

**IN THE MATTER OF APPEAL BY DESAI WILLIAMS OF A LIFE TIME  
WITHDRAWAL BY SPORT CANADA TO ACCESS TO DIRECT FEDERAL FUNDING**

**ADJUDICATION**

Applicant: Desai Williams

Adjudicator: Larry Banack

**APPEARANCES:**

The Applicant:

Desai Williams and Counsel Andy Buckstein

Fitness and Amateur Sport, Sport Canada:

Ole Sorenson

Athletics Canada:

Diane Gagne

**I. Background:**

1. This adjudication concerns the Application of Reinstatement to entitlement to Sport Canada funding by Mr. Desai Empson Williams (the “Applicant”). The Applicant began his participation in track and field in 1977, at the age of 17, when he joined the Scarborough Optimists Track Club and slowly progressed to becoming a high calibre university and international level sprinter. In the mid to late 1980s the Applicant represented Canada in numerous international events. Most notably, he was a bronze medalist in the 1984 Los Angeles Olympics as a member of the men’s 4 x 100 meter relay team, he was a competitor in the 1987 World Championships in Rome, and he was a participant in the 1988 Seoul Olympic Games placing 6<sup>th</sup> in the men’s 100 metre finals.
2. In response to certain disclosures and positive findings respecting the use of anabolic steroids and other performance enhancing drugs by Canadian athletes in the 1988 Seoul Olympic Games, the “Commission of Inquiry Into the Use of Drugs and Banned Practices Intended to Increase Athletic Performance” (the “Dubin Inquiry”) was appointed by Order in Council dated October 5, 1988. The purpose of the Dubin Inquiry was to investigate and report on the facts and circumstances surrounding the use of drugs and banned practices, intended to increase athletic performance by Canadian athletes. Following an investigation and hearings into the matter, a report was delivered in June of 1990 (the “Dubin Report”).

3. On the basis of the evidence adduced, the Dubin Report concluded that a number of athletes, including the Applicant, were deemed to be in breach of the Sport Canada Doping Control Policy.<sup>1</sup> The Honourable Charles L. Dubin recommended that the named athletes be suspended from federal funding with a right of appeal to an independent arbitrator.<sup>2</sup> The Minister of State for Youth, Fitness and Amateur Sport adopted the recommendations of the Commission and, as a result, the Applicant was suspended from the program of federal funding. However, he was not suspended from competition as an athlete.

## **II. Procedural History:**

4. The procedure for reinstatement is a relatively informal and non-adversarial process, commencing with an Application for Reinstatement by the suspended person. It involves a hearing before an adjudicator who is to make a determination in accordance with the criteria for reinstatement and any other factors deemed to be relevant in the circumstances. The adjudicator may give whatever weight he or she might deem appropriate to the various criteria.
5. The Applicant has made an Application for Reinstatement and I have been appointed the adjudicator in this matter.
6. Two conference telephone calls with respect to preliminary matters were held on October 22, 2010 and November 3, 2010 respectively.

## **III. The Hearing:**

7. The hearing proceeded as scheduled on November 19, 2010, for consideration of the Applicant's appeal and determining whether the lifetime withdrawal of access to direct federal funding should be lifted. The hearing consisted of written and oral submissions by the Applicant and Athletics Canada. The Applicant testified having affirmed the truthfulness of his evidence at the hearing.
8. Sports Canada does not oppose this Application.

## **IV. Criteria for Reinstatement and Review:**

9. The Dubin Report outlines the criteria to be applied in making reinstatement determinations. These criteria have been applied in the following 2 decisions:

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<sup>1</sup>Dubin, Charles L., "Commission of Inquiry Into the Use of Drugs and Banned Practices Intended to Increase Athletic Performance" (1990) at p. 580-581. ["*Dubin Report*"]

<sup>2</sup>*Ibid.*

(i) *In The Matter of An Appeal by Molly Killingbeck of a Life Time Withdrawal by Sport Canada of Access to Direct Federal Funding* (November 20, 1992) (hereinafter “Killingbeck”) and;

(ii) *In The Matter of an Appeal by Andrzej Kulesza of the Life Time Withdrawal by Sport Canada of Access to Direct Federal Funding in Any Role, in Any Sport* (July 22, 1992) (hereinafter “Kulesza”).

