



Introduction

- Claimant:** David Zilberman
- Respondent:** Canadian Amateur Wrestling Association (CAWA)
- Intervenors:** Canadian Olympic Committee & Quebec Wrestling Federation
- Affected Parties:** Brent Beauparlant & Randeep Sodhi
- Type of Dispute:** Selection to Pan Am Games
- Arbitrator:** Bernard A. Roy, Q.C.
- Dates of Decision:** July 28<sup>th</sup> & August 14<sup>th</sup>, 2003



## Dispute Summary

David Zilberman, a Canadian athlete who wrestles in the 96kg Senior Men's Freestyle Class, appealed a decision by the Canadian Amateur Wrestling Association (CAWA) not to select him to compete in the 2003 Pan Am Games in the Dominican Republic.





## Background Facts

Saskatoon, Saskatchewan hosted the Senior Men's Freestyle National Championships in May 2003. Winners at each weight category were named National Champions. Athletes at certain weights were selected to represent Canada at the Pan American Games in the Dominican Republic and at the Senior World Championships in New York City later that year.

Based on international rules, wrestlers were divided into two pools or brackets. Competitors fought only those wrestlers in their pool until they had been ranked from first to last. The winners from each pool faced each other to determine the gold and silver medalists while the second place finishers wrestled each other for third and fourth place.

In the 96 kg weight class, Dante Berlingueri won the gold, followed by Randeep Sodhi (silver), David Zilberman (bronze) and Brent Beauparlant (fourth place).



## Background Facts (cont'd)

The national championships also had to determine a World Alternate Team, in case the Canadian champion was unable to compete. CAWA's policy states that the second place finisher is automatically the alternate team member. The only exception occurs if he has not wrestled the third place finisher during the tournament. In this case, the second and third place finishers must engage in a one-match wrestle-off to determine the Alternate Team Member.

This was the scenario at the 2003 Canadian championships. Randeep Sodhi had lost in the final to take the silver medal, but had not wrestled the third place finisher, David Zilberman, during the tournament. A wrestle-off was scheduled on the Sunday following the championships, but did not take place because of an alleged injury sustained by Mr. Sodhi. As a result, no World Alternate Team member was selected.



## Background Facts (cont'd)

The next month, the gold medalist, Dante Berlingueri, was stripped of his title as 2003 Senior National Wrestling Champion because of a doping infraction.

CAWA did not have a policy in place to deal with this scenario. It followed precedents set by the International Olympic Committee and moved each of the remaining competitors up one ranking in the final standings.

Randeep Sodhi was named national champion and World Team member, earning a spot on Team Canada destined for the Pan Am Games and the Senior World Championships in New York City.

In mid-July, David Zilberman lodged a formal complaint with CAWA about the way the National Champion had been selected and demanded a wrestle-off with Mr. Sodhi. The request was denied based on association policy and the fact that there wasn't enough time to schedule a match before the start of the Pan Am Games.



## Background Facts (cont'd)

Mr. Zilberman was further advised of his right to appeal to ADRsportRED, which he did.

During the arbitration hearing, Greg Mathieu, representing CAWA, indicated that at the same time as the Pan Am Games, a high level international competition would be held in Poland.

He added that in the event of a favourable award to Mr. Zilberman, CAWA would be prepared to finance his trip and participation in that tournament.

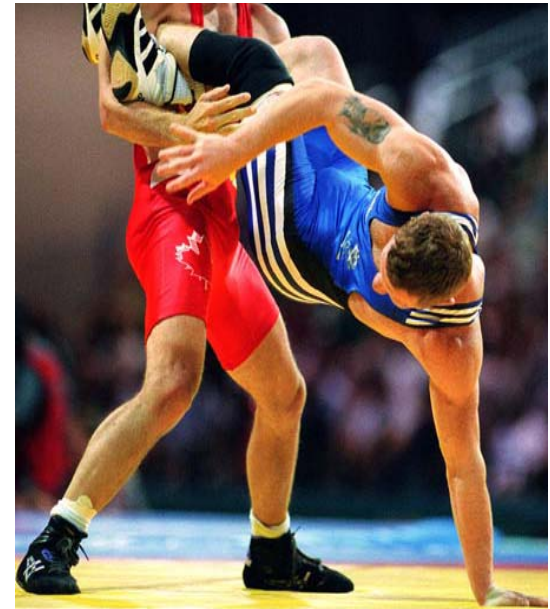
He also indicated that in such a scenario, CAWA would be disposed to arrange a wrestle-off between Mr. Zilberman and Mr. Sodhi after the Pan American Games and before the Senior World Championships to be held from September 11<sup>th</sup> to 14<sup>th</sup>, 2003 in New York City.



