

**ARBITRAL AWARD**

**delivered by the**

**COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

President: Dominique Leroux-Lacroix, ITA Head of Legal Affairs, Lausanne,  
Switzerland

Arbitrators: Michele Bernasconi, Attorney-at-law, Zurich, Switzerland

Emilio García Silvero, FIFA Chief Legal & Compliance Officer, Miami,  
United-States

**in the arbitration between**

**Word Anti-Doping Agency, Lausanne, Switzerland**

Represented by Cheng Fengyao and Wang Zhiheng, Attorneys-at-Law, Wuhan University, Wuhan,  
China

**Appellant**

v.

**Leslie Young, Iris, Republic of Iridonia**

Represented by Christian Thomassen and Fabian Laurenz Heß, Attorneys-at-Law, IE University,  
Madrid, Spain

**Respondent**

## I. PARTIES

1. The **World Anti-doping Agency** (the “**Appellant**” or “**WADA**”) is a foundation governed by Swiss private law, headquartered in Montreal, Canada, with its legal seat in Lausanne, Switzerland. Established in 1999, WADA's role is to lead, coordinate, and supervise efforts to combat doping in sports globally, guided by the World Anti-Doping Code (the “**WADC**”), which serves as the principal framework for standardising anti-doping rules, policies, and regulations across the world.
2. Mr. **Leslie Young** (the “**Respondent**” or “**Mr. Young**”) is a 17-year-old football player from Iridonia. He began his professional career in the League in 2022 and quickly became one of its most promising and valuable players. In 2023, Mr. Young earned a spot on the Iridonia National Team, participating in several friendly and qualifying matches. As a result, he was anticipated to be chosen for the national team competing in the final stage of the 2024 FIFA World Cup (the “**World Cup**”), scheduled to begin on January 1<sup>st</sup>, 2024, in Tulip, the capital of Tulipania, a neighbouring country to Iridonia.
3. WADA and The Player are hereinafter jointly referred to as the “**Parties**”.

## II. FACTUAL BACKGROUND

### A. Introduction

4. The present dispute revolves around the decision rendered by the FIFA Disciplinary Committee on 5 March 2024, (the “**FIFA DC Decision**”). In the FIFA DC Decision, the FIFA Disciplinary Committee found that the Player has committed the alleged ADRVs but bears no fault or negligence for anti-doping rule violations (“**ADRVs**”).
5. The relevant facts and claims presented by the Parties, both in their written and oral submissions as well as the evidence provided, are summarised below. Additional references to facts and claims from the Parties' submissions and evidence will be made where necessary in relation to the subsequent legal analysis. Although the Panel has taken into account all the facts, claims, legal arguments, and evidence presented by the Parties during these proceedings, it will refer in its award only to the submissions and evidence it considers essential to justify its reasoning.

### B. Background facts

6. On 6 June 2023, Mr Young played his first match for the Iridonia National Team as part of the qualifying rounds of the World Cup.
7. On 28 October 2023, Mr Young contracted a mild muscle strain in his left thigh and therefore, missed two preparatory matches. However, he recovered fully in late November 2023 and re-joined the national team.

8. On 16 December 2023, the Player's mother was prescribed Tramadol, a pain killer, by her doctor.
9. On 22 December 2023, Mr Young was not selected in the squad list of 26 players for the World Cup (the "**Squad List**") but in the 55-man provisional squad (the "**Release List**").
10. On the evening of 31 December 2023 or in the early hours of the morning of 1 January 2024, the Player asked his mother if she could give him something to help with his insomnia and headache.
11. His mother prepared an herbal tea and served it to the Player using the first glass that was available in the kitchen. The Player drank the herbal tea, which indeed helped to reduce his headache.
12. On 2 January 2024, at 13:30, the Player received a call from Mr Deloscampos asking him to replace the injured Mr. Neyrado and join the national team for their first match on 3 January 2024. There were no guarantees for the Player to play the first Match. The Player accepted.
13. At 09:30 on 3 January 2024, in Iridonia, in the presence of the FIFA Doping Control Officer, Mr Young provided a urine sample (sample no. 329348) as part of a doping control test. The sample was split into A and B sample bottles (the "**A Sample**" and the "**B Sample**").
14. On the evening of 3 January 2024, the Player played for Iridonia as a substitute.
15. On 9 January 2024, Mr Young did not participate in Iridonia's next World Cup match as he felt pain in his left thigh again.
16. On 12 January 2024, the analysis of the Player's A Sample revealed the presence of Tramadol in the concentration of 0.8 ng/mL. Tramadol is a narcotic which is prohibited In-Competition and listed as a Specified Substance in section S7 of the 2024 WADA Prohibited List. The Laboratory reported an Adverse Analytical Finding ("**AAF**"). The AAF was reported in compliance with WADA's International Standard for Laboratories and WADA's applicable Technical Document on Minimum Reporting Levels.
17. On 13 January 2024, the Player was notified by the FIFA Anti-Doping Unit of the AAF for Tramadol and was informed that he may have committed ADRVs pursuant to Articles 6 and 7 FIFA ADR. FIFA exercised its discretion pursuant to Article 36(1) FIFA ADR and provisionally suspended the Player with immediate effect.
18. Analysis of the Player's B Sample confirmed the A-Sample result.