10. In making a determination on the issue of reinstatement, the adjudicator in *Killingbeck* refers to a statement of the Honourable Charles L. Dubin in the Dubin Report, which emphasizes the important role of sport in Canadian society, wherein he states:

I have endeavoured to define the true values of sport and restore its integrity so that it can continue to be an important part of our culture, unifying and giving pleasure to Canadians while promoting their health and vitality.<sup>3</sup>

Because of the important role of sport in society the adjudicator in *Killingbeck* saw it as “the mandate of the adjudicator to assure that the persons seeking reinstatement are truly deserving of resuming their place as community leaders”.<sup>4</sup> Reinstatement decisions “imply a judgment by the community upon a matter of vital importance to its welfare” and therefore, should not be taken lightly.<sup>5</sup> I adopt these views.

#### **The Dubin Criteria:**

11. The Dubin criteria enumerate factors to be weighed in determining whether the lifetime withdrawal of access to direct federal funding should be lifted, and to the conditions, if any, to be attached. These factors include:

- (i) the age and experience in sport of the Applicant;
- (ii) the Applicant’s cooperation with investigating bodies;
- (iii) the possibility of the Applicant’s rehabilitation;
- (iv) the penalty imposed by the sport-governing body;
- (v) the conduct of the Applicant since access to direct federal funding was lifted;
- (vi) the willingness of the Applicant to acknowledge the seriousness of his acts or omissions as a coach in sport (ie: remorse);
- (vii) the Applicant’s position of influence and responsibilities at the time of the events leading to the lifting of access to direct federal funding;

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<sup>3</sup>*In The Matter of An Appeal by Molly Killingbeck of a Life Time Withdrawal by Sport Canada of Access to Direct Federal Funding* (November 20, 1992) at p. 4. [“Killingbeck”]

<sup>4</sup>*Ibid.* at p. 5.

<sup>5</sup>*Ibid.* at p. 4.

- (viii) the care and development of the athletes under the Applicant's direction, apart from the Applicant's involvement with drugs;
- (ix) the Applicant's contribution made to sport.
- (x) the factors or pressures which lead to the sanctioned conduct;
- (xi) the frequency of the sanctioned conduct; and
- (xii) those factors, in addition to specified matters, advanced by the Applicant and determined by the arbitrator to be relevant.

**V. The Findings of the Dubin Inquiry Relating to the Applicant:**

12. In order to make a determination of whether or not the Applicant should be reinstated to the program of federal funding, I must carefully consider:
- a. The findings of the Dubin Inquiry relating to the Applicant and;
  - b. The written and oral submissions by the parties to this adjudication.

**(a) The Dubin Inquiry Findings:**

13. The Dubin Report makes numerous references to the Applicant. The most significant of which are found in Chapter 9 entitled, "Canada's Olympic Sprint Team, 1988"; Chapter 14 entitled "Other Track Athletes"; and, Chapter 26 entitled "Conclusions and Recommendations". The relevant pages of the Dubin Report, dealing exclusively with the Applicant, are pages 311-315.
14. The Dubin Report acknowledges the Applicant as one of Canada's leading sprinters, representing Canada in numerous international competitions, including the 1980, 1984, and 1988 Olympics and the 1987 World Championships. The Applicant's sprinting career started as a member of the Scarborough Optimist Track and Field Club where he was coached by Charlie Francis from 1978-1983, an individual who would later become implicated for promoting drug use among the 1988 Olympic sprint team. In 1983, the Applicant left Mr. Francis' team; but, later re-joined in the fall of 1987, allured by the success and sponsorship attained by this club.
15. The Dubin Report indicates that the Applicant is one of three athletes who participated in the Dubin Inquiry who disputed before the Commission, the extent of his involvement with performance enhancing drugs.<sup>6</sup> Evidence, led to the conclusions of the Dubin Inquiry about the extent of the athlete's drug use which is contradicted by the current submissions of the Applicant and create tensions in this adjudication.

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<sup>6</sup>*Supra.* note 1 at p. 311.