## Claimant's Position

David Zilberman's case was based on the following arguments:

- The application of CAWA policy was arbitrary and unfair; and,
- Because he and Mr. Sodhi did not wrestle each other during the National Championships, nor did they wrestle-off the day after the tournament to determine an Alternate Team Member, the National Team selection can only be determined through a wrestle-off before the Pan American Games.







## Respondent's Position

CAWA's case was based on the following arguments:

- The Association chose to follow international precedents by moving the finishers, Randeep Sodhi, David Zilberman and Brent Beauparlant, up one rank to determine the National Champion;
- Its decision was based on existing policies and practices which have been approved by CAWA members;
- As a result of the new rankings, which made Randeep Sodhi the National Champion, he was automatically selected to the World Team and the Pan American Games Team; and,
- It would be virtually impossible to stage a wrestle-off given that the wrestling competitions at the Pan Am Games were to commence in one week's time.





## Arbitrator's Analysis

Arbitrator, Bernard A. Roy, Q.C., was satisfied that, in the absence of an approved policy dealing with the consequences flowing from the disqualification of an athlete for doping, CAWA acted properly in following precedents set by international organizations in re-ranking the other finishers.

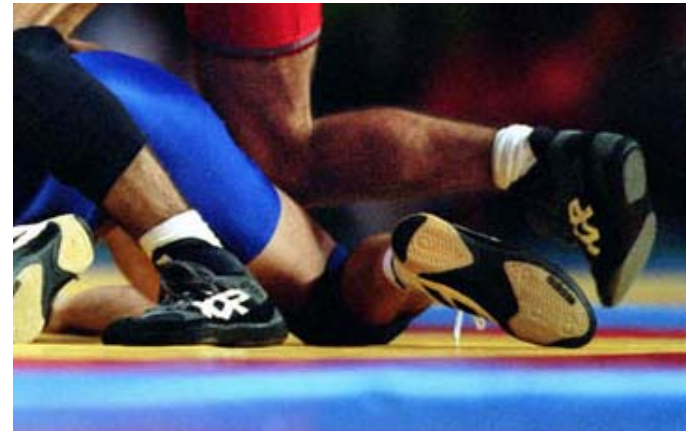
However, he disagreed with CAWA's position that, based on its policy, it had no other choice but to designate Randeep Sodhi as the World Team member and Pan American Games Team member.

In other words, he concluded that the policy was not properly applied and that CAWA should have acted sooner to arrange a wrestle-off following the national championships. Such a wrestle-off would have prevented the dispute.



## Ruling

1. CAWA was ordered to immediately make the necessary arrangements and cover all costs on behalf of Mr. Zilberman so that he could participate in the Grand Prix competition in Poland; and,
2. CAWA was further ordered to arrange, at a time convenient to both David Zilberman and Randeep Sodhi, a wrestle-off to take place after the Pan American Games and before the Senior World Championships in September 2003.



[Click here](#) for the full text of this **ADRsportRED** judgment.



## Follow-up Application



In early August 2003, an application was made on behalf of David Zilberman to have CAWA cover the costs associated with the one-match wrestle-off in Saskatoon (e.g. air fare, lodging and meal expenses).

Arbitrator, Bernard Roy, ordered CAWA to pay reasonable travel and subsistence costs for both Mr. Zilberman and Randeep Sodhi.

However, he denied an application to have CAWA defray similar costs for the two athletes' coaches.

[Click here](#) for the full text of this **ADRsportRED** judgment.



## Lessons Learned

1. The role of the arbitrator is not to substitute his or her own opinion for that of the relevant body. The test lies in ascertaining whether the relevant body has acted fairly and reasonably in the application of its own rules; and,
2. In the absence of an approved policy dealing with a specific case, it is reasonable for a national sport organization (NSO) to follow precedents set by international organizations.

