

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

N°: SDRCC ST 25-0057

DATE OF DECISION: 2025-10-08

ANONYMOUS
(INTERESTED
PARTY)

AND

H.
(RESPONDENT}

AND

DEPUTY DIRECTOR OF
SANCTIONS AND OUTCOMES
(DDSO)

Appearances:

For the Interested Party: Self-Represented

For the Respondent: Kalen Ingram (counsel)

For the DDSO: David Kellerman (counsel)

Before: Robert Wickett (Arbitrator)

DECISION WITH REASONS

1. On June 30, 2025 the DDSO sanctioned the Respondent by suspending him for a period

of 3 months (expiring September 30, 2025) thereby prohibiting the Respondent from participating in any activity, program, event or competition organized by the relevant NSO (Judo Canada) for the period of suspension. The DDSO also required the Respondent to undertake supplemental education on the principles of safe sport. (collectively the “Sanctions”) The DDSO issued the Sanctions following an admission by the Respondent that he had engaged in psychological maltreatment and retaliation contrary to the provisions of the Universal Code of Conduct to Prevent and Address Maltreatment in Sport. (the “UCCMS”).

2. The Interested Party had provided witness evidence against the Respondent in an unrelated safe sport investigation. The Respondent became aware that the Interested Party had provided this witness statement and, in response, he sent the Interested Party a link to a video implying that the Interested Party was unloyal, backstabbing and two faced. This action resulted in the subject investigation and eventual admissions by the Respondent leading to the Sanctions.
3. The Interested Party appeals the Sanctions. The Interested Party seeks an order to increase the period of suspension imposed upon the Respondent and a further order prohibiting him from attending sanctioned judo events, whether domestic or international, and from participating in any clinic or camp or assuming any leadership, refereeing or judging roles during the period of suspension.
4. On September 18, 2025, I issued a short decision dismissing the appeal of the Interested Party. This decision reflects my reasons for dismissing the appeal.

LEGAL FRAMEWORK AND ISSUE

5. This appeal is governed by the provisions of Article 8 of the Canadian Sport Dispute Resolution Code, 2023 (the “Code”). Article 8 of the Code provides the specific arbitration rules applicable to the safeguarding provisions of the UCCMS. As previously noted, the Sanctions imposed upon the Respondent by the DDSO were based upon the provisions of the UCCMS. In particular, the suspension and education requirement imposed upon the Respondent as sanctions for his behavior in retaliating against the Interested Party for giving a witness statement in an unrelated safe sport investigation. Section 7.2 of the UCCMS provides that each of these sanctions may be employed by the DDSO if a respondent has been found to have engaged in psychological maltreatment and retaliation against a witness (amongst others).
6. Article 8 of the Code permits the Interested Party to appeal to the SDRCC the sanctions imposed by the DDSO upon the Respondent. In this appeal there is no challenge brought in respect of the underlying conduct giving rise to the finding that the Respondent engaged in psychological maltreatment and retaliation against the Interested Party. In fact, the Respondent admitted the facts alleged in the complaint and that these facts constituted psychological maltreatment and retaliation contrary to Sections 5.2 and 5.3 of the UCCMS.
7. Section 8.7 of the Code articulates the grounds upon which a sanction decision made by

the DDSO may be challenged and reads as follows;

8.7 Grounds for Challenging a Decision on a Violation or a Sanction

A DSO decision on a violation or a sanction may only be challenged on the following grounds:

(a) Error of law, limited to:

(i) a misinterpretation or misapplication of a section of the UCCMS or applicable AbuseFree Sport policies;

(ii) a misapplication of an applicable principle of general law;

(iii) acting without any evidence;

(iv) acting on a view of the facts which could not reasonably be entertained; or

(v) failing to consider all the evidence that is material to the decision being challenged.

(b) Failure to observe the principles of natural justice. The extent of natural justice rights afforded to a Party will be less than that afforded in criminal proceedings, and may vary depending on the nature of the sanction that may apply. Where a sanction involves the loss of the opportunity to volunteer in sport, the extent of those rights shall be even lower, as determined by the Safeguarding Panel; and

(c) New evidence, limited to instances when such evidence:

(i) could not, with the exercise of due diligence, have been discovered and presented during the investigation or adjudication of the allegations and prior to the decision being made;

(ii) is relevant to a material issue arising from the allegations;

(iii) is credible in the sense that it is reasonably capable of belief; and

(iv) has high probative value, in the sense that, if believed, it could, on its own, or when considered with other evidence, have led to a different conclusion on the material issue.