**(b) The Dubin Inquiry Findings: 1982- 1987:**

16. At the Dubin Inquiry, Mr. Francis testified that discussion regarding the possibility of embarking on an anabolic steroid program arose in conversation between himself and the Applicant in the late summer or early fall of 1981.<sup>7</sup> Mr. Francis suggested that the Applicant visit Dr. Koch to discuss the merits of such a program.<sup>8</sup> The Applicant testified that this conversation never occurred and that he did not visit Dr. Koch for the purposes of discussing a steroid program.<sup>9</sup> Instead the Applicant stated that he was unaware of the purpose of his visit to Dr. Koch and that Mr. Francis had tricked him into attending. Evidence from both, Dr. Koch's testimony and medical records provided, indicate that at this visit the Applicant and Dr. Koch discussed the merits of going on a steroid program of Dianabol.<sup>10</sup> Furthermore, the evidence revealed that at this visit the Applicant was provided a requisition for certain laboratory tests. The Applicant denied that he was ever given the requisition or visited the laboratory.<sup>11</sup>
17. Testimony from Mr. Francis also revealed that he provided the Applicant with steroids on two occasions, subsequent to his visit to Dr. Koch. Testimony from the Applicant acknowledged the truth of this statement; however, the Applicant asserted that he never used these steroids. Instead, he states that he led his coach to believe that he was using them, for fear that Mr. Francis would not allow him to remain part of the team if he discovered otherwise. Mr. Francis' testimony also revealed that the Applicant was party to a conversation regarding the side effects caused by the steroid 'Winstrol'. The Applicant denied being party to this conversation in his testimony.
18. The Dubin Inquiry ultimately concluded that the Applicant had been using performance enhancing drugs during the period of time surrounding 1982, stating "I accept the doctor's evidence and that of Mr. Williams' coach and find that Mr. Williams did go on an anabolic steroid program sometime after his visit to the office of Dr. Koch in 1982".<sup>12</sup>

**(c) The Dubin Inquiry Findings: Post January 1998:**

19. The Dubin Report notes that the Applicant left Mr. Francis' training group from 1983-1987 to coach himself. The Applicant then re-joined Mr. Francis' program again in September of 1987. The Applicant testifies that it was during this four month period up to January 1988 that he embarked on a brief steroid program.
20. Evidence was presented at the Dubin Inquiry suggesting that the Applicant continued his use of performance enhancing drugs beyond this four month period. The Applicant testified that despite partaking in conversations regarding steroid use with teammates in February of 1988 and, despite receiving 'Estragol' from Mr. Francis in the spring of 1988, he did not take any steroids after January 1988.<sup>13</sup> Further, the Applicant testified that he was completely unaware

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<sup>7</sup>*Ibid.* at p. 311.

<sup>8</sup>*Ibid.*

<sup>9</sup>*Ibid.* at p. 312.

<sup>10</sup>*Ibid.*

<sup>11</sup>*Ibid.*

<sup>12</sup>*Ibid.* at p. 313.

<sup>13</sup>*Ibid.* at p. 314.

of the protocol and vial of human growth hormone that Dr. Astaphan had provided to his teammate, Mark McKoy, both for his own use and the Applicant's.

21. The Applicant's coach and teammates testified regarding a prescription diuretic provided to the Applicant along with the Applicant's attendance at appointments for diuresis therapy treatment, both of which were aimed at cleansing his system from drugs.<sup>14</sup> The Applicant denied taking the diuretic and receiving the diuresis treatment. Further testimony disclosed two incriminating conversations which the Applicant was said to be party to at the Seoul Olympics.<sup>15</sup> The first of which was with respect to instructions regarding the use of honey and vinegar to cleanse his system after his race and the second being a conversation with a fellow athlete, Ms. Issajenko, after Mr. Johnson tested positive for steroid use. It was at this time that the Applicant admitted his use stating "he gave it 28 days", referencing the amount of time he believed he needed to go off the steroids in advance of the Olympic Games in order for them to clear his system.<sup>16</sup>
22. Based on this evidence, the Dubin Inquiry ultimately concluded that the Applicant had also been using performance enhancing drugs post January 1988, leading up to the Seoul Olympic Games, stating as follows:

[a]fter considering the evidence of Mr. Francis, Ms. Issajenko and Dr. Astaphan and Mr. Williams' own admission to Ms. Issajenko, I am satisfied that Mr. Williams was using anabolic steroids not only in the fall of 1987 but also during the spring and summer of 1988 prior to the Seoul Olympics. I am also satisfied that before leaving for Seoul he took a growth hormone and a diuretic.<sup>17</sup>

Accordingly, the Dubin Inquiry found the Applicant in breach of the Sport Canada Doping Control Policy and recommended that he be suspended from federal funding.

