



## Introduction

- Claimant:** Canadian Centre for Ethics in Sport (CCES),  
Canadian Cycling Association, Gov't of Canada
- Respondent:** Christopher Sheppard
- Intervenor(s):** World Anti-Doping Agency (WADA), Union  
Cycliste Internationale (UCI)
- Type of Dispute:** Doping
- Arbitrator:** Richard H. McLaren
- Date of Decision:** September 12<sup>th</sup>, 2005



# CCES & Sheppard



## Dispute Summary

In the first Canadian doping case involving “rEPO”, traces of this prohibited substance were found in a urine sample from Canadian cyclist, Christopher Sheppard.

As required under Canada’s anti-doping policy, a tribunal was ordered through the Sport Dispute Resolution Centre of Canada (SDRCC) to determine whether an anti-doping rule violation had been committed and, if so, to identify the appropriate sanction.





# CCES & Sheppard



## Background Facts

Mr. Sheppard, a member of Canada's national cycling team, was selected for a no-notice, out-of-competition doping control test. He provided a urine sample on May 29<sup>th</sup>, 2005.

Laboratory testing found the presence of recombinant erythropoietin ("rEPO") in Sample "A", which was confirmed in the "B" Sample on July 4<sup>th</sup>, 2005.

EPO is a Prohibited Substance included in the Prohibited List International Standard issued by WADA. In both its natural and synthetic forms, it stimulates the production of red blood cells which increases the flow of oxygen and the athlete's aerobic power.

Under the rules of the Canadian Anti-Doping Program (CADP), the CCES launched an initial review and asked Mr. Sheppard to submit a written statement to explain the presence of rEPO. The deadline passed and no statement was received.



# CCES & Sheppard



## Background Facts (cont'd)



On July 5th, 2005, the CCES wrote to Mr. Sheppard and the Canadian Cycling Association (CCA) to report that a doping infraction had occurred. The CCES proposed a sanction of two years ineligibility from competition and permanent ineligibility from financial support from the Government of Canada.

As required under the CADP, a Doping Tribunal was ordered through the Sport Dispute Resolution Centre of Canada (SDRCC).

Mr. Sheppard did not attend the hearing but was represented by legal counsel.



## CCES's Position

The CCES case was based on the following arguments:

- The Director of the Montreal laboratory confirmed that the test for rEPO had been validated by WADA and that the results were clear and unequivocal;
- The lab's test results were sent to, and confirmed by, the WADA-accredited laboratory in Paris;
- Based on the test results, Mr. Sheppard had committed a doping infraction and was subject to the mandatory sanction; and,
- In response to Mr. Sheppard's claim of a false positive (see next slide), the lab Director noted that the only allegation had come from the media and had not been scientifically validated.

## Athlete's Position

In a written submission, Mr. Sheppard argued that:

- The method used to detect rEPO was unreliable and that the results could have been caused naturally;
- A new, more reliable test was being developed, which confirmed that the CCES test was obsolete;
- That the evidence of rEPO was the result of a “false positive” test, as in the case of Rutger Beke, a Belgian triathlete, whose story had been written up in a cycling publication.





## Arbitrator's Analysis

Arbitrator, Richard H. McLaren, found no evidence to question either the sample collection process or the lab results.

rEPO is not produced naturally by humans, he noted, so presence of this substance in an athlete's body *"...is indicative of the intentional administration of an external substance."*

Mr. McLaren's ruling pointed out that laboratory procedures for identifying rEPO were first introduced in 2000, just prior to the Olympic Summer Games in Sydney. The test procedures have gone through a number of refinements since then.

Based on a thorough analysis of previous cases, the arbitrator confirmed the lab test was reliable and that rEPO was present in Mr. Sheppard's urine.

With regards to the athlete's claim of a false positive test result, Mr. McLaren concluded that the filing of a newspaper report was insufficient evidence and he "categorically rejected" the allegation.



## Ruling

Mr. McLaren ruled that the CCES had proven its case and that a doping infraction had occurred. He imposed the mandatory sanction of two years ineligibility from competition and permanent ineligibility from direct financial support from the federal government.



The sanctions took effect on September 12th, 2005, the date of the decision.



## Lessons Learned

1. As stated by Mr. McLaren, *“mere assertions, propositions or hypothesis that are unsupported by fact are of no weight whatsoever”* in helping an athlete make his or her case.
2. The reliability of a scientific test may be challenged by a party but, in so doing, that party must assume the burden of proof.