### **III. PROCEEDINGS BEFORE THE FIFA DISCIPLINARY COMMITTEE**

19. On 30 January 2024, the FIFA Disciplinary Committee sent the Respondent a formal letter of charge (the "**Charge Letter**") indicating that he breached Articles 6 and 7 FIFA ADR and committed ADRVs.
20. On 7 February 2024, the Respondent contested the alleged ADRVs. Following, a hearing was held on 1 March 2024.

21. On 5 March 2024, the FIFA DC rendered the operative part of its Decision, finding that the Player bore no fault or negligence for the ADRVs. Thus, the ineligibility period was eliminated.
22. On 20 March 2024, the FIFA DC communicated its Decision to the parties as well as to IADA and the Appellant.

#### **IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

23. On 20 March 2024, the FIFA DC communicated its decision to the parties as well as to IADA and the Appellant.
24. On 29 March 2024, the Appellant and the Parties received the case file. Noticing that the Player's witness statement was missing, the Appellant requested a copy of it from FIFA. It was sent on 11 April 2024.
25. On 31 March 2024, FIFA and the Respondent decided not to appeal the FIFA DC Decision.
26. On 2 May 2024, the Appellant filed the present appeal before the CAS.
27. On 10 May 2024, the Appellant filed its appeal brief in accordance with Article R51 CAS Code.
28. On 15 May 2024, the Respondent filed his answer in accordance with Article R55 CAS Code.
29. On 24 May 2024, a hearing was held at the Palacio de Santoña, Calle de las Huertas, 13, Madrid, Spain.
30. At the outset of the hearing, the Parties confirmed that they had no objection to the composition of the Panel.
31. At the conclusion of the hearing, the Parties indicated that they were satisfied that their right to be heard had been duly respected and they had been treated fairly and equally during the arbitration proceedings.

#### **V. POSITIONS OF THE PARTIES AND PRAYERS FOR RELIEF**

32. The following summary of the parties' positions is illustrative only and does not necessarily comprise each contention put forward by the parties. The Panel, for the purposes of the legal analysis which follows, has carefully considered all the submissions made by the parties, even if there is no specific reference to those submissions in the following summary. On 20 March 2024, the FIFA DC communicated its decision to the parties as well as to IADA and the Appellant.