## VI. The Importance of the Dubin Report:

23. The Dubin Inquiry undertook an in-depth investigation, which included: obtaining testimonials from various athletes, coaches and doctors; as well as, the submission of medical and other written evidence.
24. Counsel for the Applicant submits although no authority was provided, that while there is no disagreement that a finding of fact was made at the Dubin Inquiry, this is not determinative that any such finding is, in fact, correct. The adjudication before me involves a hearing, in which the objective is not to overturn the findings of the Dubin Inquiry, but rather, to determine whether the Applicant is now in a position to receive federal funding. Therefore, I am not in a position to draw conclusions contrary to that of the Dubin Inquiry. This is supported by the adjudicator in *Kulesza*, wherein it was stated "that the adjudicator **must accept the findings of the Dubin report as established** and not subject to appeal in

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<sup>14</sup>*Ibid.*

<sup>15</sup>*Ibid.* at p. 315.

<sup>16</sup>*Ibid.*

<sup>17</sup>*Ibid.*

these proceedings”.<sup>18</sup>Therefore, for the purpose of this decision, I accept the findings of the Dubin Inquiry that the Applicant did, in fact, use performance enhancing drugs both prior to and after the four month period beginning in September 1987.

## **VII. Merits of the Application:**

25. There are inconsistencies between the conclusions drawn in the Dubin Report and the position of the Applicant at the time of the Inquiry which is maintained to date. At this stage, the Dubin criteria for reinstatement must be examined in order to ascertain the weight to ascribe to these inconsistencies in light of the overall merit of the Applicant’s case.

### **(i) The age and experience in sport of the Applicant:**

26. The Applicant is currently 51 years old. His participation in track and field began when he was 17 years old when he joined the Scarborough Optimists Track Club. In only a matter of years, the Applicant’s talent and dedication led him to excel in the sport, competing in various national and international championships. The Applicant went on to become a very successful university athlete, while continuing to participate at the international level. He competed for Clemson University in South Carolina and then transferred to York University, where he continues to hold a number of school records. The Applicant’s most notable experience as an elite athlete involves competing in the 1980 Los Angeles Olympics as a member of the men’s 4 x 100 metre bronze medal relay team, the 1984 Olympic Games, the 1987 World Championships in Rome, as well as participating in the 1988 Olympic Games in Seoul, where he placed 6<sup>th</sup> in the men’s 100 metre sprint.

27. Upon retirement, the Applicant continued his involvement with track and field as a coach. The Applicant submits that he has since trained many high level amateur athletes; including: Shannon King, 2004 World Junior 100 metre finalist and Priscilla Lopes-Schliep, Olympic Bronze Medalist. A number of his athletes have provided testimonials expressing the expertise, passion and dedication that the Applicant brings to the sport. The Applicant has also been able to translate his expertise in the area of track and field to contribute to the success of professional Canadian football athletes. He acted as a strength and speed coach to the Toronto Argonauts for six seasons from 2004 - 2010.

28. Clearly, the Applicant has made significant contributions to the sport of track and field over an extended period of time as an athlete, a teammate, a role model, and a coach, demonstrating a passion and determination for personal success and for the success of others. These factors weigh strongly towards the reinstatement of the Applicant.

### **(ii) The Applicant’s cooperation with investigating bodies:**

29. The written submissions of the Applicant outline the process that ensued, following the creation of the Dubin Inquiry. The Applicant submits that his participation with investigative

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<sup>18</sup>In *The Matter of an Appeal by Andrzej Kulesza of the Life Time Withdrawal by Sport Canada of Access to Direct Federal Funding in Any Role, in Any Sport* (July 22, 1992) at p. 16. [“Kulesza”]

authorities began in late October of 1988 when he was contacted by the RCMP and Toronto Police Services, who were acting as investigators for the Dubin Inquiry. In 1989, the Applicant submits that he was contacted by the Canadian Track and Field Association (the "CTFA") and participated in numerous question periods, "in an attempt to aid them in determining which Canadian athletes were in breach of the CTFA's conduct on drug use".<sup>19</sup> The Applicant submits that he was also subpoenaed to testify at the Dubin Inquiry and that he continued to work with investigators for several other agencies after its completion. The Applicant states that in each of these instances, "he was fully cooperative and answered all questions honestly and to the best of his ability".<sup>20</sup>

