

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

NO: SDRCC 19-0415

MATTHEW O'NEILL

(CLAIMANT)

AND

CANOE KAYAK CANADA

(RESPONDENT)

DECISION

Appearances:

Matthew O'Neill	On behalf of the Claimant
Michelle Bishop (Claimant's mother)	
Andres Carranco (Claimant's coach)	

Adam Klevinas	On behalf of the Respondent
Anders Gustafsson (Head Coach)	
Graham Barton (Chief Technical Officer)	

1. On July 12, 2019, I was selected by the parties as a Mediator/Arbitrator and appointed under Article 6 of the Canadian Sport Dispute Resolution Code (the “Code”) to hear Matthew O’Neill’s appeal of Canoe Kayak Canada’s (“CKC”) decision not to select him to the 2019 Junior World Championship Team (the “Team”).
2. The proceedings were conducted on an expedited basis due to a July 22, 2019 deadline for the selected athletes to travel to the 2019 Junior World Canoe Sprint Championships in Romania.
3. Following an unsuccessful attempt to resolve the dispute by mediation on July 15, 2019, the parties agreed that oral submissions were not necessary, and filed written submissions on July 16, 17 and 19, 2019.
4. On July 21, 2019, I issued my decision to deny Mr. O’Neill’s appeal, with reasons to follow. These are my written reasons.

BACKGROUND

5. Mr. O’Neill is an athlete in the sport of Canoeing. He is currently a member of the 2019 Olympic Hopes International Regatta team.
6. CKC is the national governing body for competitive paddling in Canada. It is recognized by the International Canoe Federation, the Canadian Olympic Committee, the Canadian Paralympic Committee and Sport Canada as the designated authority for the sport in Canada.
7. On June 26, 2019, Mr. O’Neill was informed that he had not been selected for the Team.
8. Mr. O’Neill did not dispute the substance and reasonableness of the Selection Criteria; rather, he contended that CKC incorrectly interpreted those criteria in not selecting him.
9. CKC has the initial burden of establishing that the selection decision was made in accordance with the Selection Criteria. If that burden is satisfied, the onus then shifts to Mr. O’Neill to demonstrate, on a balance of probabilities, that the selection decision was not made in accordance with the Selection Criteria, or that the decision was otherwise wrong, objectively unreasonable or tainted by bias.
10. In his Notice of Appeal, Mr. O’Neill argued that CKC’s decision was biased. He asserted that CKC’s bias was demonstrated by the fact that it nominated a smaller Team than in previous years in order to save money. When questioned about this at the hearing, I understood that this ground of appeal was advanced in order to comply with CKC internal appeal criteria. The essence of this argument was that CKC interpreted their own selection criteria in an overly narrow manner in order to nominate a smaller team.
11. CKC nominated 11 athletes for the Team and denied that the team size was deliberately restricted because of funding.

12. Bias, in a general sense, means a state of mind that is inclined to decide in favour of a particular person, thing or viewpoint or is closed in regard to any particular outcome. The presence or absence of an apprehension of bias is evaluated through the eyes of the reasonable, informed, practical and realistic person who considers the matter in some detail (see, in particular, *Committee for Justice and Liberty et al. v. National Energy Board et al.*, [1978] 1 S.C.R. 369, *Valente v. The Queen* [1985] 2 S.C.R. 673, *Ruffo v. Conseil de la Magistrature* [1995] 4. S.C.R. 267 and *R v. S (R.D.)*, [1997] 3 S.C.R. 484)
13. However, the person alleging bias must provide some evidence in support of that allegation; mere suspicion is not enough. (*R v. S (R.D.)*, *supra*)
14. Given that Mr. O'Neill neither provided any evidence nor made any other submissions regarding this issue, I find the allegation of bias is without foundation.

The Selection Criteria

15. The relevant portions of the *National Team Selection Procedures 2019 – Sprint* are as follows:

1. Performance Objectives

The following Canoe Kayak Canada Selection Procedures are guided by CKC's performance objectives where an athlete demonstrates the ability/potential in an Olympic event to make a Top 8 in an A-final at World Championships and be progressing toward the podium at World Championships and Olympic Games.

2. Selection Procedures

The processes laid out in this document governs the selection of athletes to CKC teams in each of the disciplines and must be read in conjunction with the relevant Selection Criteria Supplement applicable to each CKC team/pool.

[...]