8. The Code further provides that in assessing the challenge of a DDSO decision on a sanction, the SDRCC arbitrator must apply the standard of reasonableness. (Code section 8.6(b))
9. The issue before me on this appeal is whether the Interested Party has, pursuant to Section 8.7 of the Code, established an error of law, a failure to observe principles of natural justice or whether there is new evidence that I am permitted to admit in evidence and that, if admitted into evidence, would have led to a different conclusion with respect to the Sanctions. If I determine that the Interested Party has established valid grounds for appeal in accordance with Section 8.7 of the Code then I have the authority to increase, decrease or remove any sanction imposed by the DDSO with due consideration given to the provisions of the UCCMS. (Code Section 8.6(f)).
10. The Interested Party seeks an order that the Sanctions imposed upon the Respondent be increased. In particular, the Interested Party seeks an order that the period of suspension imposed upon the Respondent be increased.

THE FACTS GIVING RISE TO THE SANCTIONS AND THE RATIONAL FOR THE SANCTIONS

11. On February 12, 2025 the Office of the Sport Integrity Commissioner ("OSIC") issued a statement of allegations containing a summary of the factual allegations giving rise to the complaint. On that same day the Respondent signed a voluntary admission form in which he admitted the factual allegations in the complaint made by the Interested Person. The admitted factual allegations were summarized by the DDSO in his report on violations and sanctions dated June 30, 2025. (the "Report")
12. The Report details the admitted facts of the complaint as follows;

"Psychological Maltreatment

I find that the behavior alleged amounts to Psychological Maltreatment under the UCCMS.

The Respondent used an online media to communicate a message to the Impacted Person. The Respondent used this message to send a link to a video to insinuate that the Impacted Person was unloyal, backstabbing and two-faced. The Respondent was conveying a message to the Impacted Person that is insulting and demeaning (section 5.2.1 (a) of the UCCMS). Given the context in which this video was sent, with the Respondent believing that the Impacted Person had participated in another OSIC investigation against the Respondent, I find that on a balance of probabilities, the Respondent meant to accuse the Impacted Person through the video which he sent.

Retaliation

I find that on a balance of probabilities the Respondent's comment was a form of Retaliation.

The Respondent took adverse action against the Impacted Person because he believed they participated in an OSIC investigation, which is a UCCMS enforcement process (5.14.1). The Respondent sent a message to the Impacted Person at the conclusion of the file, after he received the Final Report on Violations and Sanctions to the DDSO in a separate Abuse-Free Sport matter which I find to be a form of Psychological Maltreatment also amounting to Retaliation.

Conclusion

Based on the reasoning above and the Voluntary Admission, I find that the Respondent engaged in Psychological Maltreatment and Retaliation under the UCCMS.”

13. The Report then detailed the factors that the DDSO was required to examine prior to making a decision on sanctions. The DDSO states in the Report that sanctions are to be based on sections 7.3.1(b) and 7.4 of the UCCMS. Those sections provide as follows;

7.3.1 The following sanctions are presumed to be fair and appropriate for the listed Maltreatment, but the Respondent may rebut these presumptions:

b) Sexual Maltreatment, Physical Maltreatment with contact, Grooming, and Prohibited Behaviour described in Sections 5.9 to 5.14 shall carry a presumptive sanction of either a period of suspension or eligibility restrictions;

7.4 Sanctioning Considerations Any sanction imposed against a Participant must be proportionate and reasonable, relative to the Maltreatment that has occurred. Factors relevant to determining appropriate sanctions for a Respondent include, without limitation:

a) The nature and duration of the Respondent’s relationship with the affected individuals, including whether there is a Power Imbalance or position of trust;

b) The Respondent’s prior history and any pattern of Prohibited Behaviour or other inappropriate conduct;

c) Any previous disciplinary findings regarding, or sanctions against, the Respondent;

d) Maltreatment of a Minor or of a Vulnerable Participant is to be considered an aggravating circumstance;

e) The ages of the persons involved, including when the Respondent is a Minor, whereby Maltreatment by a Minor of a child under the age of 12 or of a Vulnerable Participant is to be considered an aggravating circumstance;

f) Whether the Respondent poses an ongoing and/or potential threat to the safety of others;