30. The Applicant reflects on his awareness of the fact that his testimony would lead to the disclosure of his own drug use, submitting that: "though a tough time for many athletes I found this time as a blessing".<sup>21</sup> Further, stating that "it gave me the opportunity to publicly acknowledge my unethical decision and to show Canada and the track and field community that I was truly sorry for my choice".<sup>22</sup>
31. As previously stated, the Dubin Report indicates that the Applicant disputed some of the evidence concerning the extent of his involvement with performance enhancing drugs.<sup>23</sup> During the Dubin Inquiry strong evidence was presented from the Applicant's coach, teammates and doctor which revealed that the extent of his drug use was greater than admitted. Therefore, the Applicant's submission that he cooperated fully and honestly with all investigative authorities cannot be accepted at face value. It is difficult to give full credit to the cooperation of the Applicant with investigative authorities when these unexplained differences exist. As articulated by the adjudicator in *Kulesza*, "to the extent that the adjudicator must accept the findings of the Dubin Report as established and not subject to appeal in these proceedings", this factor weighs against the reinstatement of the Applicant to the program of federal funding.<sup>24</sup>

**(iii) The possibility of the Applicant's rehabilitation:**

32. In *Kulesza*, the adjudicator highlights two criteria which he states is relevant in determining the possibility of the Applicant's rehabilitation: the degree of hardship suffered and the Applicant's acknowledgment of the mistake.<sup>25</sup>
33. *Degree of Hardship*: The events which followed the 1988 Seoul Olympic Games had serious economic and emotional implications for the Applicant. Although not banned from competition, as a result of Recommendation 69 of the Dubin Inquiry, the Applicant was permanently suspended from all federal funding. The Applicant continued to compete up until 1992 without the assistance of federal funding. The negative public attention drawn to the actions of the Applicant most certainly had damaging effects on his personal reputation and dignity. Although the Applicant submits that his participation with investigative bodies in the

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<sup>19</sup> Submissions of the Applicant at p. 2.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.* at p. 3.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Supra.* note 1 at p. 311.

<sup>24</sup> *Supra.* note 18 at p. 16.

<sup>25</sup> *Ibid.*

years to follow was a blessing in that it allowed him to openly admit his wrongdoing, it is inevitable that the investigation and hearing caused stress and would be a constant reminder of one's failings.

34. The Applicant also submits that he lost his training group and "the support of a number of very dear friends". In oral testimony the Applicant repeatedly expresses his regret over this decision, stating: "I went back [to Mr. Francis] and fell into the trap... I am so sorry for the pain and hurt that I have caused to my family and my country". Enduring these emotional and economic hardships for a number of years has fulfilled the punitive and preventative intent of the Dubin sanctions. This weighs favourably for the Applicant's rehabilitation.
35. *Acknowledgment of Mistake*: The Applicant submits that he saw performance enhancing drugs as a "quick and easy way out" and that "on paper the decision appeared easy; the lure of achieving a level of success far beyond what I knew was humanly capable was just too appealing". However, the Applicant submits that four months into this regime he made the decision to stop. The Applicant states: "the lie I was living was just too much... I had lied to myself and everyone who had ever supported me by using performance enhancing drugs... though my experience was short, the decision to use steroids still lives with me today".<sup>26</sup> The Applicant submits that he left his training group and from then on he "vowed never to use or promote the use of performance enhancing drugs". In oral testimony, the Applicant spoke to his experience with performance enhancing drugs demonstrating sincerity, contrition and remorse for this decision.
36. As stated previously, the Applicant's submissions regarding the extent of his past experiences with drugs is inconsistent with the findings of the Dubin Inquiry. As the findings of the Inquiry are not subject to review in this adjudication they must be accepted. Although the Applicant appears to be genuinely remorseful of his decision, the inability to take responsibility for the full extent of his drug use remains a point of weakness in this Application. This is unfortunate as it is clear from his testimony that he is remorseful and has endured significant economic and emotional hardship as a result of this experience.
37. Balancing all of the considerations above, I view the potential for the Applicant rehabilitation as a neutral factor in this Application.

**(iv) The penalty imposed by the sport-governing body:**

38. Although the Applicant was suspended from the program of federal funding as a result of Recommendation 69 of the Dubin Report, he was not banned from competition by Athletics Canada. The fact that Athletics Canada saw him as an athlete still worthy of competing weighs favourably for the reinstatement of the Applicant.