5. Selection Panel and Authority for Selection

5.1 Subject to clauses 4.2 and 4.3 there shall be a Selection Panel for each team to be selected. Each Selection Panel shall be appointed by the CTO [Chief Technical Officer] of the CKC. Each Selection Panel will be responsible to the CTO and will comprise three persons: CTO, HC [Head Coach] and a member of the HPC [High Performance Committee]. Additional members, at the CTO's discretion, may be appointed where the CTO deems this necessary.

[...]

7. Selection Criteria

7.1 The selection criteria are developed by the CTO. Following feedback from coaches, athletes and the CKC community, the final Selection Criteria is then forwarded to the High Performance Committee for review and ratification. The CTO then forwards this criteria to the Sprint Racing Council (SRC) for approval.

7.2 The criteria to be applied by the Selection Panel for the applicable team is that set out in the relevant Selection Criteria Supplement.

16. The relevant portions of the 2019 Junior Team Criteria Supplement (the “Supplement”) (approved by the Sprint Racing Council on February 5, 2019) are as follows:

1. General

1.1 This criteria supplement is subject to the principles and procedures as outlined in the National Team Selection Procedures 2019 – Sprint Document [...]

1.2 The 2019 competitions for which Canoe Kayak Canada will identify junior eligible athletes /crews are listed below:

1.2.1 2019 ICF Junior Sprint World Championships – Pitesti, Romania, Aug 1-4, 2019

1.2.2 Olympic Hopes International Regatta, - Bratislava, Slovakia, September 13-15, 2019

[...]

2. Performance Objectives

The following 2019 Junior National Team Criteria are guided by CKC's performance objectives where an athlete demonstrates the ability/potential to make a Top 8 finish in an Olympic event at the International Competition for which they are being considered. The Junior National Team is considered an important stepping stone on the pathway to the podium at Senior World Championships and Olympic Games.

3. Selection Procedures

[...]

3.4 Selection Trials

3.4.1 The following competitions will be used as Selection Trials for nomination to the Junior Team:

- National Team Trials #1 – Possible Nomination to Junior Worlds & Olympic Hopes Montreal, Q.C. May 10-12, 2019*

- *National Team Trials #2 – Possible Nomination to Junior Worlds & Olympic Hopes Dartmouth, NS, June 23-25, 2019*
- *National Championships – Possible Nomination to Olympic Hopes, Regina, SK, August 27 -31, 2019*

4. Junior World Championships

4.1 *To assist athletes/crews and coaches, an overview of the selection process is provided below. This chart is an outline of the various paths toward nomination to the Team. The chart is only a guideline and one should review thoroughly the criteria that follows:*

4.2 *NTT1 (K1/C1/K2/C2/K4)*

4.2.1 *An athlete/crew can earn a nomination to the 2019 Junior World Team at NTT1 through the following methods:*

4.2.1.1 *Nomination to the Senior World Championship Discipline Pool*

4.2.1.2 *A top 6 finish in the open K1 or C1 Olympic events*

4.2.1.3 *A top 3 finish in open K2/C2 events*

4.2.1.4 *Athletes nominated to the Junior World Team at NTT1 will also be nominated to the Brandenburg International Team. [...]*

4.3 *NTT2 (K1/C1, K2/C2, K4)*

4.3.1 *All athletes must race singles at NTT2 [...]*

4.3.2 *Singles and K2/C2/K4 will be open (combined Senior and Junior)*

4.3.3 *The athlete with the highest position of finish in the following events will be nominated. Excluded will be those events where a nomination at NTT1 was achieved:*

4.3.3.1 *Men's K1 1000m*

4.3.3.2 *Men's K-1 200*

4.3.3.3 *Women's K-1 500*

4.3.3.4 *Women's K-1 200*

4.3.3.5 *Women's C-1 200*

4.3.3.6 *Men's -C1 1000*

4.3.4 *The K2 or C2 crew that finished in the top 2 crews (includes Senior and U23) at NTT2, will be nominated. This clause only applies to those events where a nomination in a K2 or C2 was not achieved at NTT1.*

4.3.5 *Additional athletes/crews may be recommended to the HPC for nomination if the Section panel determines there is an entry for the*

athlete or crew and the athlete or crew demonstrates the potential [to] achieve a Top 8 performance at the 2019 Junior World Championships.

