

WT APPEALS PANEL

In the Matter DM 22-100

Between:

Mr. Jae Park
(Appellant)

and

CSB of the Guadalajara 2022
World Taekwondo Championships
(Respondent)

Before

Mr. Corbin Min
(Sitting as Sole Arbitrator or the “Panel”)

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I. Introduction:

1. The present case concerns the appeal of a decision to suspend an MNA official for conduct in violation of article 23.3 of WT Competition Rules and Interpretation (**Competition Rules**). The decision was made by the Competition Supervisory Board of the Guadalajara 2022 World Taekwondo Championships (**Guadalajara Championships**).
2. In agreement of the Parties, this case was heard in an expedited process by Mr. Corbin Min, WT's Legal Counsel and Integrity and Safeguarding Officer, as sole arbitrator. An Operative Award was issued to the Parties on 28 December 2023. The following is the full, reasoned decision.
3. The Respondent represented itself. The Appellant was assisted by his national federation, Taekwondo Canada (**TC**), a WT Member National Association (**MNA**).
4. The Appellant and Respondent are from time to time referred to individually as **Party** or collectively as **Parties**.

II. Parties

5. The Appellant, Mr. Jae Park, is a coach for TC, the World Taekwondo (**WT**)-recognized MNA governing Taekwondo in Canada.
6. The Guadalajara Championships was a WT Promoted Event. Its Competition Supervisory Board (**CSB**) was appointed by WT and was composed of the following individuals:
 - Mr. Songchul Kim, Technical Delegate and Chair of WT's Technical Commission
 - Mr. Mohamed Shaaban, CSB Member, and Chair of WT's Games Committee
 - Ms. Amely Moras, CSB Member, and Chair of WT's Referee Committee
 - Mr. Daehyoun Jeong, CSB Member, and Chair of WT's Medical Committee
 - Mr. Kee Ha, CSB Member, and President of Taekwondo Canada

III. Factual Background

7. The following is a summary of the relevant facts and allegations based on the Parties' written submissions, pleadings, and evidence presented. Additional facts and allegations found in the Parties' submissions, pleadings, and evidence may be set out in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments, and evidence submitted by the Parties, it refers in its Decision only to the submissions and evidence it considers necessary to explain its reasoning.
8. On 17 November 2022, the fourth day of the Guadalajara Championships, the Appellant had an aggressive altercation with competition management officials, waving hands and yelling in an unsportsmanlike way and creating an unacceptable scene on the field of play.
9. On 20 November 2022, the CSB, sitting as an Extraordinary Sanctions Committee as per Competition Rules Article 20.1.2, issued a Letter of Suspension (**the Decision**) to the Respondent, finding him in violation of the following provisions of the Competition Rules:
 - 23.3.2.2 Arguing with the referee or other official(s)

- 23.3.2.4 Provoking spectators or spreading false rumor
- 23.3.2.8 Any other serious misconducts towards competition officials

10. Based on the incident outlined above, in accordance with Competition Rules Article 23.4.6, the CSB suspended the Appellant for a period of six months, effective as of the date of the letter, i.e. 20 November 2022.

IV. Hearing Procedure and Submissions

11. On 24 November 2022, the TC submitted to WT on behalf of the Appellant a Statement of Appeal seeking to have the 20 November Decision put aside. In the Statement of Appeal, the Appellant noted certain procedural concerns. Notably:
- a. that the Decision did not detail the procedure taking by the Extraordinary Sanctions Committee in reaching its decision;
 - b. that the Extraordinary Sanctions Committee may have not been sufficiently impartial as two of its members were also from the Appellant's country, Canada; especially as those same members had earlier recused themselves from intervening when TC raised a complaint against a field-of-play decision that involved the Appellant's daughter, citing a conflict of interest raised by having the same nationality. and
 - c. in the cover email to the Statement of Appeal, the Appellant asked WT to confirm that no appeal's fee was due as per Disciplinary Actions and Appeals Code (**DAAC**) Article 4.5(C).
12. On 28 November 2022, WT replied to TC and the Appellant, confirming the Statement of Appeal was duly received and that the appeal's fee was not required or was waived.
- a. Further, WT noted that the *de novo* review ability of the Appeals Panel should be able to cure any procedural errors of the original Decision; and that further appeal to the Court of Arbitration for Sport would be available should concerns remain.
 - b. Finally, WT proposed to have the appeal heard directly by WT's legal office, instead of forming a 3-Council-Member Panel, in order to expedite the process. These communications were also shared with the Respondent. Both the Appellant and the Respondent agreed to an expedited process whereby WT would issue a decision directly.
13. On 29 November 2022, on behalf of the Appellant, TC noted that a similar incident occurred during the 2022 Junior World Championships in Sophia (**Sophia Championships**), but no sanction was given
14. On 06 December 2022, WT issued Hearing Guidelines (**Guidelines**) to the Parties, together with the following exhibits:
- a. Exhibit 01: CSB Decision of 20 Nov
 - b. Exhibit 02: Statement of Appeal of 24 Nov (Cover email)
 - c. Exhibit 03: Statement of Appeal of 24 Nov
 - d. Exhibit 04: WT Verification of the Appeal
 - e. Exhibit 05: Statement of Appeal Supplement 1
 - f. Exhibit 06: Witness Statement Amely Moras
 - g. Exhibit 07: Witness Statement Andriy Starkov
 - h. Exhibit 08: Witness Statement Steve McNally & Jay Warwick