**(v) The conduct of the Applicant since access to direct federal funding was lifted:**

39. The Applicant submits that after leaving his training group in 1988 he continued to train and compete, coaching himself from 1988-1992. He submits that although "training and competing at an elite level without a coach proved to be difficult" he continued to be a

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<sup>26</sup>*Supra.* note 19 at p. 4.

successful competitor and remained a member of Team Canada for a number of years, acting as an advocate for drug free competition the entire time.<sup>27</sup>

40. Upon retirement, the Applicant submits that he continued to remain involved with Athletics Canada despite more fruitful opportunities offered abroad. To date the Applicant continues to be involved in coaching Canada's high level track and field athletes and has previously coached professional football athletes. As discussed below, his contributions to a number of athletes have been characterized as critical to their success. This conduct weighs favourably for the reinstatement of the Applicant.

(vi) **The willingness of the Applicant to acknowledge the seriousness of his acts or omissions as an athlete in sport (ie: remorse):**

41. The Applicant acknowledges that his decision to use performance enhancing drugs was serious in nature and states that it is "a decision that I continue to regret every day of my life". He states that he is truly sorry for his actions and how they have tarnished the reputation of the CTFA and acknowledges that they were "naïve and made out of ignorance and greed".<sup>28</sup> Further, he regrets that he did not turn his mind to the broader implications of his decision and how drastically it would reflect on his family, his sport, and his country.

42. It is often difficult to judge the sincerity of apologies such as those made by the Applicant as "in these proceedings a gratuitous statement of remorse can be as easy as it is self-serving".<sup>29</sup> Further, although the Applicant has admitted his wrongdoings to a limited extent, the conclusions of the Dubin Inquiry have indicated that he has not been entirely forthcoming. However, I take note of the comments made by the adjudicator in *Kulesza* which state "to athletes and coaches of world-class achievement, admissions of failure do not come easily".<sup>30</sup> I agree with this statement and accept that the oral admissions of the Applicant are genuine. Although the Applicant continues to mask some of his prior involvement with performance enhancing drugs, I am convinced that he understands the seriousness and is genuinely sorry for his actions. I am therefore of the opinion that this factor should weigh in his favour.

(vii) **The Applicant's position of influence and responsibilities at the time of the events leading to the lifting of access to direct federal funding:**

43. The Applicant submits that at the time he was banned from access to federal funding he was a successful international and Olympic athlete. The Applicant was in the public eye and like most high level athletes he acted as a role model for younger athletes aspiring for success. To this end he failed in his duty to act as a positive role model.

44. The Applicant was also a team captain at numerous points in his career including captain of the Olympic Games Relay Team in 1980, 1984, and 1988. As team captain the Applicant states that he "was the voice for the team, and responsible for advocating for fair play

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<sup>27</sup>*Ibid.* at p. 7.

<sup>28</sup>*Ibid.* at p. 8.

<sup>29</sup>*Supra* note 18 at p. 17.

<sup>30</sup>*Ibid.*

amongst the athletes”.<sup>31</sup> By using performance enhancing drugs, the Applicant failed to fulfill his duties as team captain. Although the Applicant demonstrates remorse for this decision and states that he has learned from this experience, the Applicant was in a position of leadership, having influence over the decisions of his teammates. However, it could be said that at the time the Applicant was also in a position of vulnerability, as the partaking in drug use was supported by people he trusted; including, his coach and team doctor. Therefore, although the Applicant did not live up to his status as role model for his team and his country, some allowance must be given for the fact that he too was being influenced by those above him. Still, I find that he did not live up to the standard of conduct required of him. I therefore find this factor to be negative with respect to the Applicant’s reinstatement.

**(viii) The care and development of the athletes under the Applicant’s direction apart from the Applicant’s involvement with drugs:**