g) The Respondent’s voluntary admission of the violation(s), acceptance of responsibility for the Prohibited Behaviour, and/or cooperation in the applicable UCCMS enforcement process;

h) Real or perceived impact of the incident on the affected individuals, sport organization or the sporting community;

i) Deterrent effect on future such conduct; Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS) 2022 Page | 14

j) Potential impact on the public's confidence in the integrity of the Canadian sport system;

k) Aggravating or mitigating circumstances specific to the Respondent being sanctioned (e.g. lack of appropriate knowledge or training regarding the requirements in the UCCMS; addiction; disability; illness; lack of remorse; intent to harm);

l) Whether, given the facts and circumstances that have been established, the Respondent's continued participation in the sport community is appropriate;

m) Whether the Respondent was found to have committed of one or more previous UCCMS violation(s);

n) The desired outcomes of the person(s) directly impacted by the Prohibited Behaviour; and/or

o) Other mitigating and aggravating circumstances. Any single factor, if severe enough, may be sufficient to justify the sanction(s) imposed. A combination of several factors may justify elevated or combined sanctions.

14. After reviewing the forgoing provisions of the UCCMS the DDSO said the following;

The integrity of the Canadian safe sport program relies on the safety of the safe sport procedure that Abuse-Free Sport has implemented. The Respondent's retaliatory behavior amounts to a lose-lose scenario for any potential Complainant or Interested Party who could be driven to silence after having been the victim of maltreatment. The program is predicated on providing safe parameters for all Participants, so that complaints be treated with rigorous regard for the administration of justice and the rights of all concerned. Respondent's retaliation is a blatant disregard of this principle.

SUBMISSIONS AND EVIDENCE OF THE INTERESTED PARTY

15. The Interested Party seeks an order that the period of suspension imposed upon the Respondent be extended beyond September 2025 so that it covers a meaningful competitive season. The Interested Party also seeks an order that the Respondent be

prohibited from attending sanctioned judo events (whether domestic or international), participating in clinics or camps, and assuming leadership, refereeing, or judging roles during the suspension period.

16. The Interested Party submits that the three-month period of suspension imposed by the DDSO is inadequate. The Interested Party submits that the three-month suspension coincides with summer vacation, a period of time in which judo competitions are not regularly scheduled.
17. The Interested Party submits that the three-month period of suspension does not specifically prohibit “certain forms of engagement such as leadership, or other official roles thereby creating an unsafe and untenable environment for those who were witnesses in prior proceedings”¹.
18. The Interested Party also makes mention of six judo events that the Interested Party says that the Respondent participated in despite the three-month suspension. The Interested Party states that the Respondent participated in these six events from 17 February 2025 to June 13, 2025 in various capacities such as a leadership role, an observer, a practitioner and a referee. The interested party submits that the Respondent’s participation in these six events demonstrates a “clear disregard for the spirit of suspensions and raises concerns about his willingness to respect future decisions of OSIC or the SDRCC”². I observe that the reference by the Interested Party to these six judo events constitutes new evidence. I will deal with the question of the admissibility of this new evidence in my analysis set out below.
19. The Interested Party detailed another contact with the Respondent at a Judo event in April 2025. This contact caused distress to the Interested Party and led the Interested Party to withdraw from portions of the event. I have given only a vague description of this event to ensure the privacy of the Interested Party. This is also new evidence that I will deal with in my analysis later in this decision.
20. The Interested Party submits that it would be an error of law to decline to consider the evidence of the Respondent’s participation in various judo events during the process of his suspension. The Interested Party submits that the Respondent’s participation in these events demonstrates that the DDSO erred in law by failing to meet the purpose of Section 7.4 of UCCMS including protection of participants, deterrence and the integrity of sport.
21. The Interested Party concludes their submission by asking that the period of suspension be extended past September 2025 and that the Respondent be prohibited from acting in leadership, refereeing or judging during the period of suspension and that he be prohibited from attending sanctioned judo events and clinics during the suspension.

¹ Submissions of Interested Party, page 1.