##### **A. The Appellant**

33. The Appellant's submissions, in essence, may be summarised as follows:

- The Respondent committed the ADRV of Presence pursuant to Article 6 FIFA ADR and the ADRV of Use pursuant to Article 7 FIFA ADR when he tested positive for Tramadol. The mere presence of Tramadol in the Athlete's urine samples is sufficient, pursuant to Articles 6 and 7 FIFA ADR, to establish ADRVs. The Appellant shall not demonstrate fault, negligence or intent at this stage of the argumentation on the merits.
- The urine sample provided by the Athlete on 3 January 2024, at 9:30 a.m. constituted an in-competition doping test. The Appellant argues that there is only one criterion to be considered in the "*in-competition period*" definitions of the 2021 FIFA ADR and 2021 WADC, which is the time on which the Match is kicked off. Thus, Since the Match started on the night of 3 January 2024, the in-competition period started at 23:59 p.m. on 2 January 2024, and thus, the doping test was effectuated during the in-competition period.
- With respect to such ADRVs for this specified substance, a four-year period of ineligibility may be imposed if the Anti-Doping Organisation managed to establish that the ADRVs were intentional. It is the Appellant's contention that, pursuant to Article 20(3) FIFA ADR, the Athlete's intention was characterised by various factors: the scientific evidence highlighted by Mr. Brandon Smith, expert on behalf of WADA, the Tramadol Fact sheet, and the lack of persuasiveness of the witness statements presented on behalf of Leslie Young.
- Subsidiarily, the Appellant requests the application of the default two-year ineligibility period for the ADRVs committed by the Respondent. This default period of ineligibility may be eliminated or reduced, in the event that the Athlete establishes that she bears No Fault or Negligence (Article 20(2) FIFA ADR) or No Significant Fault or Negligence (Article 20(3) FIFA ADR). In order to qualify for the application of these provisions, the Athlete must demonstrate how the prohibited substance entered his body on the balance of probabilities.
- The Appellant submits that the Respondent failed to prove, on the balance of probabilities, how Tramadol entered his body. The Appellant maintains that the Respondent ingested a standard 50mg dose of Tramadol and was not simply contaminated with traces of Tramadol. The Appellant reiterates that the Respondent and the Respondent's mother's witness statements are not persuasive as they lack credibility due to the fact that they present some inconsistencies.
- The Appellant also submits that the Respondent's expert witness, Mr. Javier Herrera, is far less experienced than Mr. Brandon Smith, the Appellant's own expert witness and thus, Mr. Smith's expert report shall be preferred due to his extensive expertise over doping matters. The Appellant asserts that the Respondent ingested a standard 50-milligram dose of Tramadol, just hours before the sample provision.

- The Appellant contends that a sanction of four-year ineligibility shall be imposed on the Respondent, because it ingested Tramadol intentionally. Mr. Young knew that there was a significant risk that the ingestion of Tramadol constitutes an ADRV and manifestly disregarded that risk. The Respondent also failed to exercise the utmost caution. The Appellant asserts that the Respondent did not take any steps to prevent the prohibited substance to enter his body, and deems Respondent and Respondent's mother's explanations implausible and circumstantial.
- Alternatively, the Appellant argues that the sanction may only be reduced to two years, because the Athlete bears Significant Fault or Negligence. Based on objective and subjective elements, confronted to the Respondent's narrative, the Appellant contends that the level of fault displayed by the Respondent is significant because he did not exercise the level of care he should have.

34. Based on the exposed arguments, WADA requested the following relief:

- The FIFA DC Decision dated 5 March 2024 is partially amended in that it ruled that Leslie Young bore No Fault or Negligence and was not sanctioned.
- Leslie Young is sanctioned to a four-year ineligibility period starting on the date on which the CAS award enters into force.
- Alternatively, Leslie Young shall face the standard two-year ineligibility.

#### **B. The Respondent**

35. The Respondent's submissions, in essence, may be summarised as follows:

- The doping test that occurred at 9:30 a.m. on 3 January 2024, is an out-of-competition test. Pursuant to Article 41 FIFA ADR, an out-of-competition test takes place at any time and place while an in-competition test occurs at the Match. The Respondent argues that the doping test took place outside the Match's location and was not conducted on the premises of the Match. Thus, the doping test is out-of-competition.
- Following this, the Respondent contends that he did not violate Articles 6 and 7 of the FIFA ADR. Tramadol is a specified substance, prohibited only in-competition. The test being done out-of-competition, the results arising from it do not amount to ADRVs.
- In the event the test is deemed in-competition, the Respondent alleges that he neither violated Article 6 FIFA ADR because he bears No Fault or Negligence, nor did he violate Article 7 FIFA ADR because the ingestion took place out-of-competition. Tramadol being prohibited

only in-competition, if the ingestion occurs out-of-competition, it does not constitute an ADRV.