45. Since retiring as an athlete, the Applicant submits that he has taken on numerous coaching roles which have provided him with the opportunity to impart his wisdom to younger athletes. The Applicant is currently registered with the National Coaching Certification Programme and has successfully completed levels 1 thru 3. He states that he combines his experience, with the skills and theory that he has learned, to coach a wide variety of athletes. This includes acting as a strength and speed coach to a professional football team, from 2004-2010.
46. The Applicant is also heavily involved as a track and field coach. He has coached numerous successful athletes including Shannon King, World Junior 100 metre finalist, someone the Applicant sees as a “truly gifted sprinter”.<sup>32</sup> Over the years the Applicant has coached Mr. King to numerous national finals and prestigious international events. Mr. King has provided written testimonial stating the important role that the Applicant has played in building his confidence and educating him on the “importance of nutrition and strength training”.
47. The Applicant and Anthony McCleary currently coach a high performance training club called Elite Edge. Through their efforts, they have recruited a number of young and very talented athletes; including captain Priscilla Lopes-Shliep, as well as Chanice Taylor-Chase, Chrystal Emmanuel and Ingvar Mosley. The Applicant submits that “these individuals will be the next Canadian contingent on the international track scene”.<sup>33</sup> Further, they believe that “they have the tools to create a high performance training centre that will once again place Canada among the top sprint countries in the world”.<sup>34</sup>
48. The Applicant is currently retained by Athletics Canada to contribute to high performance athletes who will represent Canada in the 2012 Olympic Games, the 2015 Pan-Am Games and the 2016 Olympic Games. The submissions of Athletics Canada support the reinstatement of the Applicant indicating that they have conducted a thorough interview and were “assured by Mr. Williams and were convinced that he was on solid ground ethically and morally”. Since his interview the Applicant has begun coaching for Athletics Canada. It

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<sup>31</sup> *Supra*. note 19 at p. 9.

<sup>32</sup> *Ibid.* at p. 14.

<sup>33</sup> *Ibid.* at p. 15.

<sup>34</sup> *Ibid.*

submits that he has “proven a responsible, mature, and every dedicated coach who works tirelessly to help young people become better athletes and better people”. Athletics Canada would like the Applicant reinstated so that he can access federal funding in order to sustain his position with them.

49. The Applicant submits that he promotes a drug free lifestyle with all of the young people and the professional athletes under his care. The Applicant states that he has learned from his mistakes and uses his past experience to illustrate the negative effects of drug use emphasizing that the same accomplishments can be attained with the right work ethic, sleep and diet. He states that he aims to instil the pride of working hard for success and has created an atmosphere of zero tolerance for drug use.
50. The Applicant has clearly demonstrated exemplary skill, passion and dedication in his role as a coach. The Applicant has been integral to the success of numerous elite Canadian athletes and is backed by Athletics Canada to produce the next contingent of successful international track and field athletes. Counsel for the Applicant submits that he has known the Applicant for 30 years and that “he is, and always was, a natural leader. This is recognized by the success of his athletes”. Further, the Applicant genuinely speaks to his dedication to promoting drug free sport. The breadth and success of the Applicant’s coaching experience, in combination with the support of Athletics Canada have led me to conclude that the Applicant is an exemplary coach. This factor weighs positively for the Applicant’s reinstatement.

**(ix) The Applicant’s contribution made to sport:**

51. The materials reviewed earlier in this decision lend support for the conclusion that the Applicant has unquestionably made an important contribution to Canadian track and field. The Applicant is a talented and well accomplished athlete and coach. He has received positive praise from athletes under his supervision and Athletics Canada has chosen to back him to coach the next round of Olympic athletes. The Applicant’s great contributions to the sport of track and field weigh positively for his reinstatement.

**(x) The factors or pressures which lead to the sanctioned conduct:**

52. As evident from the Dubin Inquiry, the sport of track and field was plagued with widespread steroid use prior to the 1988 Olympic Games. Accordingly, many athletes expressed their feeling that it was necessary to use these drugs in order to remain competitive. The Dubin Report was highly critical of the actions of the CTFA during this time stating that they contributed to the climate of indifference by turned a blind eye to the warning signals and rumours, and that more diligence on their part could have prevented the ultimate shame of Seoul.
53. The prevalence of drug use, in combination with the climate of indifference by athletes, coaches and the CTFA, is an important factor to note in assessing the conduct of the Applicant in the circumstances. In a situation such as this, one can understand the decisions of the Applicant. The Applicant was a passionate track and field athlete who desired success. The track and field community was sending the message that the way to this success was through the use of performance enhancing drugs. Although this does not excuse his

behaviour, it weighs positively in his favour, as it lends some insight into the circumstances that lead to the abuse.