² Submissions of Interested Party, page 2

SUBMISSIONS OF THE DDSO

22. The DDSO makes 4 related submissions with respect to this appeal. The DDSO submits;
- a. The DDSO report on violations and sanctions does not contain an error of law,
 - b. The DDSO correctly applied and interpreted the sections of the UCCMS relating to the nature of the maltreatment admitted by the Respondent,
 - c. The Sanctions are reasonable and proportionate to the findings on the violations.
 - d. The Interested Party has not raised a ground described in section 8.7 of the Code to successfully appeal the DDSO's determination of the Sanctions.
23. The DDSO observes that there was no investigation report prepared in respect of this matter. This is because the Respondent admitted the conduct alleged in the statement of allegations. The DDSO submits that as a consequence, the facts that must ground the Sanctions and the findings on this appeal must be governed by the statement of allegations (as admitted by the Respondent), the terms of the UCCMS, the parties' submissions and the Abuse-Free sport policies and guidelines on violations and sanctions. The DDSO further submits that the Interested Party has made submissions with respect to facts not included in the statement of allegations and voluntary admission of the Respondent. The DDSO submits that these additional facts relied upon by the Interested Party do not constitute admissible new evidence pursuant to Subsection 8.7(c) of the Code.

SUBMISSIONS OF THE RESPONDENT

24. The Respondent submits that he did not breach the terms of the Sanctions. His submission on this aspect of the appeal is comprehensive but I do not intend to describe it in any detail because of the view that I take with respect to the admissibility and relevance of this evidence. Suffice it to say, the Respondent denies that he has breached the terms of the Sanctions in any respect.
25. The Respondent further submits that the Sanctions are reasonable and proportionate to the maltreatment detailed in the Report. He notes that the maltreatment consisted of a single incident constituting a momentary lapse of judgment. The Respondent notes that he immediately admitted the misbehaviour and that a 3 month suspension is fair and proportionate particularly since he received 3 month suspension for multiple allegations detailed in another investigation and determination of sanctions. The Respondent submits that to increase the suspension for the single act of malfeasance detailed in the Report would lead to a disproportionate sanction contrary to the requirements of the UCCMS.

ANALYSIS AND DISCUSSION

26. Section 8.7 of the Code provides the only grounds upon which the Sanctions may be challenged. As noted in paragraph 7 of this decision an appellant must demonstrate that the DDSO committed an error of law or if there was a failure to observe the principles of natural justice or if there is admissible new evidence that could have led to a different conclusion on the Sanctions.
27. Section 8.7 of the Code is concerned with legal or factual matters that, if proven, would or should have led to a different decision by the DDSO in issuing the Sanctions. Section 8.7 of the Code is not concerned with behavior or legal matters that arise **after** the issuance of the Report. Rather it is concerned with behavior or legal matters that arose **prior to** the issuance of the Report. This appeal process is a review of the decision of the DDSO made at the time and in the circumstances that it was made, not a general review of behavior of the Respondent after the issuance of the Report.
28. In particular, the references by Interested Party to new evidence (and responded to by the Respondent) all relate to behavior or events that occurred after the issuance of the Report and the Sanctions. Specifically, the Interested Party and Respondent referred to evidence about various judo activities engaged in by the Respondent during the period of suspension, the impact of these activities upon the Interested Person, an alleged apology and the Respondent's social media postings after imposition of the Sanctions.
29. This evidence is of no relevance in this appeal. If the Respondent has participated in judo activities or in social media postings in violation of the Sanctions, then those are matters for further discipline proceedings. They are not grounds for appeal of the Sanctions themselves. This is made obvious by the express terms of Subsection 8.7 (c) of the Code. That section provides that new evidence may only be admitted if it could not, with the exercise of due diligence, have been discovered and presented during the investigation or adjudication of the allegations prior to the Report. The new evidence must also have probative value in the sense that it could have led to a different conclusion on Sanctions.
30. The new evidence proffered by the Interested Party relate only to events that occurred after the Report was issued. It therefore could not have been discovered nor could it have led to a different conclusion on the Sanctions because it did not exist prior to the Report. This new evidence cannot therefore come within the terms of Subsection 8.7(c) of the Code and it is inadmissible. To repeat, this is an appeal of the Sanctions, not a new proceeding dealing with behavior that occurred after the imposition of the Sanctions.
31. Similarly, the Interested Party's submissions about natural justice relate only to events occurring after the Report. The Interested Party made the following submission with respect to natural justice;

As a witness in a previous OSIC case, I am entitled to protections ensuring I can continue to participate without fear of improper contact or retaliation. A sanction that allows the Respondent to continue attending events and exercising influence, even if not technically Judo Canada–affiliated, deprives me of this protection and violates principles of natural justice.³