- The Respondent contends that the source of the prohibited substance is an accidental contamination through drinking the herbal tea, prepared by his mother on the night of the 31 December 2023. Based on the balance of probabilities, the Respondent submits that the herbal tea served in the glass left on the kitchen counter prepared by his mother, Ms. Susan Garcia, is the source of contamination. The Respondent's mother attests that she uses Tramadol due to an injury and ingests it by crushing the pills in a glass before drinking it. This is the last thing she did before going to sleep and left the glass on the counter, before preparing the herbal tea for Leslie Young, which she served in that same glass, containing residues of Tramadol. It is Respondent's submission that the most plausible scenario is the accidental contamination 3 to 4 days before sample provision.
- The Respondent also submits that the Appellant's expert witness, Mr. Brandon Smith, is subject to independence and impartiality issues. Indeed, the Respondent puts forth that the expert has been appointed twenty-two times by WADA in the course of the last three years. In view of these elements, the Respondent contends that the expert report contains two contradictory conclusions, i.e. that Respondent allegedly ingested Tramadol 24 hours before the sample provisions; and that Respondent allegedly ingested a whole pill of Tramadol six to twelve hours before the doping test.
- The Respondent argues that he bears No Fault or Negligence and thus, no ineligibility period is applicable. The Respondent did not know or suspect or could not have reasonably known or suspected that he ingested Tramadol inadvertently. He does so by relying on his lack of knowledge that his mother, Ms. Susan García, was taking Tramadol and that drinking the herbal tea would lead to contamination.
- Alternatively, the Respondent submits that he bears No Significant Fault or Negligence and that, shall this present Panel find fault, it is only of a light degree, placed at the lower end of the sliding scale. Relying on the *Cilic* principles, the Respondent assesses objective elements, such as reading a label of the product, his lack of knowledge of the plausible presence of Tramadol in the glass containing the herbal tea and his medical condition at that moment. He also assesses subjective elements, namely the Player's experience, his level of stress, his troubles sleeping, his close relationship with his mother, explaining the complete trust he had in her.

- In the Respondent's view, the Appellant did not demonstrate that Leslie Young intentionally ingested Tramadol and thus, shall the Panel still find a light degree of fault, the Player shall be reprimanded and not subject to any period of ineligibility.

36. Based on the exposed arguments, WADA requested the following relief:

- The decision of the FIFA Disciplinary Committee dated 5 March 2024 shall be upheld and partially amended in that it ruled that the doping test was done in-competition.
- Leslie Young bears No Fault or Negligence, and no ineligibility period is applicable.
- Alternatively, Leslie Young shall be reprimanded but still not subject to any ineligibility period.

## **VI. JURISDICTION OF THE CAS**

37. Article R47 of the CAS Code provides as follows:

*“An appeal against the decision of a federation, association or sports-related body may be filed with the CAS insofar as the statutes of regulations of the said body so provide or as the parties have concluded a specific arbitration agreement and insofar as the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of the said-related body. An appeal may be filed with the CAS against an award rendered by the CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules applicable to the procedure of first instance.”*

38. In its statement of appeal, WADA relied on Article 75(1) FIFA ADR which grants a right of appeal to the CAS. The jurisdiction of the CAS was not contested by the Respondent and was confirmed by the signature of the Order of Procedure by the parties. The CAS accordingly enjoys jurisdiction.

## **VII. APPLICABLE LAW**

39. Article R58 of the CAS provides as follows:

*“The Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued*

*the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

40. The Appealed Decision was rendered in application of the 2021 FIFA ADR. The FIFA ADR (which reflect the 2021 WADC) are therefore applicable to the present appeal. Since FIFA is domiciled in Switzerland, Swiss law applies subsidiarily.

## **VIII. ADMISSIBILITY**

41. Article R49 of the CAS Code provides as follows:

*“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against”.*

42. Under Article 82(1)(b) FIFA ADR, the “time to file an appeal to the CAS shall be twenty-one (21) days from the date of receipt of the decision by the appealing party” and the deadline for WADA to file an appeal is the later of (i) 21 days after the last day on which any other party in the case could have appealed, or (ii) 21 days after WADA’s receipt of the complete file relating to the decision.
43. WADA filed its appeal before CAS on 2 May 2024 and therefore did so within the prescribed time limit.
44. The admissibility of the appeal was not contested by the Respondents and was confirmed by the signature of the Order of Procedure by the parties.
45. The Panel accordingly holds that both appeals are admissible.