**(xi) The frequency of the sanctioned conduct:**

54. The findings of the Dubin Report and the submissions of the Applicant regarding the extent of his drug use are inconsistent. The Applicant admits to taking performance enhancing drugs for a four month period beginning in the fall of 1987, while evidence adduced at the Dubin Inquiry supports the conclusion that he was using drugs both before and after this period of time.
55. The Applicant's lack of acknowledgement of the extent of his drug use is the most controversial issue in this decision, as the acceptance of one's wrongdoings is an important step in the rehabilitation process. There are numerous positive steps that the Applicant has taken since his involvement with performance enhancing drugs. However, the inconsistency casts doubt on this Application.

**(xii) Those factors, in addition to specified matters, advanced by the Applicant and determined by the arbitrator to be relevant:**

56. The Applicant submits that he has learned from past mistakes and that he is dedicated to a career promoting drug free sport. In addition to reflecting this in his coaching, the Applicant submits that he has demonstrated this through his volunteer efforts. In 2003, the Applicant was approached to be a part of a program entitled "Olympians on Wellness" where he was "responsible for travelling to various schools within the Toronto District Catholic School Board teaching students and parents the significance of making healthy choices" regarding drugs and sport.<sup>35</sup> The Applicant, through this program, also provided basic education on food consumption, physical activity, and sleeping habits. Through all of the Applicant's endeavours he genuinely appears passionate about promoting drug free sport. This is a positive factor for reinstatement.

**VIII. A Note on the Submissions of Athletics Canada and Sports Canada:**

57. Athletics Canada, in supporting the Applicant's position did not address the particular Dubin criteria. Athletics Canada's letter of support, while commendable to the extent of its thoughts, is otherwise of little assistance on some of the issues for determination.
58. Sports Canada did not provide any written submissions. At the hearing Sports Canada indicated it was not challenging the submissions of the Applicant and that it found them to be credible and comprehensive. It further stated that given the evidence put forward by the parties, it was comfortable leaving the determination to me without any further input.

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<sup>35</sup>*Ibid.* at p.11.

## IX. Conclusion:

59. The Applicant was unquestionably a dedicated and talented athlete, occupying an elite place in the Canadian track and field spotlight for an extended period of time. He has been described as a natural leader, acting as a captain for Team Canada's Olympic 4 x 100 metre relay team and as a coach to numerous internationally successful elite athletes. At the hearing he spoke with great remorse for his decision to use drugs and a passion and sincere commitment to promoting drug free sport.
60. The Applicant wishes to continue his career in coaching, helping to contribute to the development and success of future Canadian athletes. Athletics Canada supports this Application for Reinstatement having done in-depth investigations and interviewing of the Applicant and asserts its conviction that he is "on solid ground ethically and morally" and is the ideal candidate to work with Canada's elite sprint athletes. It is of equal importance that Sport Canada did not oppose the Application.
61. Of deepest concern on this Application for Reinstatement is the ongoing unresolved controversy with respect to the extent of the Applicant's drug use. Most of the criteria that weigh negatively in this Application are related to the fact that the Applicant has not reconciled this issue. Despite this, in his oral submissions the Applicant spoke with sincerity, contrition, remorse and a passion for the sport of track and field and the promotion of drug-free sport. On balance, having assessed all of the criteria I am satisfied that the intention and spirit of the Recommendations of the Dubin Inquiry that contemplated future reinstatement have been satisfied by the Applicant. I am convinced that the balance of the submissions of the Applicant are genuine. It would be inappropriate to prevent such a talented and passionate individual from moving on from his admitted past mistake and pursue a career where he has demonstrated that he can give back to the Canadian track and field program.
- 62. Having given consideration to all of the written and oral evidence presented before me, I am satisfied that the Applicant has met the Dubin criteria necessary for reinstatement to the program of federal funding. The Dubin criteria, particularly factors (i), (iv), (v), (vi), (viii), (ix), (x), and (xii) weigh substantially in favour of reinstatement and it is in the public interest to grant the Application.**
63. In reaching this conclusion, I concur with the reasoning in *Killingbeck*, that the athlete before me has demonstrated that he is "truly deserving of resuming (his) place as community leader(s)".<sup>36</sup>
64. Accordingly, I grant the Application and direct that the Applicant's lifetime withdrawal of access to direct federal funding should be lifted forthwith.

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<sup>36</sup>*Supra.* note 3 at p. 5

65. To the extent required, I remain seized with the implementation of this decision.

Dated at Toronto this 26<sup>th</sup> day of November, 2010

A handwritten signature in blue ink, consisting of the letters 'L' and 'B' intertwined within a circular flourish.

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Larry Banack - Adjudicator