



Introduction

- Claimants:** Canadian Amateur Boxing Association (CABA), Benoit Gaudet, Jean Pascal & Trevor Stewardson
- Respondent:** Canadian Olympic Committee (COC)
- Type of Dispute:** Selection to Olympic Games
- Arbitrator:** Michel Picher
- Dates of Decision:** June 9th, July 10th & July 21st, 2004



Dispute Summary

The Canadian Amateur Boxing Association (CABA) sought to reopen the Selection Agreement for the 2004 Summer Olympic Games in order to qualify three of its athletes.





Jurisdiction

Prior to the case going to arbitration, the Canadian Olympic Committee (COC) contested the jurisdiction of the Ad Hoc Division of the Sport Dispute Resolution Centre of Canada (SDRCC) to hear the appeal.

The COC's case was based on the following arguments:

- The Canadian Amateur Boxing Association (CABA) had no right of appeal because it did not sign the Team Selection Agreement which provides for the opportunity to appeal to the SDRCC;
- The three athletes themselves had no right of appeal because they were not nominated for the Athens Games by CABA; and,
- The athletes had the option to take their appeal to Superior Court if they felt their rights had been violated.



Jurisdiction (cont'd)



Arbitrator, Pierre A. Michaud, concluded that CABA had the right to appeal the case to the SDRCC.

He wrote that the Ad Hoc Division of the ADRsportRED program was created to deal with precisely this kind of dispute.

The case was assigned to arbitrator, Michel Picher, of the SDRCC's Ad Hoc Division.



Background Facts

The three boxers in question were:

- Benoît Gaudet in the 57 kg division;
- Jean Pascal in the 75 kg division; and,
- Trevor Stewardson in the 81 kg division.



The dispute centred on the qualification standards adopted by the Canadian Olympic Committee (COC) for the Athens Olympic Summer Games.

Initially, Canadian boxers could qualify for an Olympic Team berth by achieving specific results at three competitions: Pan Am Games (gold or silver medal), an international tournament in Tijuana, Mexico (gold or silver medal) or a tournament in Rio, Brazil (gold medal).

However, for the 2004 Games, it was agreed by the COC and CABA that the Rio competition would NOT be considered an Olympic qualifier because it was less competitive than the other two events.

This change was not communicated to the athletes.



Background Facts

None of the boxers in question won gold or silver medals at the Pan Am Games or at the tournament in Mexico.

All three athletes chose to participate in the third event in Rio, believing that a gold medal performance would secure them Olympic qualification.

Mr. Gaudet and Mr. Pascal both won gold at Rio in their respective divisions, while Mr. Stewardson was a silver medallist in his weight division.





Claimants' Position

CABA presented the following arguments:

- The Selection Agreement should be re-drafted in order to allow the three boxers to qualify for the 2004 Summer Games;
- Several important factors changed after the original agreement was signed with the COC. These factors – which were unforeseen at the time the agreement was reached – severely limited the opportunities for the three boxers to qualify;
- It recognized the mistake in failing to communicate the change in selection criteria; however,
- Each of the athletes should be awarded selection to the Canadian Olympic team based on their performances at the Rio event.





Respondent's Position



The COC's case was based on the following arguments:

- CABA and the three athletes were bound by the selection agreement which excluded the Rio competition as an Olympic qualifying event;
- CABA's failure to advise its athletes of the change in qualifying standard was not a sufficient reason to undo the terms of the agreement;
- The position advanced by CABA and the athletes was no different from the many unsuccessful appeals launched by athletes in other sports who failed to meet qualifying criteria; and,
- Allowing the appeal would undermine the integrity and objectivity of the team selection process for all national sport organizations.



Arbitrator's Analysis

In his ruling, the arbitrator, Michel Picher, noted that it was not his role to second guess the selection criteria established by the national sport federation or the Olympic Committee.

He concluded there was no evidence to suggest the COC acted unfairly or arbitrarily in refusing to reopen the selection agreement when CABA made its initial request to do so. According to Mr. Picher, CABA simply did not prepare a thorough, articulate and convincing argument to do so.

The arbitrator rejected CABA's request to reopen the selection agreement.

However, Mr. Picher was critical of CABA for its failure to communicate the adjusted qualification standard to its athletes *“(who) were effectively misled by the very system which should strive to properly lead them and protect them in every way...What they were subjected to is tantamount to a runner knowingly being given false information about the location of the finish line.”*



Arbitrator's Analysis (cont'd)

Mr. Picher further concluded that the COC had to share responsibility for both the failure to communicate and the consequences for the three boxers:

“If a flaw in the (selection) agreement allowed CABA to do what it did, responsibility for that flaw must be shared by both authors of the agreement.”





Ruling

Mr. Picher concluded that the athletes were the unwitting victims of a process that was fundamentally flawed and unfair.

In his view, the only appropriate remedy was to give the athletes the benefit of the Olympic qualifying standard which they were knowingly led to believe would apply to them. For the purposes of the appeal, winning a gold medal at the Rio event was deemed to have met the selection criteria.

On that basis, Mr. Gaudet and Mr. Pascal were declared eligible for Athens.

Mr. Stewardson's appeal was dismissed.

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ADRsportRED judgment.



Supplementary Ruling

Trevor Stewardson requested an interpretation of the arbitrator's ruling. He maintained that incorrect information had been presented during the original hearing and, as a result, he was unjustly prevented from competing in Athens.

He claimed the arbitrator had been wrongly informed that only a gold medal at the Rio tournament would qualify the athlete for an Olympic berth. In fact, the Olympic qualifying standard for Rio was *either* a gold *or* silver medal.

As a silver medalist in Rio, Mr. Stewardson argued that he should also have been granted eligibility for the 2004 Summer Olympics.

On July 21st, Arbitrator, Michel Picher, having been made aware of the error in the first hearing, agreed with Mr. Stewardson's argument and declared him eligible for Athens, along with Mr. Gaudet and Mr. Pascal.



Lessons Learned

A national sport organization (NSO) is accountable for communicating selection criteria to its athletes.

This is particularly important in cases where the criteria change in advance of a major competition.