i. Exhibit 09 Witness Statement Songchul Kim

15. The Guidelines outlined the DAAC rules governing the hearing, and proposed the following timeline and posed the following questions to the Parties:

16. Until **Dec 13, 11:59 PM (KST)**:

***Both Parties** are invited to comment on this Hearing Procedure. This can include whether more time may be needed or if there are any concerns with the procedure outlined in these Hearing Guidelines.*

17. Until **Dec 20, 11:59 pm (KST)**:

- A) ***CSB** is invited to confirm that Mr. Songchul Kim and Mr. Kee Ha had declared a conflict of interest for matters related to the Canadian team (see Exhibit 05 @ item 3; and Exhibit 03, from Para 4), and if so why they did not recuse themselves when the Extraordinary Sanctions Committee was called. Further, the **CSB** is invited to confirm whether or not the decision of 20 Nov was unanimous when taken.*
- B) ***CSB** is invited to comment on the appellant's assertion that a more severe incident took place during match 323 of the Sofia 2022 Junior World Championships but went unpunished. (See Exhibit 05, item 3.)*
- C) ***Appellant** is invited to comment on whether or not he believes his conduct on 17 Nov was acceptable under WT's Competition Rules. Assuming that he does not believe his conduct to be wholly acceptable under the WT Competition Rules, Appellant is invited to comment on whether he thinks the sanction imposed was disproportionate to the conduct.*

18. Assuming no new issues are raised following the above, then target for an announcement of the basic outcome of the case is **28 Dec**. This will be followed by the full Reasoned Decision approximately 2 weeks thereafter.

19. On 08 December 2022, on behalf of the Appellant, TC sought among other things to confirm that a Party would have the opportunity to respond to any additional submissions from the other Party. This (the opportunity to respond to new submissions) was confirmed by WT on 09 December.
20. On 17 December 2022, in response to the question from the Panel at 17(C), above, an additional written statement was received from the Appellant, in which he sought explain the mounting frustration he was feeling in the period leading up to the incident because of perceived technical problems related to the competition.
21. On 19 December 2022, in response to the Panel's questions at 17(A) and 17(B), above, the Respondent replied as follows:
- a. that as a general practice, the CSB recuse themselves from matters arising from matches and involving their country and another in order to avoid a perceived bias in favor of their country.

However, they do not, in general practice, recuse themselves for matters that do not involve another country;

- b. that the CSB distinguished the incident during the Sophia Championships because in that case the coach's conduct was not as served, and also he apologized shortly after the match, and that was taken into account.

22. Further, the Respondent added that if the Appellant were also to apologies, then a reduction in sanction to time served would not be inappropriate.
23. In response to the Respondent's position at paragraph 22, above, on 22 December 2022, the Appellant submitted a formal apology letter.
24. On 22 December 2022, with all submissions shared, WT asked the Parties to raise any concerns regarding the hearing procedure or add any information to the case file. And that barring new issues or concerns, an operative award could be expected by 28 December 2022, with the full reasoned decision to follow in early 2023.
25. No concerns or further submissions were received. The Operative Award, in line with the below, was issued on 28 December 2022.

V. Jurisdiction

26. The Decision was issued under Article 23 of the Competition Rules, with at 23.4.6 provides for appeal in accordance with the Disciplinary Actions and Appeals Code. In addition, Appealable Decisions under the DAAC Article 4.2 include those expressly provided for under WT rules.
27. Based on the above, the Panel finds that it has jurisdiction to decide on the present appeal.

VI. Admissibility

28. As per DAAC Article 4.5, for an appeal to be heard under the DAAC it must be filed within 20 days of receiving the appealed decision or the date of its discovery. The letter from the Appellant was received within five days after the issuance of the Decision, no fee is required, and the other elements of Article 4.5 were satisfied.
29. Therefore, the Panel concludes that the appeal is admissible and can be entertained.

