

9. Mai. 2008 17:45 Court of Arbitration CAS/TAS

N°5003 P. 2/6



Tribunal Arbitral du Sport
Court of Arbitration for Sport

CAS 2008/A/1461 Gatlin v/USADA
CAS 2008/A/1462 IAAF v/USATF & Gatlin

ORDER OF PROCEDURE

Introduction

The present dispute which has arisen between the parties shall be decided by arbitration before the Court of Arbitration for Sport (the "CAS") in accordance with the Code of Sports-related Arbitration (the "Code"). Following the agreement of the parties, the cases CAS 2008/A/1461 Gatlin v/USADA and CAS 2008/A/1462 IAAF v/USATF & Gatlin have been consolidated. As a consequence, the same Panel has been appointed in the two procedures, a single hearing will be held and one arbitral award will be issued.

1. Jurisdiction

The jurisdiction of the CAS in the present case is based on Rule 60 of the IAAF Statutes and is confirmed by the signature of the present Order by the parties.

2. Mission

On 21 January 2008, Mr Justin Gatlin filed an appeal with the Court of Arbitration for Sport against the United States Anti-Doping Agency (USADA). On 23 January 2008 the International Association of Athletics Federation (IAAF) filed an appeal with the Court of Arbitration for Sport against United States Track and Field (USATF) and Mr Justin Gatlin. Both appeals related to an un-dated decision rendered by the American Arbitration Association North American Court of Arbitration for Sport Panel containing the case reference AAA No. 30 190 00170 07. An arbitration panel has been appointed to decide this matter in its capacity as an Arbitral Tribunal and to render an award in compliance with the Code and with the terms and conditions set out in this document.

3. Arbitration Panel

The Arbitration Panel will sit in the following composition:

- President:** Mr Kaj Hober, Attorney-at-Law in Stockholm, Sweden
- Arbitrators:** Professor Richard H. McLaren, Barrister in London, Canada
Mr Michele Bernasconi, Attorney-at-Law in Zurich, Switzerland

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The secretarial duties of the Panel will be performed by the Secretary General of the CAS or by the member of the secretariat appointed in his place.

4. Communications

For the purposes of this arbitration, any communication from the CAS will be sent to the following addresses:

For Mr Gatlin:

Mr Maurice M. Suh & Mr Daniel L. Weiss
Gibson, Dunn & Crutcher LLP
333 S. Grand Avenue, Suite 5115
Los Angeles CA 90071-3197
USA
Tel: (1 213) 229 7000
Fax: (1 213) 229 7520

For USADA:

Mr William Book, III
United States Anti-Doping Agency
1330 Quail Lake Loop, Suite 260
Colorado Springs, CO 80906-4651
USA
Tel: (1 719) 785 2000
Fax: (1 719) 785 2001

For the IAAF:

Mr Pierre Weiss
International Association of Athletics Federations
17, rue Princesse Florestine
BP 359
MC 98007 Monaco
Principality of Monaco
Tel: (377) 93 10 88 88
Fax: (377) 93 15 95 15

For USATE:

Mr Lamont Jones
USA Track & Field
One RCAS Dome, Suite 140
Indianapolis, IN 46225
USA
Tel: (1 317) 261 0500
Fax: (1 317) 261 0481

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5. Seat

In accordance with article R28 of the Code, the seat of the Panel is established at the CAS Court Office, Château de Bâthusy, Avenue de Beaumont 2, 1012 Lausanne, Switzerland. All communications and documents shall be sent to this address.

6. Language

In accordance with article R29 of the Code, the official language of this arbitration is English. Documents submitted in any language other than English shall be accompanied by a translation. If such documents are not accompanied by an English translation, the Panel may decline to consider them.

7. Law applicable to the merits

In accordance with article R58 of the Code, the Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.

8. Written proceedings

- 8.1 On 21 January 2008 Mr Gatlin filed his statement of appeal.
- 8.2 On 23 January 2008 the IAAF filed its statement of appeal.
- 8.3 On 25 February 2008 Mr Gatlin filed his appeal brief.
- 8.4 On 7 April 2008 Mr Gatlin filed his witness statements.
- 8.5 On 18 April 2008 the IAAF filed its answer with its witness statements.
- 8.6 On 6 May 2008 Mr Gatlin filed his reply brief.
- 8.7 A time limit of 10 days from receipt of the reply brief is fixed for the Respondents to file a second answer, if they so wish.

9. Oral presentation

The parties have been called to attend an oral hearing which will take place at

9.30am on 28 and 29 May 2008 at the NYC Seminar and Conference Center,
71 West 23rd Street, New York, NY 10010.

The following witness statements and expert reports have been submitted by the parties:

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Mr. Gatlin

- Witness statement of Mr. Justin Gatlin
- Witness statement of Dr. Robin E. Barnett
- Witness statement of Mr. Vince Anderson
- Witness statement of Ms. Kay Shanahan
- Witness statement of Dr. Lois Prislowsky
- Witness statement of Special Agent Jeff Novitzky
- Witness statement of Mr. Paul Scott

IAAF

- Witness statement of Prof. Arne Ljungqvist
- Witness statement of Dr. Larry Bowers
- Witness statement of Mr. Eugene Gulland
- Witness statement of Ms. Michelle Collins
- Expert report of Dr. Olivier Rabin

According to Art. R44.2 of the Code of Sports-related Arbitration, the President of the Panel may exempt a witness from appearing at the hearing if the witness has filed a witness statement, and if the parties so agree. In the light of this, and for the purposes of planning the hearing, the parties are invited to inform the CAS of which witnesses they intend to examine and also the expected time required for the respective witness examination. Also, the parties are invited to inform the CAS of:

- which witnesses will be available at the hearing and which will be heard via tele- or video-conference;
- the list of all other participants in the hearing, including their function (party, counsel, witness...);
- any tentative time table for the hearing, in the event the parties wish to assist the Panel in this regard;
- any particular technical equipment needed at the hearing.

