



FIVB

Disciplinary Panel

Decision

In the matter of
Ms. Sheila Ocasio Clemente
(Puerto Rico)

20 June 2016

THE FIVB DISCIPLINARY PANEL

Constituted in accordance with Article 8.1.2
of the FIVB Medical and Anti-Doping Regulations 2015
and composed by

Ms. Margaret Ann Fleming, Chair	(Scotland) Disciplinary Panel Vice-Chair
Mr. Mounir Ben Slimane	(Tunisia) Disciplinary Panel Member
Prof. Dr. Roald Bahr	(Norway) Medical Commission Member

heard the case identified as n. 3903049:

FACTUAL BACKGROUND

1. On 28 July 2015, the FIVB was notified by the WADA-accredited Laboratory in Montreal, Canada (“Laboratory”) regarding an Adverse Analytical Finding for the A-sample 3903049, which contained the prohibited substance S1. Anabolic Agents (stanozolol and its metabolites).
2. The above-mentioned urine sample was taken in-competition on 20 July 2015 in Toronto, Canada during the 2015 Pan-American Games (“Event”) and belongs to the athlete Ms. Sheila Ocasio Clemente (Puerto Rico, born 17.11.1982; “Athlete”).
3. After having received the analysis of the sample, the Pan-American Sports Organization (“PASO”) contacted the Federacion Puertorriqueña de Voleibol (“FPRV”) on 23 July 2015 to inform the Athlete that she was provisionally barred from participating in the Event with immediate effect and that she had the right to request the analysis of the B sample within the next two days and bring forward any additional information.
4. On 28 July 2015, after having received a copy of the Doping Control Form from PASO, the FIVB contacted the FPRV to inform the Athlete that she was provisionally suspended with immediate effect and that she had the right to request the analysis of the B sample and to attend the opening thereof.
5. On 31 July 2015, the Athlete’s representative responded to the letter by submitting the following:

- The Athlete requested a hearing pursuant to the 2015 FIVB Medical and Anti-Doping Regulations (“FIVB MADR”);
 - The Athlete requested the A Sample documentation package from PASO; and
 - The Athlete stated that she would make a decision on a B Sample analysis once she had received the A Sample documentation package.
6. By letter dated 5 August 2015, the FIVB confirmed receipt of the email sent by the Athlete’s representative and, in its response, the FIVB:
- requested a signed Power of Attorney from the Athlete’s representative;
 - informed the Athlete that the Results Management Authority in the present case was the FIVB;
 - noted the cost of the A Sample documentation package and stated that the Laboratory would provide the A Sample documentation package once payment was received; and
 - stated that it would fix a new deadline for the Athlete to decide whether she wished to have an analysis of her B Sample conducted after she had received the A Sample Documentation Package.
7. By email dated 7 August 2015, the Athlete provided the Power of Attorney requested.
8. On the same day, the FIVB acknowledged receipt of the Power of Attorney.
9. By email dated 27 August 2015, the Athlete informed the FIVB that she had paid the fee to obtain the A Sample documentation package from the Laboratory but had not yet obtained the A Sample documentation package.
10. By email dated 28 August 2015, the FIVB invited the Athlete to contact the Director of the Laboratory regarding her order of the A Sample documentation package.
11. By letter dated 9 September 2015, the FIVB provided the Athlete with the A Sample documentation package and invited the Athlete to inform it as to whether or not she wished to open her B Sample by no later than 15 September 2015.
12. On 11 September 2015, the Athlete informed the FIVB that she had elected to have an analysis conducted of her B Sample and, subsequently, provided the requested form on 15 September 2015.