VII. Mandate of the Panel

30. Under DAAC Article 4.7(A) Composition:
- i. Panels shall be composed of three (3) WT Council or Committee Members unless otherwise agreed by the Parties;
 - ii. Panel members shall have no prior involvement with the case;
 - iii. Parties shall be given the opportunity to challenge Panel members....
31. In this case, the Parties agreed to the Sole Arbitrator instead of a 3-member panel in order to help ensure an expedited procedure.

32. Under DAAC Article 4.7, the Panel has the power to establish its own procedures so long as the Parties are treated equally and fairly and given a reasonable opportunity to present their case or respond to the case of another Party. The Panel may take such steps and conduct the proceedings as considered necessary or desirable by the Panel to avoid delay and to achieve a just, speedy and cost-effective resolution of the dispute. The Panel shall approve Hearing Guidelines at the outset of the hearing process which shall include target timelines and expected costs
33. Here, the Panel issued Hearing Guidelines setting for the procedure and timelines, to which no Party objected.
34. Under DAAC Article 4.8(A), the moving party has the burden to establish the facts by a preponderance of the evidence. Credibility of the parties and witnesses is a consideration that can be taken into account by the Panel as the finder of facts.
35. Under DAAC Article 4.8(B), the Panel has discretion to conduct a *de novo* review of facts and law.
36. And under DAAC Article 4.8(G), the Panel has full scope to affirm, invalidate, reduce, increase, or modify any penalty applied.

VIII. Merits

37. As set out in the Factual Background above, there was a letter of suspension issued by the CSB, including the misconduct at issue and the relevant rules.
38. There was an appeal based on possible procedural irregularities at the time of the Extraordinary Sanctions Committee decision, including a lack of specificity of procedures and a possible conflict of interest based on same nationality.
39. The Panel agrees that more specificity in the decision making process of the onsite sanctions committee would be appropriate. But the *de novo* nature of the current review should be sufficient to cure any such irregularities. The Panel is satisfied with the explanation of the CSB regarding the perceived conflict of interests, but believes that the rules in this area should be clarified for the sake of all parties going forward. Most importantly, it is the impression of the Panel that all Parties are satisfied that the current hearing process has been fair and reasonable and no Party has raised any objection or concern in that respect.
40. The submissions of the Parties contain no relevant disagreement on either facts or rules on the substance of the case. That is:
 - a. the CSB issued a six-month sanction against the Appellant for violations of various provisions of Competition Rules Article 23 for conduct that, in sum, demonstrated unsportsman-like conduct and conduct unbecoming a WT MNA official.
41. The Appellant submits that technical issues and other frustrations during preceding matches involving his daughter added some justification to his behavior.

42. The Panel is not convinced of this. While understandable, such behavior would be inappropriate even from a parent in the viewing stands. And as credentialed official of a national federation acting in official capacity on the field of play, the Appellant must be held to a higher standard. Taekwondo is not just a sport but a martial art, and a culture of respect and decorum should always be expected from those acting in official capacity at events, and especially at a World Championships.
43. The Panel notes that the DAAC provides for the consideration of Aggravating and Mitigating Factors (Article 3.10), including (ii) a timely admission of guilt, and (vi) displaying remorse. Further, that it is the opinion of the sanctioning body, the CSB, that an apology letter from the Appellant during the hearing procedure would be timely enough from their perspective to be considered a mitigating circumstance. The Panel agrees.
44. Given the above, the Panel finds that an application of Mitigating Factors is appropriate in this case.

IX. Decision

In light of the evidence presented and the arguments made by the parties, the Panel rules as follows:

45. The Appellant is guilty of violations of Article 23.3.2 of the Competition Rules.
46. In consideration of the mitigating circumstances, the period of suspension of the Appellant shall be reduced to time served.
47. The sanction has been reduced specifically because of the apology letter, which functions as a mitigating factor both in the opinion of the CSB as well as under Disciplinary Actions and Appeals Code (DAAC) Art. 3.10(C). Be advised that should an incident occur again, this case would function as an aggravating factor under DAAC 3.10(B).

X. Right of Appeal

48. In accordance with DAAC Article 4.12(A) (Appeal of Appeal Panel Decisions):
- a. Final Decisions made by a WT Appeal Panel may be submitted exclusively by way of appeal to the Court of Arbitration for Sport in Lausanne, Switzerland, which will resolve the dispute definitively in accordance with the Code of sports-related arbitration.
 - b. The number of arbitrators shall be one unless otherwise agreed by the Parties. The language of the arbitration shall be English.
 - c. The time limit for appeal is **twenty-one days** after the reception of the decision concerning the appeal.

This Decision is issued on 13 February 2023

**Corbin Min, Sole Arbitrator
WT Appeals Tribunal**