## **IX. MERITS**

46. Having considered the Parties’ written and oral submissions, the Panel determines that the main issues to be resolved are:
- A. The doping test is an in-competition test or an out-of-competition test?
  - B. Did Leslie Young violate Articles 6 and 7 FIFA ADR and commit ADRVs?
  - C. What is the source of Tramadol in the Athlete’s system?
  - D. What is the applicable sanction?

47. The Panel shall examine in the present section each of the above-mentioned questions in the indicated order.

**A. The doping test is an in-competition test or an out-of-competition test?**

48. It must be determined whether The Player committed the ADRVs or not, but first, one ought to consider whether the test was conducted in-competition or out-of-competition.
49. According to the preliminary title of the FIFA ADR, Definition 34, "In-Competition" testing is defined as testing conducted from 23:59 p.m. on the day before a Match in which a Player is scheduled to participate through to the end of that match. Article 41 FIFA ADR states that "*Under these Regulations, every Player may be subject to In-Competition Testing at the Matches in which he competes and to Out-of-Competition Testing at any time and place*". However, this article should be interpreted restrictively as the timing of the test prevails on the location of the test.
50. In the present case, Mr. Young played on the evening of 3 January 2024. Thus, the competition period started on 2 January 2024 at 23:59 p.m. The test was conducted on 3 January 2024 at 09:30 a.m., which is within the in-competition period. Furthermore, the player played the match, therefore, he was scheduled to participate. Following the reasoning given by the *Gasquet* case (CAS 2009/A/1926), the calculation of in-competition period applies equally to all the players regardless of the undetermined intention to participate. The panel adds, considering on one hand that the World Cup competition already started and on the other hand that the sample collection process was done a few hours before the 3 January 2024 match, the sample collection process was related to said match.
51. The Panel upholds the finding of the FIFA DC Decision, that the test is an in-competition test.

**B. Did Leslie Young violate Articles 6 and 7 FIFA ADR and commit ADRVs?**

52. The Appellant correctly highlighted that the critical factor is whether the substance was present in the Player's system during the in-competition period. Despite the test being conducted away from the match venue, the substance detected – Tramadol – was present in the Player's system during the World Cup match that evening.
53. As noted by the Appellant, Article 6 FIFA ADR (Presence of a prohibited substance) imposes a strict responsibility on the Player to ensure that no Prohibited Substance enters their body. The presence of Tramadol, a substance prohibited in-competition under section S7 of the 2024 WADA Prohibited List, in the Player's A and B Samples, demonstrates that the substance was in the Player's body during the match, regardless of the test's location.

54. However, Article 7 FIFA ADR (Use or Attempted Use of a Prohibited Substance) requires evidence of the player's actual use or attempted use of a Prohibited Substance during the in-competition period. The presence of a Prohibited Substance alone is not sufficient to establish a violation of Article 7; there must be proof of deliberate or intentional use by the Player within the specified timeframe.
55. Commentary to Article 2.2.2 WADC, the equivalent provision of Article 7 FIFA ADR, states that: “[a]n Athlete’s Use of a Prohibited Substance constitutes an anti-doping rule violation unless such Substance is not prohibited Out-of-Competition and the Athlete’s Use takes place Out-of-Competition”.
56. The Respondent argues that the ingestion occurred the night of 31 December 2023, following accidental ingestion of the prohibited substance in the herbal tea served by his mother. The in-competition period starting on 2 January 2024 at 23:59 p.m. Shall the source argued by the Respondent be confirmed by the “balance of probabilities” test, then the Respondent did not violate Article 7 FIFA ADR and Article 2.2.2 WADC.
57. In conclusion, the presence of Tramadol in the Player's body during the in-competition period of the World Cup match confirms that an anti-doping rule violation occurred, establishing a breach of Article 6 FIFA ADR. However, since there is no evidence that the Player used or attempted to use the substance during the in-competition period, no violation of Article 7 FIFA ADR has been established.