32. the principles of natural justice referred to in Subsection 8.7(b) of the Code relate to the conduct of the proceeding itself, not the impact of Sanctions upon the Interested Party. There are no allegations that DDSO failed to observe the principles of natural justice prior to or during the preparation of the Report.
33. As the material before me discloses no basis to admit new evidence or consider natural justice principles I am left with possible errors of law as the only possible grounds upon which I could interfere with the Sanctions. Subsection 8.7(a) of the Code states that the alleged error of law must relate to a misinterpretation or misapplication of the UCCMS, misapplication of applicable principles of general law, acting without evidence, acting on a view of the facts that could not reasonably be entertained or failing to consider all evidence material to the decision under challenge. On my review of the material filed in this appeal the only error of law ground relevant to this appeal is the allegation that the DDSO misinterpreted or misapplied the relevant sections of the UCCMS.
34. Section 7.3.1.(b) of the UCCMS (see para 13 above) states that the retaliatory behavior committed by the Respondent and giving rise to this proceeding attracts a presumptive sanction of either a period of suspension or eligibility restrictions. This is precisely the sanctions imposed by the DDSO in this matter. The issue, therefore, is not the nature of the sanction (suspension) but rather the length of the suspension. The Interested Party does not make submissions about the correct length of suspension, rather they submit that it should be longer than 3 months. I presume from this submission that the Interested Party expects that I will determine the appropriate length of submission if I determine that 3 months is inadequate.
35. To determine the appropriate length of suspension the DDSO was required to apply Section 7.4 of the Code. That section makes reference to 15 different factors that the DDSO should take into account in determining an appropriate period of suspension. As it happens, the DDSO made specific reference to all of the subsections of Section 7.4 of the Code in the Report. Unfortunately the DDSO's analysis of Section 7.4 is conclusory only. On the issue of sanctions, the Report states only as follows;

The integrity of the Canadian safe sport program relies on the safety of the safe sport procedure that Abuse-Free Sport has implemented. The Respondent's retaliatory behaviour amounts to a lose-lose scenario for any potential Complainant or Interested Party who could be driven to silence after having been the victim of maltreatment. The program is predicated on providing safe parameters for all Participants, so that complaints be treated with rigorous regard for the administration of justice and the rights of all concerned. Respondent's retaliation is a blatant disregard of this principle.⁴

³ Reply of Interested Party, page 1

⁴ Report, page 7

36. I am unable to determine from the Report or from the submissions the basis upon which the DDSO determined that a 3 month suspension of the Respondent was appropriate. The DDSO made reference to all of the factors enunciated in Section 7.4 of the Code and he noted that “Any single factor, if severe enough, may be sufficient to justify the sanction(s) imposed. A combination of several factors may justify elevated or combined sanctions.”⁵. Following this statement, the Report concludes (the section dealing with analysis of relevant factors) with the language set out in paragraph 35 above. As the DDSO did not provide any analysis of the relative importance or inter relationship of the factors to be applied in arriving at a sanction I am unable to determine the basis upon which the DDSO concluded that a 3 month suspension was appropriate.
37. In the review of the nature and length of a suspension (or any sanction) it is often helpful to review other SDRCC cases to determine whether the period of suspension is consistent with the suspensions imposed on others engaged in similar behavior. No such cases were put before me in this appeal. I imply no criticism in making this statement. It may well be that there are no similar prior SDRCC cases that might have been of assistance in this appeal. In any event, the lack of comparator cases makes it impossible for me to determine the reasonableness to the DDSO’s decision to impose a 3 month suspension upon the Respondent.
38. I am therefore left with no principled basis upon which I can determine the question before me; did the DDSO commit an error of law as defined in Section 8.7 of the Code in imposing a 3 month suspension upon the Respondent. There is nothing in the evidence or submissions of any of the parties that assists me with respect to the appropriate length of suspension for the malfeasance at issue in this appeal.
39. The burden falls on the Interested Party to point to a possible error of law committed by the DDSO. The Interested Party is unable to meet this burden and the appeal must therefore be dismissed.
40. I cannot leave this decision without making a further observation. The Interested Party was unable to establish an error of law on the part of the DDSO but the Interested Party was materially impaired in preparing submissions because there is nothing in the Report that explains why 3 months was the appropriate period of suspension. In my opinion, such an explanation would have been of assistance in this appeal.

DECISION

41. The appeal is dismissed

Signed in Vancouver, this 8th day of October 2025.

Robert Wickett, K.C., Arbitrator

⁵ Report, page 7