13. By email dated 16 September 2015, the FIVB informed the Athlete that the B Sample analysis would be conducted on 22 September 2015 and that a third party would be present to witness the analysis.
14. On the same day by email, the Athlete acknowledged receipt of the FIVB's email.
15. By letter dated 6 October 2015, the FIVB:
 - informed the Athlete that the B Sample confirmed the A Sample analysis;
 - invited the Athlete to inform the FIVB by no later than 13 October 2015 as to whether the Athlete would like to be heard either 1) in person or 2) via teleconference on 11 November 2015 at 3 PM; and
 - invited the Athlete to provide her position by 13 October 2015.
16. By email dated 13 October 2015, the FIVB sent a reminder seeking the information requested in its letter dated 6 October 2015.
17. On the same day by email, the Athlete confirmed that she wished to be heard by teleconference on 11 November 2015 and provided the names and phone numbers of the people that would also be attending the hearing on her behalf.
18. By email dated 15 October 2015, the FIVB acknowledged receipt of the Athlete's email.
19. By email dated 4 November 2015, the Athlete requested a two week postponement of the hearing to be held on 11 November 2015 because her expert witness, Dr. Joseph Bloom, was unable to finish his evaluation of the evidence and provide his report.
20. By email dated 5 November 2015, the FIVB acknowledged receipt of and granted the Athlete's request for a postponement, setting a new hearing for 25 November 2015.
21. By email dated 24 November 2015, the Athlete again requested a postponement of the hearing to be held on 25 November 2015 because Dr. Bloom had a family emergency and was unable to finalise his report nor attend the hearing.
22. By letter dated 25 November 2015, the FIVB acknowledged receipt of and granted the Athlete's request for a postponement, stating that it would subsequently revert back to her with a new hearing date.

23. By letter dated 13 January 2016, the FIVB stated that the hearing would take place on 3 February 2016 at 3 PM. Additionally, the FIVB requested the Athlete's written position as soon as possible.
24. By email dated 28 January 2016, the Athlete requested that the time of the hearing be moved to 5 PM Swiss time due to a prior commitment of the Athlete's representative.
25. By email dated 29 January 2016, the FIVB acknowledged receipt of and granted the Athlete's request to move the time of the hearing to 5 PM Swiss time.
26. By email dated 2 February 2016, the Athlete submitted her Statement of Defense. In her Statement of Defense, the Athlete argued the following:
- She first denied the use of any illegal or prohibited substances but contended that 1) her sample was either misplaced or left unattended or mixed with another sample due to a defect in the chain of custody or 2) according to Dr. Bloom's Expert Report, the sample analysis and procedure were not properly followed;
 - The Athlete claimed that she went to the doping control collection room (where other athletes were waiting for doping control) and, subsequently, was taken by a chaperone to a bathroom where she was unable to provide a complete sample. The Athlete stated that she was then instructed to pour the sample into another bottle, place a cap over the bottle, which she did, and then place the sample on a table. The Athlete then left the room with chaperone and the sample was left unattended in a room. The Athlete did not recall anyone locking the door. After a 45 minute or longer wait, the Athlete provided an additional sample which was sufficient to constitute a complete sample. The Athlete contended that she was rushed into the same room where she was instructed to mix the samples, which she did;
 - After reviewing the document provided regarding the chain of custody of the Athlete's sample, Dr. Bloom found that there was a contamination of samples and that two people managed the Athlete's sample;

- Additionally, the Athlete stated that the A Sample documentation package also demonstrated that the positions of the samples on the instruments as well as controls for the instruments were not verified, which created uncertainty regarding the location of the samples as well as the results of the analysis;
- Moreover, the A Sample documentation package failed to provide the control for stanozolol or its metabolites but the graphics demonstrated the presence of stanozolol and its metabolites, which demonstrated a possible contamination of the instrument and injectors. One sample was of a similar intensity to the control for the stanozolol or its metabolites. Furthermore, according to the sample sequence, STD 1 was injected before the Athlete's sample but no chromatographic information was provided for STD 1. Thus, if STD 1 contained stanozolol and its metabolites in high concentrations then there might be some carryover to the Athlete's sample. The Athlete also noted that there was no blank run before STD 1;
- Beyond that, the sequence for confirmation, which confirms the position of the vials on the instrument, was not signed. The Athlete asserted that this was critical because it could lead to altered results due to the fact that the sample might have been misplaced;
- The A Sample documentation package failed to provide a chain of custody for the sample collection, and, thus, there was no way for the Athlete to establish the custody between the Athlete and the number of the sample. The ability to identify the sample is critical to analysing the documentation;
- Regarding the sample collection procedures, the Athlete contended that the facts demonstrated that the collection procedures for an insufficient sample did not conform with the International Standard for Testing and Investigations ("ISTI") for the following reasons:
 - First, the Athlete's insufficient sample was not sealed. She was instructed to place a cap on the bottle but not instructed to place it inside a security bag;