### **C. What is the source of Tramadol in the Athlete’s system?**

#### *(a) Introduction*

58. The operative part of the FIFA DC Decision welcomed Mr. Young’s defence, that he bore No Fault or Negligence and thus, eliminated any applicable period of ineligibility.
59. According to its press release dated 10 May 2024, the Appellant clearly indicated that the FIFA DC Decision infringed the terms of the WADA Code, and that it would be seeking a four-year ineligibility period for the Respondent.
60. The Athlete argues that the FIFA DC was required to eliminate or reduce the period of ineligibility since he established that he bore no fault or negligence and that in any case, when viewed in the totality of the circumstances, his alleged fault or negligence was not significant in relationship to the ADRV.
61. Pursuant to Article 22 FIFA ADR, “[i]f a Player or other Person establishes in an individual case that he bears No Fault or Negligence, the otherwise applicable period of Ineligibility shall be eliminated.”

62. Pursuant to Article 23(1)(a) FIFA ADR, where an ADRV involves a specified substance or a specified method, and an athlete can establish that he or she bore no significant fault or negligence, the period of ineligibility shall be between a reprimand and no period, at a minimum, and two years of ineligibility, at a maximum.
63. To benefit from a fault related reduction, the Athlete must prove the source of the Prohibited Substance. This is explicitly stated in the Definitions of “No Fault or Negligence” and “No Significant Fault or Negligence” of the FIFA ADR which state that: “ [...] *Except in the case of a Protected Person or Recreational Player, for any violation of art. 6 (Presence of a Prohibited Substance or its Metabolites or Markers in a Player’s Sample), **the Player must also establish how the Prohibited Substance entered the Player’s system***” (emphasis added).
64. The Panel will bear in mind the following principles laid in the *José Paolo Guerrero* case (CAS 2018/A/5546 & 5571) related to the establishment of the source of the prohibited substance:
- It is for an athlete to establish the source of the prohibited substance, not for the anti-doping organisation to prove an alternative source to that contended for by the athlete;
  - An athlete has to do so on the balance of probabilities. Evidence establishing that a scenario is possible is not enough to establish the origin of the prohibited substance;
  - An athlete had to do so with evidence, not speculation;
65. The balance of probabilities approach entails that the Panel must be satisfied that the Athlete’s scenario is more likely than not to be true.
66. The Panel will also rely on the approach taken in the *Lawson* (CAS 2019/A/6313) and *Shayna Jacks* (CAS 2021/A/7579 & 7580) cases when assessing the evidence. This assessment “(i) begins with the science and then (ii) considers the totality of the evidence (iii) through the prism of common sense, possibly (iv) “bolstered” by the athlete’s credibility” (emphasis added).
- (b) *The source*
67. Two plausible sources for the prohibited substance in Mr. Young’s system were argued during the proceedings: (i) the herbal tea served in the unwashed glass given by the Respondent’s mother and (ii) ingestion of a 50mg pill of Tramadol.
68. As a preliminary observation, both Parties argued that each of the experts, namely Mr. Brandon Smith – appointed by the Appellant –, and Mr. Javier Herrera – appointed by the Respondent –, were not independent and impartial. Indeed, the Appellant underlined that Mr. Javier Herrera and the Respondent were nationals of the same country, Iridonia, and that this fact alone is enough to question the veracity of his report. The Respondent put forth that Mr. Brandon Smith has been appointed twenty-two times by WADA during the last three years.

