's own witnesses, Claimant has demonstrated over a period of approximately two and a half years the skills, both objective and subjective, of an Olympic caliber pitcher. Indeed, based on statistical results alone, which evidence was not rebutted by Respondent, Claimant was among the five best pitchers competing at the final Olympic trials in Midland, Michigan. Nevertheless, for good faith reasons, unrebutted by Claimant, she was not selected to the National Team.

The issue is not, however, whether the Selection Committee made the right decision. Rather the threshold question in this arbitration -- and the underlying issue for the Arbitrator -- is whether Respondent followed the Selection Procedure approved by the USOC in evaluating Claimant for a position on the National Team. The Arbitrator finds that Claimant did not meet its burden of proof on this issue. Although Claimant did show material inconsistencies between the USOC Guidelines for Athlete Selection Procedures (the "Guidelines") and the USOC approved Selection Procedure used by the Selection Committee, Claimant failed to demonstrate that Respondent breached the latter.

In making this determination, and assessing the weight to be given to the inconsistencies between the Guidelines and the Selection Procedure, the Arbitrator is influenced by the fact that the athletes invited to the Olympic Trials in Midland, Michigan both understood

and desired that the Selection Committee not pick the National Team on the basis of a single event. When questioned by the Arbitrator, Claimant did not dispute this point.


Having found that Respondent followed the Selection Procedure in good faith, the issue of remedies is accordingly moot.

IV. COSTS

When Claimant learned that she was not selected to the National Team she sought to appeal the Selection Committee's decision. Although Respondent agreed to a hearing to review her appeal, Respondent sought to limit the scope of the hearing and the procedural rights available to Claimant at the hearing. This was wrong. Claimant was entitled to appeal, to have sufficient time to prepare for the hearing and to cross-examine the Selection Committee on the basis of its decision. Respondent's attempts to limit Claimant's appeal rights are all the more troubling when the Arbitrator considers that this arbitration may have been unnecessary if Respondent had granted Claimant's initial request: "a written explanation of why she was not selected." to the National Team. See Claimant's Demand, 2:18-19.

Respondent accordingly is ordered to pay Claimant all costs, including attorney fees, associated with this arbitration and Claimant's appeal of the Selection Committee's decision not to place her on the National Team.

DATED: April 14, 2000

By: 
Raymond C. Marshall
Arbitrator