- The insufficient sample was not placed inside a bag with the sample collection equipment;
 - The insufficient sample was placed on a table, left unattended, and, when she returned to the room, it was in a different position than where she had left it;
 - The Athlete was not instructed of her right to retain control of her sample;
 - Upon her return from providing her second sample, her insufficient sample had been moved and remained unsealed with only the cap on the bottle;
 - The Athlete was instructed to remove the cap and pour her second sample into the first bottle but the procedure did not contemplate breaking the seal of the bottle.
- The Athlete contended that the abovementioned facts establish a clear departure from the ISTI, which PASO was required to follow. Therefore, the sample collection process violated WADA regulations and the Bavaria sample collection system;
 - This collection procedure has put the Athlete’s career in jeopardy because she had never tested positive for any prohibited substances despite being tested multiple both in- and out-of-competition;
 - Upon her return to Puerto Rico, the Athlete volunteered to be tested again by the same organization responsible for the Doping Control for the Puerto Rico Olympic Committee, and her test came back negative;
 - Therefore, the Athlete respectfully requested that the FIVB Disciplinary Panel dismiss the Athlete’s temporary suspension;
 - The Athlete included the following exhibits with her Statement of Defense:
 - Dr. Bloom’s Expert Report and
 - The Sample Collection Form and Laboratory Results for her doping test in Puerto Rico.

27. On 3 February 2016, the hearing via telephone conference was attended –aside from the FIVB Disciplinary Panel– by the FIVB Medical and Anti-Doping Manager Mrs. Nadège Veintimilla, the FIVB Legal Advisor Mr. Andreas Zagklis, the FIVB Legal Affairs Manager Mr. Stephen Bock, the Athlete, the Athlete’s representative, and Dr. Bloom.

28. During the hearing, the Athlete noted that she sent her written statement, and her position was the same as her written statement. Subsequently, the members of the FIVB Disciplinary Panel and the FIVB Legal Advisor asked the Athlete some questions, which revealed the following information:

- The Athlete raised three issues with the sample collection: 1) the handling of the partial sample; 2) the chain of custody and 3) the sample analysis;
- The Athlete confirmed that she had no other explanation but denied the use of the prohibited substance by highlighting the issues with the sample collection of her partial sample;
- The Athlete confirmed that her defense was based on the fact that she denied using any substances for performance-enhancing reasons. The Athlete denied the validity of the Adverse Analytical Finding and confirmed that she brought forward no other arguments in the event that the Adverse Analytical Finding were to be upheld by the FIVB Disciplinary Panel;
- The Athlete claimed that the sample collection procedures violated the relevant WADA regulations regarding the collection of partial samples, the Berlinger Special sample kit and procedures, and the PASO rules and sample collection procedures for the competition, which had to be the same as the PASO doping procedures. The Athlete highlighted the fact that the sample was left unattended, was not closed and properly sealed. The Athlete further noted that she had not seen a report about what happened during the sample collection in the A Sample documentation package;
- The Athlete did not comment at the time about the alleged irregularities during the sample collection because, despite being experienced with doping control, it was her first time experiencing the partial sample collection procedure. She was not aware of the procedures and, thus, did not know that

there were any issues during the collection process. She acknowledged that she initialled and signed the Doping Control Form. The Athlete again highlighted the fact that her partial sample was not sealed;