69. The Panel decides that neither of these expert reports can be dismissed on the arguments presented above by the Parties because the evidence submitted are not sufficient.
70. As for the source of the prohibited substance, the Panel accepts that, based on the balance of probabilities, the Athlete was contaminated when drinking the herbal tea served in the unwashed glass given by his mother, Susan García.
71. Both experts agree that Tramadol can stay in a person's system up to four days after ingestion. Mr. Javier Herrera takes into account, in addition, the physiological factors of Leslie Young, namely his age and weight, as well as the fact that he was experiencing insomnia due to stress. These factors are scientifically known to slow down the digestion process.
72. The concentration of Tramadol in Mr. Young's system (0.8 ng/mL) seems inconsistent with the conclusion of Mr. Brandon Smith report, that the Player ingested a 50mg pill of Tramadol, 6 to 12 hours before sample provision. Indeed, as per the Tramadol Factsheet published by WADA on 23 November 2023, after twenty-four hours, if Tramadol has been ingested, traces are unlikely to be detected but not impossible. Had Leslie Young ingest a standard 50mg of Tramadol six to twelve hours before sample provision as Mr. Brandon Smith suggests, the Panel is confident that the concentration in his urine samples would have been much higher than 0.8 ng/mL.
73. The witness statement of Ms. Susan García, the Respondent's mother, corroborates the scenario of accidental contamination. Indeed, she was using Tramadol, one to two pills a day, depending on the pain, following an arm surgery due to a fall. She states that she crushes her pills of Tramadol in her glass because she has trouble swallowing. In her statement, she records that the last thing she did, before Leslie woke her up to make him some herbal tea, was taking Tramadol (without precising the number of pills) and leaving the glass on the kitchen counter once she drank her preparation. She recalls that she poured the herbal tea prepared for Leslie in the first glass available in the kitchen, which was a glass available on the kitchen counter.
74. Taking into account the totality of evidence and the lack of persuasive and convincing arguments presented by the Appellant to corroborate the deliberate ingestion of a 50mg pill of Tramadol, the Panel is satisfied that the accidental ingestion of Tramadol due to the herbal tea being served in the glass previously used by the Respondent's mother to take Tramadol, is an acceptable scenario.

**D. What is the applicable sanction?**

*(a) The regular sanction, Article 20(1)(b) FIFA ADR*

75. For an ADRV in the form of the presence of a prohibited substance according to Article 6 FIFA ADR, Article 20(1)(b) FIFA ADR provides, if the substance is a specified substance and FIFA can prove the ADRV was intentional, for a period of ineligibility of four years.
76. Furthermore, Article 20(3) FIFA ADR defines “intentional” as the situation in which an Athlete or other Persons engage in conduct which they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not intentional if the substance is a Specified Substance and the Player can establish that the Prohibited Substance was Used Out-of-Competition.
77. The FIFA DC decided that the Appellant failed to prove that the ADRVs were intentionally committed by Mr. Young.
78. The present Panel is no more convinced by the very few arguments of the Appellant in this regard. Firstly, the Panel accepts the Respondent’s scenario explaining how Tramadol entered his body. Thus, the ingestion taking place during the night of 31st December 2023, the use of Tramadol took place Out-of-Competition. Secondly, the Panel relying on the *Villanueva* case (CAS 2016/A/4534), takes into consideration the demeanour, character and personality of the Athlete. Considering the testimony of Mr. Eugene Deloscampos, the Respondent’s coach, as well as the messages provided by Mr. John McGuinness, the Iridonia’s team doctor, it is evident that the Respondent is a diligent athlete who makes every effort to educate himself on doping issue and displays carefulness regarding any substance possibly entering his body.
79. Thus, the Panel dismisses the Appellant’s argument that the Respondent shall be sanctioned to a four-year ineligibility period.

*(b) Elimination of sanction for No Fault or Negligence, Article 22 FIFA ADR*

80. Article 22 FIFA ADR states that the applicable sanction for an ADRV may be eliminated if the Player bears No Fault or Negligence.
81. Definition 55 FIFA ADR “No Fault or Negligence”, reads as follow:

*“the Player or other Person’s establishing that **he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution**, that he or she had Used or been administered the Prohibited Substance” (emphasis added).*

82. Comment to Article 10(5) WADC – equivalent to Article 22 FIFA ADR – states that the elimination or reduction of the period of ineligibility applies to cases where the circumstances are truly exceptional.
83. The Panel bears in mind the findings of the *Sara Errani* case (CAS 2017/A/5301 & 5302; also, CAS 2007/A/1395): an Athlete is responsible for his entourage when it comes to food preparation; as well as the *Mariano Puerto* case (CAS 2006/A/1025): Athletes must be aware at all times that they must drink from a clean glass.
84. The Respondent’s defence relies on a parallel with the *Roberts* case (CAS 2017/A/5296), in which the Athlete was exonerated from sanction because he was contaminated when kissing his girlfriend, who took the prohibited substance. He did not know that his girlfriend took that medication.
85. It is not unreasonable to expect an athlete to be aware that residues of the substance could be found in a used glass, even if the glass appears to be empty. Even if the contamination happened in the comfort of his home, the Respondent was not exempted from the basic checking that the glass was clean. Thereby, the Respondent failed to exercise the utmost caution to avoid ingesting any prohibited substance.
86. Moreover, Susan García placed the box of Tramadol in one of the kitchen cupboards. As much as the Panel acknowledges the close relationship and mutual trust between the Respondent and his mother, the Respondent had a duty to ensure the safeness of his environment and verifying the content of the kitchen cupboards. As per the *Sara Errani* case, this simple verification is part of this duty. Knowing how invested Susan Garcia is in her son’s football career, she should have known to be more careful with painkillers as efficient as Tramadol, whether the Respondent was aware or not that she indeed took this medication. He could have suspected that, after her surgery, she had been prescribed medication for the pain and should have asked what it was.
87. As such, the Panel finds, contrary to the FIFA DC Decision, that the sanction cannot be eliminated based on “No Fault or Negligence”.