4.3.5.1 Factors that will be considered when assessing the quality of performance can include:

- *% time differential from the GMT - An athlete/crew's performance against a Gold Medal Time (see Appendix A)*
 - *% time differential from the AFT - An athlete/crew's performance against an A-Final Time (see Appendix A)*
 - *% time differential from the winner of the A Final*
 - *% time differential from the previous finisher*
- [...]*
- *Athletes will be ranked according to the position of finish in each of the singles Finals above according to the points formula in Appendix B...*
 - *Unforeseen Circumstances (See Section 8: National Team Selection Procedures 2019 – Sprint)*

These factors are in no particular order and one or more may be used to either support or dismiss a selection. Other factors not listed may also be considered.

[...]

17. Although Mr. O'Neill did not challenge the Selection Criteria, he did suggest that CKC had unfairly "raised the bar" over the years, making it more difficult to qualify for the Canadian team. While there is no doubt that CKC has departed from its previous "participatory selection" standard to one which is performance based, that departure, which occurred two years ago, was a considered decision that has the support of the paddling community. (see *Whebby v Canoe Kayak Canada* (SDRCC 18-0366) and *McNulty v. Canoe Kayak Canada* (SDRCC 18-0365))
18. There is also no dispute that the Selection Criteria were communicated to athletes and their coaches in a timely fashion.

Application of Selection Criteria

19. Mr. Barton appointed the CKC High Performance Committee to assess the performances of the athletes eligible for selection to the Team (the "Selection Panel"). The Selection Panel included a former Olympian from the women's kayak discipline, a former national team male canoe athlete, Canoe Kayak Ontario's Technical Director, as well as two individuals with decades of experience in the sport of sprint canoe and kayak at the national level.

20. CKC did not select Mr. O'Neill to the Team based on his results at NTT1. In fact, no men's canoe athletes were selected to the Team based on the NTT1 results. Mr. O'Neill did not appeal this decision.
21. The Selection Panel met on June 24, 2019 following the Selection Trials in Dartmouth to determine which athletes or crews would be selected to the Team based on their performances at NTT2.
22. In accordance with the selection criteria, in order to be automatically selected to the Team in the men's canoe discipline, eligible athletes could either: achieve the highest position of finish in the men's C1 1000m event, or finish in the top two crews in the C2 1000m event.
23. At NTT2 in Dartmouth, Mr. O'Neill competed in the C1 1000m and C2 1000m events. In the C1 1000m, Mr. O'Neill placed 4th in semi-final 3 with a time that ranked him 20th. In the C2 1000m, Mr. O'Neill and his partner finished in 7th position, more than four seconds behind the sixth placed crew, which was also a Junior crew.
24. The highest ranked eligible junior male C1 1000m athlete (A.B.) finished in 8th position in the A-Final.
25. CKC says that Mr. O'Neill did not meet automatic selection to the Team based on his placement in the NTT2 events (i.e. either Section 4.3.3.6 or 4.3.4). Consequently, the only remaining option would have been in accordance with the Criteria outlined in Section 4.3.5. As a starting point, CKC says, the Selection Panel had to be satisfied that Mr. O'Neill had demonstrated the potential to achieve a Top 8 performance. The Selection Panel considered the following factors:
 - a) Mr. O'Neill's % time differential from the C1 1000m Gold medal time: (87.9% from raw time and 89% from wind-corrected times);
 - b) Mr. O'Neill's % time differential from the A Final Time ("AFT") (92.3% raw time and 93.4% from wind-corrected times);
 - c) Mr. O'Neill's % time differential from the Winner of the A final in each race in which he competed: Mr. O'Neill did not advance to an A or B Final at HTT1, 96.4% at NTT2; and
 - d) Mr. O'Neill's % differential from the previous winner: 99.4% from the 10th place finisher (i.e. the winner of the B Final).
26. CKC says that, after considering these factors, the Selection Panel also considered a number of other factors in order to validate its conclusion based on the listed factors, to evaluate the recorded wind data and its impact on crews and also to assess whether Mr. O'Neill and all other eligible athletes could demonstrate the potential to achieve a Top 8 result at the 2019 Junior World Championships.
27. CKC says those factors included known performances, performance history, ranking lists, ranking progression and unforeseen circumstances. It says that even after correcting Mr. O'Neill's raw time on the basis of recorded wind conditions and water temperature, he did not achieve the relevant Junior AFT for the Men's C1 1000m,

while other crews racing under similar conditions and in close proximity to Mr. O'Neill's C1 1000m event were able to do so.