- The Athlete immediately discussed the sample collection procedure with her lawyer as soon as she returned to Puerto Rico on 28 July 2015. He immediately sent her to get tested again. The Athlete did not discuss the sample collection while she was at the competition because she thought that was the standard procedure for partial sample collection;
- Dr. Bloom described his experience stating that he had previously worked in an anti-doping laboratory and issued anti-doping reports. He stated that the confirmation sequence documentation was not signed. Thus, the control sample could have contaminated the vials of the sample and was not able to confirm that the sample was not contaminated. He also stated that the Standard was run without a blank run in between, which could have led to carryover or contamination. Dr. Bloom noted that he did not see the sequence for the B Sample but was commenting on the A Sample;
- The Athlete stated that she was accompanied by the Puerto Rican team trainer, Mr. Victor Correa, during the sample collection process but he was not allowed in either the bathroom during the collection or in the office where the samples were mixed;
- The Athlete's representative confirmed that he had previously been part of the Puerto Rican Olympic Committee team. He had stated, when he first heard about the Athlete's case, he was concerned that about the anti-doping education that she had received because there was not any kind of anti-doping education in Puerto Rico except for some limited education when the athletes were tested out-of-competition. The Athlete herself had limited anti-doping education. The Athlete had taken an FIVB online questionnaire about doping. She stated that she did not have an email but remembered receiving a black t-shirt and some sort of document on doping, but could not remember the title of the document;

- Dr. Bloom initially stated that the Athlete's claim was that the position of the vials during the sample analysis was not documented in the A Sample documentation package but then revised his statement saying that the sample analysis was documented but was not signed. If the vials were in the wrong position then that would have been an issue but he was unable to confirm it. Dr. Bloom highlighted that there needed to be a standard run of the analysis equipment and a blank run of the analysis equipment in between before the sample analysis could be conducted. The blank run in between is important because it ensures that there is no contamination, i.e. carryover, between the standard run, which is highly contaminated, and the sample analysis;
- Dr. Bloom noted that a statement about how the samples were put on the instrument should have been provided. Dr. Bloom admitted that there were no rules on how to put the samples on the instrument if a laboratory wants to ensure that there is no contamination. Running a blank is a best practice that has been incorporated by many laboratories, which is an internal procedure not mentioned in the ISTI. Dr. Bloom confirmed that there is no guidelines on how to put samples on the instruments because WADA did not regulate how to run the samples in the laboratory;
- Dr. Bloom confirmed that there was no any documentation on the B Sample in the documents that he reviewed;
- Dr. Bloom also pointed out that there was no chain of custody on the sample until it got to the Laboratory and noted that the sample appeared to change numbers between the collection and the Laboratory;
- When asked what departures from WADA regulations and the ISTI could have led to the adverse analytical finding, Dr. Bloom stated that first there was no chain of custody until the sample arrived at the Laboratory and that what happened during the sample collection has an effect on everything that happened subsequently. In particular, he highlighted the fact that the door was not locked after the Athlete had provided her partial sample, the fact that

- the Athlete had been tested a lot and had no positive tests, and the fact that she tested negative for the substance only eight days after her doping control;
- The Athlete did not know how the prohibited substance ended up in the sample but it was pointed out that she could not have been aware about what happened after her sample was left unattended. The fact that the sample was left unattended was a gross deviation from the standard procedures. Regarding scientific explanations of how the prohibited substance entered into her sample, Dr. Bloom stated that the samples could have been swapped or the vials could have been contaminated. Dr. Bloom acknowledged environmental causes could not have led to the prohibited substance appearing in the sample. Instead he highlighted that the required procedures had to be followed exactly otherwise the collection is compromised because there was no way of knowing what happened;
 - The Athlete did not confirm that there were other samples in the room with her sample. Instead, she reiterated that her sample was left in the collection room for between 45 to 60 minutes while she and the escort waited for the Athlete to provide another sample;
 - The Disciplinary Panel then turned to the A Sample documentation package, and first, as to whether the initials “QC” referenced in the initial testing documentation stood for “quality control”. These QCs could be either negative or positive controls. Dr. Bloom confirmed that even though the documentation made reference to a sample, a negative control, and a stanozolol reference, he was not able to determine the order that these tests were run. Thus, Dr. Bloom could not rule out contamination. The FIVB Disciplinary Panel additionally pointed to certain documentation in the A Sample documentation package that appeared to demonstrate the chain of custody once it got to the Laboratory;
 - The Athlete contended that the sample collection deviations alleged did apply to both the A and the B Sample whereas the sample analysis deviations alleged applied only to the A Sample.