*(c) Reduction of sanction for No Significant Fault or Negligence, Article 23 of the FIFA ADR*

88. Article 23 FIFA ADR states that if “No Significant Fault or Negligence” applies, the sanction varies between a reprimand and no ineligibility period, at a minimum, to a two-year ineligibility period, at a maximum.
89. Definition 56 FIFA ADR “No Significant Fault or Negligence” reads as follow:

*“The Player or other Person’s establishing that any Fault or negligence, **when viewed in the totality of the circumstances and taking into account the criteria for No Fault or negligence,** was not significant in relationship to the anti-doping rule violation.” (emphasis added)*

90. The Panel agrees with both Parties to rely on the *Cilic* case (CAS 2013/A/3327) principles to assess the level of fault, refined by the *Errani* case previously mentioned. Objective and subjective elements are to be considered.
91. Firstly, analysing objective elements relate to “the standard of care that would have been expected from a reasonable person in the Athlete’s situation” (*Errani* case, para. 201).
92. In the present case, even though the Respondent was not scheduled to participate in the World Cup at the time of the violation, the Athlete was still under the obligation to control his environment, his home included. Athletes must exercise the same level of care at home in a family environment as at outside places. His environment is easier to control at home. Thus, the Respondent was expected to tell his mother to ensure to guard the food or drinks from contamination. He also could have verified the kitchen cupboards, following his mother’s injury, to look for any medication. Objectively, the Respondent did not proceed to any checks with his Team’s doctor Mr. John McGuinness.
93. Under the objective elements of fault, the Athlete did not meet the required level of care and displayed a normal degree of fault or negligence.
94. Secondly, subjective elements must be assessed and describe what could have been expected from that particular athlete, in light of his personal capacities. Amongst the factors to take into account, there is: the athlete’s youth and/or experience, the extent of anti-doping education received by the athlete, suffering from a high degree of stress, the awareness of the athlete being reduced by a careless but understandable mistake (*Errani* case, para. 196). According to the *Mariano Puerta* case, a reasonable belief that an athlete was not risking the entry into his body of a Prohibited substance also bears weight in the assessment of fault.
95. In the present case, the Respondent is a minor, who suffered from a high degree of stress after being evinced from the Squad List. Indeed, the Respondent suffered from nine months of stress due to insomnia, altering his clarity of mind. As diligent as the Respondent normally is, he made a slight mistake, comforted by the complete trust he has in his mother, by not checking the content of the glass. The Respondent has been playing professionally for only two years which is a short amount of time. He did receive anti-doping education; however, Tramadol was never mentioned in these trainings. The Panel clearly sees that the Respondent consistently dedicates himself to his anti-doping education, and he always had a clear record, having undertaken five doping tests that all came back negative. Lastly, Mr. Young has merely been contaminated by a substance out-of-competition and it is most likely that once the Match started, well after the test, no traces of Tramadol could have been detected in his urine samples.
96. The Panel thus finds that the level of fault displayed by the Respondent is light and imposes eight months of ineligibility.

**ON THESE GROUNDS**

**The Court of Arbitration for Sport rules that:**

1. The appeal filed by WADA on 2 May 2024 in the case CAS 2024/A/1234 is partially upheld.
2. The decision of the FIFA DC of 5 March 2024 is partially upheld.
3. Mr. Leslie Young is sanctioned with a 8-month period of ineligibility, starting from the date of the present Award.

All other motions or prayers for relief are dismissed.