28. The Selection Panel also considered the fact that Mr. O'Neill did not advance to an A or B final at NTT1, finishing 19th overall, which did not demonstrate that he had the potential for a Top 8 finish at an Olympic event at the Junior World Championships.
29. The Selection Panel considered that Mr. O'Neill achieved 26 points on the ranking list compared to A.B. who achieved 29 points.
30. Finally, the Selection Panel considered that Mr. O'Neill earned an overall rank of 19th at NTT1, and that, while he finished 11th at NTT2, three Senior World Team athletes did not compete, which would make his actual ranking 14th. The Selection Panel considered that while Mr. O'Neill had demonstrated a degree of progression, it was not sufficient improvement for it to conclude that he had demonstrated potential to achieve a Top 8 finish at an Olympic event at the Junior World Championships.
31. The Selection Panel concluded that Mr. O'Neill's NTT2 performances did not indicate that he currently had the potential to achieve a Top 8 performance at the 2019 Junior World championship and decided that it would not select Mr. O'Neill to the Team.

Were the Selection Criteria Properly Applied?

32. This summary is not intended to be a comprehensive recitation of every point made by each of the parties. It is a summary of the key positions of the parties, without oversimplifying those positions.

CKC's Position

33. CKC says that the selection decisions were made in accordance with the Selection Procedures and Criteria Supplement. It contends that it consistently assessed the performance of every junior athlete who was eligible for selection to the Team by first, considering whether they achieved a result that would have allowed them to be selected based on their ranking, and if not, whether they could be selected to the Team as an additional athlete if they had achieved demonstrated potential to achieve a Top 8 finish at the 2019 Junior World Championships.
34. CKC notes that it selected only one junior men's canoe athlete whose NTT2 performances satisfied Section 4.3.3.6 of the Supplement. It says that no other junior men's canoe athlete satisfied the requirements outlined in Section 4.3.4 of the Supplement, nor did any junior men's canoe athlete satisfy the performance requirements outlined in Section 4.3.5.
35. CKC says that, where it selected additional athletes to the Team in other disciplines on the basis of Section 4.3.5.1 of the Supplement, it did so because the athletes demonstrated the potential to achieve a Top 8 result in an Olympic event at the 2019 Junior World Championships. Specifically, CKC identified two women athletes who not only achieved a rank relative to proven performers in their discipline, but both

achieved more than 100% of the AFT after time correction for wind and water temperature. CKC notes that Mr. O'Neill, in contrast, was 17.5 seconds behind the AFT, a significant time gap over 1000 metres.

36. CKC argues that Mr. O'Neill's comparison of his C1 1000m B Final performance at NTT2 with A.B.'s C1 1000 m A Final performance at NTT2 is an incorrect analysis. It argues that the purpose of the factors identified in Section 4.3.5.1 of the Criteria Supplement is to assess performance to achieve a Top 8 performance, not to compare one athlete's performance against another athlete's performance.
37. CKC contends that there is no evidence it committed any errors in making the decision not to select Mr. O'Neill to the Team and that the Tribunal should defer to the Selection Panel, which possesses a high degree of expertise and technical knowledge in the sport.
38. CKC also argues that it is not for the Tribunal to determine whether Mr. O'Neill has the potential to achieve a Top 8 result in an Olympic event at the 2019 Junior World Championships; that that determination is properly left to CKC's experts, who have made the decision in good faith based on objective data as well as their knowledge and expertise.
39. CKC argues that its decision falls within a range of possible, acceptable outcomes that are defensible in light of the facts and the Selection Criteria, a decision the Tribunal should not interfere with lightly.

Athlete's position

40. Mr. O'Neill contended that, despite being ranked second in Junior Men's C1 1000m event, he demonstrated an equivalent performance to A.B., the athlete who was chosen for the Team. Therefore, he argues, he should also have been considered for addition to the Team. He also submits that he achieved an A-Final Time ("AFT") performance at NTT2 and should have been nominated to the Team on that basis.
41. Mr. O'Neill argues that CKC should properly compare his time in a B Final to the time of the athlete in the A Final as a reliable indicator of his relative level of performance. He says that the time of the athlete who placed first in the A Final was almost 7 seconds slower than his. Mr. O'Neill says that, despite being ranked second, he did not have an opportunity to race the individual ranked first, and it is important and necessary to make comparisons of athletes between races.
42. Mr. O'Neill also contends that CKC did not properly apply wind correction factors to the conditions on the day of his event in arriving at its conclusion that he did not meet the AFT. Mr. O'Neill not only questions CKC's wind analysis, but says that its use of wind data was flawed.
43. Mr. O'Neill submits that another top athlete's performance in Dartmouth was not anywhere near the time that that athlete achieved a few weeks earlier at a World Cup event. Relying on this athlete's performance, Mr. O'Neill suggests that had CKC used accurate wind corrections at Dartmouth, it is very possible that he would have met the Junior AFT.