29. Following the hearing, the FIVB Disciplinary Panel ordered that the Doping Control Officer at the Event and the Laboratory provide reports addressing, respectively, the sample collection and sample analysis issues raised by the Athlete.
30. On 5 February 2016, the Doping Control Officer for the Event filed his report with the FIVB.
31. On 10 February 2016, the Laboratory filed its report with the FIVB.
32. By letter dated 11 February 2016, the FIVB provided the Athlete with the Doping Control Officer's report, the Laboratory's Report, and a copy of the "Real Winner" certificate demonstrating that the Athlete underwent anti-doping training on 25 October 2010 prior to the FIVB World Championships. The FIVB invited the Athlete to file her comments on these documents by no later than 25 February 2016.
33. By email dated 29 February 2016, the FIVB sent a reminder to the Athlete to file her comments on the reports and the certificate provided by the FIVB. The FIVB provided a final deadline of 7 March 2016 to file her comments.
34. By email dated 4 March 2016, the Athlete argued the following regarding the reports and the certificate:
 - The reports failed to address the reality of what happened during the sample collection process. The Athlete contended that the pre-prepared form report of the Doping Control Officer should not be given more credibility than the testimony of the Athlete who suffered the irregularities of the collection process. The whereabouts of the sample are not included as part of this form document and, thus, failed to address the acts and omissions that occurred during the collection of the partial sample. If the Panel were to give credibility to the Doping Control Officer's form report over the testimony of the Athlete, said decision would not establish a good precedent in the balance between the rights of the Athlete and the fight against doping. A decision to effectively end a clean athlete's long and distinguished career would be unfair. The Athlete also denied any wrongdoing in the present case;
 - The present case was related to the errors and omissions of third parties who were in control of the sample collection process. Checking boxes on a pre-

prepared report is an easy thing to do which puts the reputation of a clean athlete in jeopardy. The Athlete's sample collection process should require a hearing and confrontation between the Athlete's testimony and the Doping Control Officer. The present case was a matter of credibility, not questionnaires. If the Athlete's sample was left unattended and unsafe, it would be a serious deviation of the sample collection process that would require an annulment of the adverse analytical finding;

- Regarding the Real Winner Certificate provided by the FIVB, the Athlete stated that she received this certificate after filling out a questionnaire via email. However, the Athlete denied that she ever took any kind of seminar or training from the Puerto Rico Olympic Committee or any other third party;
- The Athlete concluded by reiterating that this was the first time that she had gone through the partial sample collection process and stated that Dr. Bloom would provide his comments on the Laboratory's Report.

35. By email dated 12 March 2016, the FIVB noted that the Dr. Bloom had yet to file his comments on the Laboratory's Report and provided a final deadline of 19 March 2016 to file his comments.

36. By email dated 18 March 2016, the Dr. Bloom provided his comments on the Laboratory's Report, which stated the following:

- There was no chain of custody from the time that the sample was collected until the time that it arrived at the Laboratory for analysis. This lack of documentation creates uncertainty about the results because it was unclear where the sample was during that period of time. Because the documentation did not contain a full chain of custody, the origin of the sample was in doubt;
- Even if the Laboratory sample analysis was correct, the analysis does not prove an adverse analytical finding against the Athlete because the ambiguity of the sample collection process. The lack of a chain of custody had to be taken into consideration when deliberating on this case because the effect of a decision against the Athlete harms her in many ways, both professionally and personally.

