

**SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)  
CENTRE DE RÈGLEMENT DES DIFFÉRENDS SPORTIFS DU CANADA (CRDSC)**

**NO: SDRCC 23-0648  
(ORDINARY TRIBUNAL)**

**JUSTIN PARINA  
(Claimant)**

**AND**

**BOXING CANADA  
(Respondent)**

**Before:**

Brian Conway (Arbitrator)

**Counsels/Representatives:**

For the Claimant:

Ms. Julia Miller (Counsel) and Ms. Kate Martini (Counsel)

For the Respondent:

Mr. Christopher Lindsay

## CLARIFICATION

### I. INTRODUCTION

1. I have been asked, on August 15, 2023, to provide a clarification of my decision dated August 07, 2023.
2. Boxing Canada and Mr. Parina (collectively, the “Parties”) are applying for clarification pursuant to section 5.15 of the Canadian Sport Dispute Resolution Code on the basis that (i) the Parties were not given an opportunity for a rebuttal; and (ii) I awarded cards to level 2 athletes contrary to Boxing Canada’s past practices and section 9 of the 2023-2024 carding criteria.
3. Section 5.15 states:

#### “5.15 Clarification of an Award or Decision

(a) If a Party believes the award or the decision is unclear, incomplete or ambiguous; contradictory or contrary to the reasons; or contains clerical or numerical mistakes, a Party may apply to the Panel for clarification.

(b) If the Panel determines that clarification is warranted, it shall issue such clarification within seven (7) days following the filing of the application.”

### II. OPPORTUNITY FOR REBUTTAL

4. At the Preliminary Conference Call on July 19, 2023, the notes of which were made available to all Parties as part of the record, there was agreement as follows:

“1) the Claimant is to file written submissions by latest **July 27, 2023** and is asked to file them as early as possible;

2) the Respondent will then have **two business days** to respond to the submissions;

3) the Arbitrator will then review submissions within **two to three business days**;

4) following this review and any further questions from the Arbitrator, the Claimant will have **two business days** to file a rebuttal; and

5) the Respondent will have one business day for a surrebuttal.

Mr. Conway informs parties he will render his short decision within 7 days of the last submissions made, in accordance with the Canadian Sport Dispute Resolution Code, with reasons to follow within 15 days. Mr. Conway adds he will endeavor to reduce the time needed to render his decisions as much as possible.” [Emphasis in the original]

5. The Claimant filed written submissions on July 27, 2023.
6. The Respondent did not file a response to the submissions of the Claimant by July 31, 2023 (two business days).
7. The Arbitrator reviewed the submissions within two to three business days (August 3, 2023).

8. No further questions were posed by the Arbitrator.
9. The Claimant did not file a rebuttal (as there was nothing submitted by the Respondent that required a rebuttal).
10. The Respondent did not file a surrebuttal (as there was no rebuttal submitted by the Claimant that required a surrebuttal).
11. My decision was signed and issued on August 7, within 7 days of the time it became evident to me that there would be no more submissions by the Parties.
12. The Parties were given clear instructions on deadlines for submissions. There was no breach of the agreed-upon opportunity for submissions/rebuttal.

### III. PRIORITIZATION

13. The Parties have also raised a question in their request for clarification that was not before me. As stated by the Parties:

“The Parties wish to clarify that this list of top four athletes includes athletes who are ranked level 2. Boxing Canada only awards cards to athletes ranked level 1, in accordance with its past practices and with section 9 of the 2023-2024 Carding Criteria.”

14. The Parties did not provide me with any evidence nor submissions that athletes would be ineligible for nomination for carding because they were ‘level 2’ versus ‘level 1’ athletes.
15. In SDRCC 16-0310 *Goplen v. Speed Skating Canada*; Patrice M. Brunet, Arbitrator stated with reference to the previous version of section 5.15:

“20. Article 6.23 is not designed to invite Parties to raise new facts or arguments, nor to request a review of the decision based on interpretative or factual errors presumably made by the arbitrator.

21. This was illustrated in *Rolland v. Swimming Canada* (ADR 02-0011), rendered under the previous Arbitration Code when the SDRCC was known as ADRsportRED. The equivalent of today’s article 6.23 was included in the provisions of RA-22.

22. In *Rolland*, Swimming Canada filed a request for interpretation and sought to bring new facts to the attention of Arbitrator Clément. Ultimately, Arbitrator Clément denied the request since he was *functus officio*.

23. The common-law rule of *functus officio* prohibits a decision-maker from changing his decision once it has been rendered.


24. In other words, reinterpreting facts or changing a decision is not a process that is envisioned by either legal principles or the Code, aside from the narrow options articulated in article 6.23(a).

25. As mentioned by Arbitrator Clément in Rolland: "it is not stipulated [in the Code] that an arbitrator can modify his or her decision." He also added that "[i]f the award was not final, the arbitration that took place would lose all its value."
26. The arguments submitted by the Claimant seek to make me reconsider my decision on the merits, rather than obtain a correction or clarification of the decision.
27. None of the Claimant's arguments raise any issue regarding the application or implementation of my decision. Instead, the Claimant seeks to review the factual analysis.
28. The principles discussed in Rolland are applicable in the present case. I am *functus officio* and my decision rendered on November 2nd, 2016 stands."
16. In the present case, the Parties wish to revisit the issues placed before me with new facts and new arguments. Much like Arbitrator Brunet in the case cited *supra*, the Parties seek to have me reconsider my decision on the merits, rather than obtain a correction or clarification of the decision.
17. The evidence and submissions supplied by the Parties resulted in a revised ranking of athletes which put Mr. Parina into a 5<sup>th</sup> place ranking. If Boxing Canada considers the athlete placed ahead of Mr. Parina ineligible for a carding nomination, then it is open to Boxing Canada to make that determination.
18. I am *functus officio* and my decision rendered on August 07, 2023 stands.

#### IV. SUMMARY

19. Boxing Canada's decision on who to nominate for carding still rests with Boxing Canada within the confines of my decision, the 2023-2024 Carding Criteria and Boxing Canada's policies.

DATED: August 21, 2023, Calgary, Alberta

  
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Brian Conway, Arbitrator