ANALYSIS AND DECISION

44. Section 6.17 of the *Code* provides that the Panel shall have full power to review the facts and the law. In particular, the Panel may substitute its decision for:

(i) the decision that gave rise to the dispute [...]

[...] and may substitute such measures and grant such remedies or relief that the Panel deems just and equitable in the circumstances.

45. Mr. O'Neill has the burden of demonstrating, on a balance of probabilities, that he should have been selected to the Team. (Code 6.7)

46. While I am not bound by previous Tribunal decisions (Code 6.21 (k)), I find no reason to depart from previous Tribunal decisions which have concluded that arbitrators will not easily interfere with decisions reached by responsible sports authorities, who are presumed to have the knowledge and experience to make decisions they have made, whether those decisions relate to the creation of criteria or the application of that criteria, be it in relation to team selection or carding.

47. Provided that CKC's selection decision falls within a range of possible, acceptable outcomes that are defensible in light of the Selection Criteria and the facts, the Tribunal will not interfere with the decision. (see, for example, *Blais-Dufour* (SDRCC 11-0145, *Larue v. Bowls Canada* (SDRCC 15-0255) and *Maxime St-Jules v. Speed Skating Canada* (SDRCC 16-0288))

48. In *Palmer v. Athletics Canada* (SDRCC 08-0080) Arbitrator Pound determined that the standard of review of decisions of national sports organizations is that of reasonableness, not correctness. In doing so, he concluded that arbitrators will be willing to interfere with a sport organization's decision in relation to that sport

[...] only when it has been shown to their satisfaction that the impugned decision has been so tainted or is so manifestly wrong that it would be unjust to let it stand.

49. Similarly, in *Sera* (SDRCC 13-0200) Arbitrator Drymer stated that deference is owed to the sporting authority's experience and expertise:

[...] wherever possible, selection decisions are best determined by the appropriate and knowledgeable representatives of the NSO (high performance coaches, selection committees), in accordance with valid and applicable rules.

50. The individuals on the selection committee have far better knowledge about the sport than an arbitrator and will be afforded significant deference:

The default position in [selection cases], absent reviewable error or proof of bias, is that those responsible for selection decisions are generally the most knowledgeable and experienced persons available, who attempt in good faith to produce the best possible outcomes in the particular circumstances. (*Richer v. the Canadian Cerebral Palsy Sports Association* (SDRCC 15-0265))

51. I find no evidence that CKC's decision was unreasonable or did not fall within a range of possible outcomes.

52. Mr. O'Neill did not achieve the highest position of finish in the men's C1 1000m event (Supplement Section 4.3.3.6) nor did he finish in the top two crews in the C2 1000m (Supplement Section 4.3.4) in either NTT1 or NTT2. Therefore, Mr. O'Neill was not automatically selected based on the ranking based performance criteria.

53. Although Mr. O'Neill does not dispute this conclusion, he contends that A.B. only achieved the highest position of finish in the A Final at NTT2 because another, senior, athlete slowed down during that race, enabling A.B. to achieve a spot in the A Final. Mr. O'Neill also contended that, had A.B. been in any other semi-final, he would not have qualified for the A final, and that A.B. had an advantage based on his seeding from the heats. In fact, the essence of Mr. O'Neill's arguments are that CKC erred in its decision to nominate A.B. over him.

54. The difficulty with Mr. O'Neill's argument in this respect is that CKC must apply the selection criteria as written. That criteria does not permit CKC to measure "equivalencies" between his performance and that of the selected athlete.

55. CKC has no ability to determine which athletes qualify for any particular race, including semi-finals or finals. The seeding in the semi-finals and the finals is based on an athlete's results in the heats and the application of the International Canoe Federation's Competition Rules. Under those Rules, the 1st and 2nd place finishers automatically advanced, along with the 3rd overall athlete. CKC has no ability to change those rules and to ignore them would be in error.