LEGAL CONSIDERATIONS

37. According to the WADA 2015 Prohibited List, the substance stanozolol and its metabolites is included in the category “S1. Anabolic Agents” and is prohibited in- and out-of-competition.
38. The Athlete has challenged the assertion that the analysis of her sample gave rise to an Adverse Analytical Finding and, thus, she disputes the fact that she ever committed an anti-doping rule violation. She argues that the following deviations from the ISTI and the standard procedures for partial sample collection and sample analysis led the Adverse Analytical Finding against the Athlete:
- a. the Athlete’s sample was left unsealed and was possibly tampered with during the time between the collection of her partial sample and the mixing of her second sample;
 - b. the analysis of the A Sample led to a contamination of the Athlete’s sample; and
 - c. the chain of custody for the Athlete’s sample was defective, leading to the possibility that her sample was tampered with or contaminated.
39. Therefore, the Athlete contends that these deviations caused and, thus, should nullify the Adverse Analytical Finding.
40. In examining the Athlete’s arguments, the Panel must first determine which party has the burden of proof and whether any presumptions regarding the conduct of the proceedings exist. Turning to the relevant provisions, Article 3.2 of the FIVB MADR discusses the methods for establishing facts and presumptions in doping cases. In particular, the relevant provisions in the present case are found in Articles 3.2.2 and 3.2.3, which state the following:
- “3.2.2 WADA-accredited laboratories, and other laboratories approved by WADA, are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Athlete or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories occurred which could have reasonably caused the Adverse Analytical Finding. If the Athlete or other Person rebuts the*

preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding, then the FIVB shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.

3.2.3 *Departures from any other International Standard or other anti-doping rule or policy set forth in the Code or these Anti-Doping Rules which did not cause an Adverse Analytical Finding or other anti-doping rule violation shall not invalidate such evidence or results. If the Athlete or other Person establishes a departure from another International Standard or other anti-doping rule or policy which could reasonably have caused an anti-doping rule violation, then the FIVB shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the factual basis for the anti-doping rule violation.”*

41. In the present case, the Laboratory is a WADA-accredited laboratory. Therefore, under Article 3.2.2, the analysis of the Athlete’s sample is presumed to have been conducted in accordance with the ISTI. Additionally, the chain of custody procedures in the Laboratory are also presumed to have been conducted in accordance with the ISTI. Therefore, under the FIVB MADR, the burden is on the Athlete to rebut this presumption by establishing that 1) a departure from the ISTI occurred and 2) said departure could have reasonably caused the Adverse Analytical Finding.
42. Having conducted a thorough review of the facts and circumstances in this case, the Panel finds that the Athlete has failed to rebut this presumption as it relates to the sample analysis and chain of custody procedures related to the Laboratory. The Panel is sufficiently convinced that the A Sample documentation package and the Laboratory Report demonstrate that no departure from the ISTI occurred. In its Report, the Laboratory thoroughly addressed the Athlete’s contentions regarding the sample analysis and the chain of custody at the Laboratory citing specific references to the A Sample documentation package rebutting the Athlete’s arguments. In particular, regarding the issue of contamination, the Laboratory Report addressed the Athlete’s concerns by stating the following:

“Our initial and confirmation procedures are under the scope of our ISO accreditation and as such, were properly validated. The absence of carry over and cross-contamination is elementary.

The list for the Control provided at page 17 of the A-Sample documentation package includes only the results for the quantification done e.g. for the threshold substances and the steroid profile. There is no mention of stanozolol and its metabolites because these are not threshold substances. No contamination, the positive control sample does not contain stanozolol and its metabolite.

The positive control cannot contaminate the athlete’s sample (lab code 15-17647): twelve other samples separate their respective injections. Furthermore, the signals for both stanozolol and its metabolite are not at all the same as shown in the chromatograms at pages 18 and 22 the abundance of stanozolol metabolite is clearly more intense in the athlete’s sample (3.25×10^3) than in the control (6×10^2). The Negative control is negative and does not contain stanozolol (pages 19 and 20).

With regards to the composition of the sample analysed right before the athlete’s sample, STD1 is composed of standards for the steroid profile, not of stanzolol. We do not have to inject a blank run before each sample in the initial test.

The athlete’s sample 3903049 was tested three times, on three different occasions. Stanzolol and its metabolite were detected in the first aliquot tested initially with several other samples on 21 and 22-07-2015, in the confirmation aliquot (taken from the original A-bottle) analysed alone on 22-07-201[5] and in the B-Sample kept close[d] and frozen as reported on 24-09-201[5].

Finally, there is a negative test report from a private laboratory not accredited by WADA on a sample that was received by them several days after its collection. The tests were done by GCMS and not GCMSMS and therefore, the sensitivity cannot be

close to ours. A negative test obtained from a sample collected without the same supervision, a week later by a non-accredited laboratory employing less sensitive techniques proves nothing.”

