

ACC 2016/A/009

OFFICE OF THE ATHLETICS CANADA COMMISSIONER
IN THE MATTER OF AN APPEAL

between

LARISSA BROWN

as Appellant

and

ATHLETICS CANADA

as Respondent

OPERATIVE DECISION

I. PARTIES

1. The Appellant, Larissa Brown is a para-athlete who competes in the T-12 100 meters, 200 meters and long jump events.
2. The Respondent, Athletics Canada is the sport governing body for track and field in Canada.

II. JURISDICTION

3. Athletes were considered for selection for individual events under section 4.1 of the 2016 Paralympic Games Selection Criteria, (hereinafter "Selection Criteria" which states:

Eligibility Pool (except Relays)

The Eligibility Pool is defined as all eligible athletes as per Section 1.3 who have minimally achieved 900 points using the Athletics Canada Point Score Table in 2016; and who comply with the Competitive Readiness Requirements (Section 6.0). Additional athletes may be placed in the eligibility pool at the sole discretion of the head coach based on the probability of a podium performance in Rio.

*Only athletes from the Eligibility Pool can be selected to the team. **Being in the Eligibility Pool does not guarantee selection.***

4. Section 7.0 of the Selection Criteria states that only athletes who are eligible to be considered for nomination (as per Section 1.3) and who have achieved AQS or BQS standard during the qualifying period, may submit an appeal for nomination to the NTC. Appeals must be received by end of day, August 4th. Please refer to section 3.0 on page 4 of the National Team Selection Rules Book for instructions.

5. The Athletics Canada Rio 2016 Paralympic Games team was announced on July 27th, 2016. An appeal notice was received from Ms. Brown on August 3, 2016. The Commissioner's office requested further particulars from the Appellant on August 3, 2016 and that information was provided on August 4, 2016. Therefore the appeal was submitted in a timely fashion and was eligible for consideration by the Commissioner's office having met all of the other required criteria.

6. The jurisdiction of the Commissioner's Office is also derived from Section 3.0 of the National Team Selection Rules Book, paragraph 1 and 2 which reads as follows:

1. *Appeals of team selection decisions may only be submitted by athletes deemed eligible to submit appeals as specified in the selection criteria document.*

2. Appeals may be submitted for circumstances related to athlete illness or injury or other reasonable technical circumstances deemed appropriate by the Commissioner's Office. The Commissioner will decide all first level appeals, bearing in mind the team objectives and high performance principles as specified in the Selection Criteria Document.

7. Athletics Canada received the appeal notice from the Commissioner's Office on August 4 2016. A response was filed by Athletics Canada on August 5, 2016. A rebuttal was received from Larissa Brown, through her coach Hugh Conlin on August 5th, 2016.

8. The parties were satisfied that a hearing was not necessary and that the Commissioner could render his decision based on the documentary evidence filed in this proceeding.

III SUBMISSIONS

9. The submissions made by the Appellant can be summarized as follows:

- She acknowledges that she has not satisfied the 900 point threshold for entry into the eligibility pool.
- No one in the world has jumped the 900 score in T 12 long jump this year.
- She is currently ranked 8th in the world in the long jump and has achieved four (4) 'A' standards in this event.
- There are no affected athletes who would lose a spot as a result of her inclusion on the team.
- She has achieved multiple 'B' standards in the 100 meter and 200 meter events.
- She has a long jump best of 4.95 meters. To her knowledge the best performance in the world in T-12 long jump this year are jumps of 5.58 meters and 5.46 meters.
- She is prepared to concentrate on the long jump and believes that her long jump performances will improve at a much higher level if she concentrates her training on the one event.
- As a young athlete with great potential she would benefit significantly from the experience of her first Paralympics.

10. The Respondent, Athletics Canada made the following submissions:

- Given the fact that Ms. Brown has not achieved the 900 point threshold, her inclusion in the eligibility pool is subject to the sole discretion of the head coach.
- The primary consideration of the head coach in exercising this discretion is the probability of a podium performance at the Paralympic Games in Rio de Janeiro.

- The Appellant is currently ranked 8th out of 15 in the world in the long jump event.
- Her best performance this season is more than half a meter behind the third ranked athlete in the world.
- The probability of Ms. Brown achieving a podium performance at the Rio Paralympic Games is low.
- For these reasons she was not placed in the eligibility pool for consideration for selection to the Paralympic team.

IV. DECISION

11. In light of the urgency of this matter, I am providing brief reasons for the decision of the Commissioner's office regarding this appeal. More fulsome reasons will be provided at a later date.

12. The Selection Criteria makes it clear that only athletes who are part of the eligibility pool can be considered for nomination to the Paralympic team by the National Team Committee of Athletics Canada.

13. This appeal is in essence an appeal against the decision of the head coach not to include the Appellant in the eligibility pool.

14. The fundamental issue for consideration in this appeal is whether the decision of the head coach of Athletics Canada not to include Larissa Brown in the eligibility pool was a reasonable one. I find that in these circumstances the explanation given by the Respondent for the non-inclusion of the Appellant in the eligibility pool was reasonable. Although the Appellant may be a young athlete with great potential, the Rio Paralympic selection criteria clearly states that the primary consideration used by the head coach to determine whether an athlete who has not achieved the 900 point threshold will be placed in the eligibility pool, is the probability of a podium performance.

15. Based on the information presented to the Commissioner's Office during the course of this appeal, I find that the discretion of the head coach was not exercised inappropriately or unfairly.

16. For these reasons, the appeal filed by Larissa Brown is hereby dismissed.

Dated at Rio de Janeiro, Brazil, on August 6, 2016.

Hugh Fraser

Athletics Canada Commissioner