56. Similarly, CKC has no ability to control how any one athlete performs in any race, nor does it have any ability to remedy the situation described by Mr. O'Neill. I have no evidence whether the senior athlete slowed down intentionally (which may suggest a form of cheating, but of which there is no evidence), or due to an illness or injury. CKC has no ability to ignore the results of a race and nominate Mr. O'Neill to the Team. To do so would be a misapplication of the selection criteria.

57. Mr. O'Neill also contends that he performed better than A.B. in all of the factors outlined in Supplement Section 4.3.5.1. Specifically, he argues that his % differential from the GMT, from the AFT, from the Winner of the A Final and from the previous finisher, were all better than A.B.'s. Again, the difficulty with this argument is that there is nothing in the selection criteria that would permit such an analysis. A.B. was not the Gold Medal winner, nor was he the A Final winner.

58. I note that, in any event, had the Selection Committee done a comparative analysis of the times of the two athletes, Mr. O'Neill's semi-final time would have placed him in 20th position and A.B.'s semi-final time would have placed him in 10th position. I also note that Mr. O'Neill's corrected time in the B final at NTT2 was 17 seconds slower than the A Final time.
59. When the Selection Committee considered Mr. O'Neill's potential to achieve a Top 8 performance in the C1 1000m event at the Junior World Championships based on the Section 4.3.5 criteria (outlined in paragraph 25 above) it concluded he did not meet those criteria. I do not find this conclusion unreasonable or outside a range of possible outcomes.
60. Mr. O'Neill also argued that CKC's wind data was flawed, which led CKC to incorrectly compare his performance and that of A.B.'s. Again, while a comparative analysis between Mr. O'Neill and A.B. is not the correct basis for selection, I would, in any event, find no reason to find that CKC relied on flawed wind data.
61. Mr. O'Neill's argument is based on wind data from CFB Shearwater and an unsourced site for the Halifax area. In contrast, CKC submitted wind readings from the Halifax Dockyards Weather Station, which is the closest weather station to the race location, Lake Banook, and much closer than CFB Shearwater. Furthermore, CKC's Performance Analyst measured wind speed at water level on Lake Banook rather than Environment and Climate Change Canada's measurements which are taken at 10 metres above ground/water level. Accordingly, I find CKC's measurements to be more reliable. I also accept CKC's argument that its drone footage of the Men's C1 1000m A and B finals confirm its wind speed measurement.
62. I further note that there is nothing in the Selection Criteria requiring CKC to assess athletes based on wind corrected times, or to take weather conditions into account when applying the selection Criteria. The fact that it did so, in my view, made its analysis fairer to all athletes.
63. Finally, Mr. O'Neill says that because it is not possible to have two athletes race in the Men's C-1 1000m race at the 2019 Junior World Championships, the remedy should be to name him and a fellow athlete, E.B., to the team to race the C-2 1000m event. He contends that because CKC considers the Junior National Team "an important stepping-stone to the pathway to the podium at Senior World Championships," he and E.B. should be given similar opportunities.
64. While the selection criteria do state that the Junior National Team is considered an important "stepping-stone to the pathway to the podium," that is not a performance objective against which athletes are measured. Rather, the selection criteria require an athlete to demonstrate the potential to achieve a Top 8 performance at the World Championships (my emphasis). No men's C2 team was chosen as no crew met the Selection Criteria. To make such an order would be to ignore the criteria, as neither Mr. O'Neill nor E.B. met the required qualifications.
65. I conclude that CKC's decision not to select Mr. O'Neill to the 2019 Junior World Championship Team falls within a range of possible, acceptable outcomes that can be

regarded as defensible in respect of the facts and the law (*Maxime St-Jules, supra*) and decline to interfere.

66. While my decision is no doubt a disappointment, I acknowledge Mr. O'Neill's commitment and dedication to the sport of canoeing by virtue of his selection to the Olympic Hopes Team. I also note CKC's respect for Mr. O'Neill and its express commitment to assisting him to reaching the expected performance standard in the future.
67. I wish to thank counsel and the parties for their efforts in this appeal.

CONCLUSION

68. The appeal is dismissed.
69. Neither party sought costs, and I make no award.

DATED: July 30, 2019, Vancouver, British Columbia

A handwritten signature in black ink, appearing to read "Carol Roberts". The signature is written in a cursive, flowing style with a large initial 'C' and 'R'.

Carol Roberts, Arbitrator