43. When provided with an opportunity to address the Laboratory’s Report, the Athlete’s first submission focused on the doping control procedures and deferred the discussion of the Laboratory’s Report to a subsequent submission by Dr. Bloom. In his submission, Dr. Bloom did not address the Laboratory Report but instead focused on the chain of custody from sample collection to the time that it arrived at the Laboratory.
44. Most convincingly, even if a departure had occurred (*quod non*), the Athlete conceded that any arguments related to the sample analysis were limited to the A Sample, which was reflected by the A Sample documentation package, and did not address the B Sample, which confirmed the Adverse Analytical Finding found in the A Sample. Consequently, the Panel finds that the Athlete’s arguments regarding the sample analysis conducted by the Laboratory and the chain of custody of the sample within the Laboratory must be dismissed.
45. Turning to the sample collection procedures and the chain of custody before the sample reached the Laboratory, the Panel notes that the FIVB MADR again puts the burden of proof on the Athlete to establish that 1) a departure from the relevant rules occurred and 2) that said departure could have reasonably caused the Adverse Analytical Finding.
46. In reviewing the documentation before it, the Panel first notes that the Doping Control Form states that Ms. Cathy Chapell was the Doping Control Officer who collected the Athlete’s Sample. On the Doping Control Form, the Athlete signed the Confirmation of the Sample Collection Session. By signing that statement, the Athlete attested that the *“sample collection was conducted in accordance with the relevant procedures for sample collection.”* Additionally, in her Doping Control Officer Report, Ms. Chapell noted that she did not leave the Athlete’s sample unattended, did not encounter any issues sealing the sample, and did not have any issues processing the partial samples. Therefore, the Doping Control Form and the Doping Control Officer Report appear to demonstrate that there were no issues or departures with the

sample collection and that the Athlete confirmed this by signing the Doping Control Form. The Athlete had an opportunity to comment, or even file a Supplementary Report, on any irregularities that occurred during the sample collection process on the Doping Control Form. She wrote “No Comments” in the relevant section of the Doping Control Form.

47. The Athlete asserts that she signed the Doping Control Form because this was her first time going through the partial sample collection process so she thought that the protocol was followed at the time. It was only later that she realised that there were deviations from the standard protocol. In her testimony, she asserted that there were deviations from the partial sample collection protocol because her partial sample was not sealed and was left unattended in an unlocked room. Thus, the crux of these allegations comes down to the content of the documentation before the Panel against the Athlete’s testimony. Ultimately, the Panel finds that the Athlete has not provided sufficient evidence demonstrating a deviation from the partial sample collection procedure. There is no corroborating evidence supporting the Athlete’s account of the events, and, ultimately, she had the ability to object or comment on the collection procedure but did not do so.
48. Even if the Athlete had been able to prove a deviation (*quod non*), the Athlete has merely speculated as to how the alleged deviation could have led to the Adverse Analytical Finding. In essence, she argues that the sample was left unsealed and unattended so it could have been tampered with or swapped. However, she failed to provide any proof demonstrating that her sample was more likely than not (on a balance of probabilities, as required by the FIVB MADR) to have been tampered with or swapped. Without more, her assertion is merely hypothetical and not supported by any evidence. Consequently, the Panel finds that the Athlete did not meet her burden of proving that 1) there were deviations in the sample collection process and 2) said deviations could have reasonably caused the Adverse Analytical Finding. Thus, the Adverse Analytical Finding is upheld, and the sample analysis confirmed the presence of a prohibited substance in the Athlete’s sample.