The parties are invited to submit the requested information on or before 19 May 2008.

Please note that the hearing will be recorded but that the CAS will not retain the services of a court reporter. If the parties wish to have one, they must make their own arrangements.

10. Deliberations and Award

The Arbitration Panel will render a written, reasoned award, which will be notified to the parties by the CAS Secretary General. The Panel may decide to issue the operative part of the award before the grounds.

9. Mai. 2008 17:46

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11. Costs

11.1 Article R65 of the Code shall apply to these proceedings.

11.2 The Court Office fee of CHF 500 was paid by Mr Gatlin on 1 February 2008 and by the IAAF on 4 February 2008, in accordance with article R65.2 of the Code.

12. Publication

Pursuant to article R59 of the Code, the award, a summary and/or a press release setting forth the results of the proceedings shall be made public by the CAS, unless all parties agree that they should remain confidential.

Lausanne, 9 May 2008

On behalf of the President of the Panel

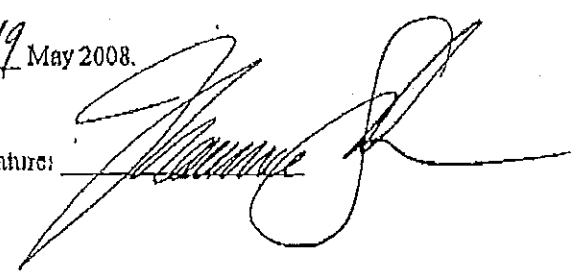


Matthieu REEB
CAS Secretary General

Read and agreed upon by MAURICE SUH

on behalf of Justin Gatlin

on 19 May 2008.

Signature: 

GIBSON, DUNN & CRUTCHER LLP

LAWYERS

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May 19, 2008

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VIA FACSIMILE AND EMAIL

Matthieu Reeb
Secretary General
Tribunal Arbitral du Sport
Chateau de Betsusy
Avenue de Beaumont
CH-11012 Lausanne, Switzerland

Re: *CAS 2008/A/1461 - Gatlin v. USADA*
CAS 2008/A/1462 - IAAF v. USATF and Gatlin

Dear Mr. Reeb:

This is in response to your request to comment with respect to the witness issues referenced in paragraph 9 of your correspondence of May 9, 2008.

1. Mr. Gatlin and Mr. Scott will both be physically present at the hearing. Dr. Barnett and Mr. Anderson will be available by teleconference.

2. The persons who will be physically present at the hearing include:

Mr. Justin Gatlin (party)

Mrs. Jeanette Gatlin (party)

Mr. Willie F. Gatlin (party)

Mr. Maurice M. Suh (counsel)

Mr. Andrew Demko (counsel)

Mr. Shawn Rodriguez (law clerk)

LOS ANGELES NEW YORK WASHINGTON, D.C. SAN FRANCISCO PALO ALTO LONDON
PARIS MUNICH BRUSSELS DUBAI ORANGE COUNTY CENTURY CITY DALLAS DENVER

GIBSON, DUNN & CRUTCHER LLP

Matthieu Reeb
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Ms. Anya Grossman (law clerk)

Mr. Paul Scott (witness)

3. We have reviewed the schedule proposed by IAAF, and generally find it to be acceptable with the following modifications:

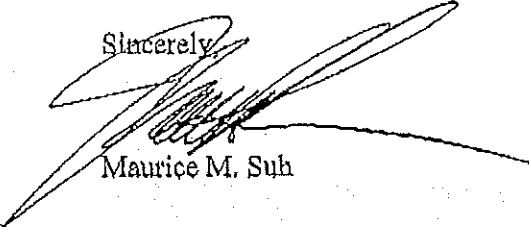
- a. Change Opening Submissions from 15 minutes to 30 minutes (both sides)
- b. Change Re-examination of Mr. Gatlin from 10 minutes to 20 minutes
- c. Change Re-examination of Mr. Anderson from 5 minutes to 15 minutes
- d. Change Examination in Chief of Mr. Scott from 5 minutes to 10 minutes
- e. Change Cross-examination of Dr. Bowers from 15 minutes to 45 minutes

4. We would like to have an ELMO or other similar overhead projection device, as well as a projector that can interface with a computer.

Lastly, we have arranged for a court reporter to be present at the hearing.

Please do not hesitate to contact me with any questions about the foregoing.

Sincerely,



Maurice M. Suh

MMS/td

cc: William Bock III
Pierre Weiss
USA Track and Field
Justin Gatlin

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May 19, 2008

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Main No.	<u>011-41-21-613-50-00</u>	State:	<u></u>
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<hr/>			
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Main No.	<u></u>	State:	<u>Monaco</u>
<hr/>			
Name:	<u>Mr. Lamont Jones</u>	Company:	<u>USA Track and Field</u>
Facsimile No.	<u>(317) 261-0481</u>	City:	<u>Indianapolis</u>
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<hr/>			
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