49. According to Article 2.1 of the FIVB MADR, the presence of a prohibited substance in an athlete's bodily specimen constitutes an anti-doping rule violation, sanctioned as per Article 10 of the FIVB MADR.
50. The above-mentioned sample (Nr. 3903049) belongs to the Athlete.
51. No Therapeutic Use Exemption exists in the case, as per Article 4.4 of the FIVB MADR.
52. Based on the above, the FIVB finds that the Athlete committed an anti-doping rule violation under Article 2.1 of the FIVB MADR because the prohibited substance, stanozolol, was present in the Athlete's Sample on 20 July 2015. Given this finding, the Panel must now determine what the period of ineligibility should be for the Athlete based on her anti-doping rule violation.
53. According to Article 4.2.2 of the FIVB MADR, all prohibited substances are deemed specified substances except substances in the classes of anabolic agents and hormones and those stimulants and hormone antagonists and modulators so identified on the Prohibited List. Category "S1. Anabolic Agents" falls into the categories of the abovementioned exception and, consequently, the prohibited substance in the case at hand (stanozolol) is considered a Non-Specified Substance.
54. The FIVB Disciplinary Panel notes that the period of ineligibility for a violation of Article 2.1 FIVB MADR concerning a Non-Specified Substance shall be as follows:
- four (4) years when the anti-doping rule violation does not involve Specified Substance, unless the Athlete can establish that the anti-doping rule violation was not intentional (Article 10.2.1.1 FIVB MADR);
 - two (2) years if the Athlete can establish that the anti-doping violation was not intentional (Article 10.2.2 FIVB MADR).
55. The Athlete has not provided any evidence establishing that the anti-doping rule violation was not intentional. She chose to challenge the validity of the Adverse Analytical Finding without providing any other explanation on how the prohibited substance entered her body or discussing whether the violation should be deemed unintentional. Consequently, the Panel has no choice but to find that the Athlete shall be sanctioned with a period of ineligibility of four (4) years. Given that the Athlete was provisionally suspended by PASO on 23 July 2015 and subsequently provisionally

suspended by the FIVB on 28 July 2015, it appears as if she last participated in a match on 23 July 2015. Consequently, this four (4) year period of ineligibility shall begin on that date and shall conclude on 22 July 2019 pursuant to Article 10.11.3 of the FIVB MADR.

Taking all the above into consideration

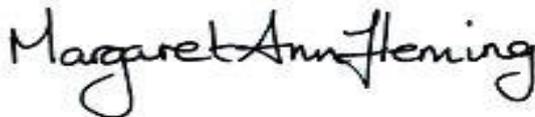
THE FIVB DISCIPLINARY PANEL

Concludes and Decides

1. The athlete Ms. Sheila OCASIO CLEMENTE (Puerto Rico) has committed an anti-doping rule violation (presence of the prohibited substance “S1. Anabolic Agents (stanozolol and its metabolites)” according to Article 2.1 of the FIVB MADR.
2. A sanction of four (4) years of ineligibility shall be imposed on the athlete Ms. Sheila OCASIO CLEMENTE according to Article 10.2.1.1 FIVB MADR.
3. The period of ineligibility shall start on 23 July 2015 and end on 22 July 2019 according to Article 10.11 FIVB MADR.
4. The decision may be appealed in accordance with the attached Notice of Appeals.

Decided in Lausanne, on 20 June 2016

For the FIVB DISCIPLINARY PANEL

A handwritten signature in black ink that reads "Margaret Ann Fleming". The signature is written in a cursive style with a large, prominent 'M' at the beginning.

Ms. Margaret Ann Fleming
Chair

NOTICE OF APPEALS

(doping cases)

An appeal may be filed against the decision exclusively before the Court of Arbitration for Sport (CAS), in accordance with Article 13 of the FIVB Medical and Anti-Doping Regulations 2015 (FIVB MADR) and with the provisions of the Code of Sports-Related Arbitration (see www.tas-cas.org).

The time-limit to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of the decision by the appealing party.

In accordance with Article 14.7 of the FIVB MADR: “Notice to an Athlete or other Person who is a member of a National Federation may be accomplished by delivery of the notice to the National Federation.”

In the event of an appeal, the decision shall remain in effect while under appeal unless the CAS orders otherwise.

The address and contact details of the CAS are the following:

Court of Arbitration for Sport

Avenue de Beaumont 2

1012 Lausanne, Switzerland

Tel: +41 21 613 50 00

Fax: +41 21 613 50 01

e-mail: info@tas-cas.org

www.tas-cas.org