

ACC 2017/A/021

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

between

SAM HALL

as Appellant

and

ATHLETICS CANADA

as Respondent

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## **I. PARTIES**

1. The Appellant, Sam Hall is a 17 year old track and field competitor who competes in the high jump. He is seeking to represent Canada in the 2017 Commonwealth Youth Games in Nassau, Bahamas (the Games).

2. The Respondent, Athletics Canada is the sport governing body for track and field in Canada.

## **II. JURISDICTION**

3. This Appeal has been brought to the Athletics Canada Commissioner's Office pursuant to regulations found in the National Team Selection - Rules Book and in accordance with section 5 of the 2017 Commonwealth Youth Games selection criteria which states that "only athletes who are eligible to be considered for selection (see sections 1.3 and 3) and who have achieved the Qualifying Standard (see Appendix A) during the Qualifying Period (see section 1.2) may submit an appeal for selection to the Commissioner's Office. Due to the CGC submission date, appeals are to be received within one (1) week from the date of the announcement of the team.

4. The Appellant, Sam Hall is eligible to submit an appeal and his appeal was submitted in compliance with the rules.<sup>1</sup> The announcement of the team was made on May 5, 2017 and the Commissioner's Office received the Appeal on May 12, 2017.

## **III. FACTUAL BACKGROUND**

5. Below is a summary of the relevant facts. This Appeal was heard on an urgent basis and after consultation with the Parties, the Commissioner was satisfied that the Appeal could be determined on the basis of the documentary evidence provided.

6. On May 5, 2017, Athletics Canada announced the names of the athletes who had been selected for the 2017 Commonwealth Youth Games in Nassau, Bahamas. Sam Hall's name was not listed amongst the 24 athletes named to the team. The qualifying standard for the men's high jump was 2.06m, and the standard had to be achieved between May 1, 2016 and April 30, 2017. On April 27, 2017 at the Michelle Foley Bay of Quinte Invitational, a high school competition held in Belleville, Ontario, (the competition), Sam Hall cleared 2.10m, a personal best. This height easily surpassed the 2.06m qualifying standard for the Commonwealth Youth Games.

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<sup>1</sup> For jurisdictional purposes, I am proceeding on the assumption that the Appellant's performance on April 27, 2017 was achieved within the Qualifying Period.

7. School competitions in Ontario are approved by the Ontario Federation of School Athletic Associations (OFSAA). Unfortunately, Mr. Hall later discovered that the meet organizers of the Michelle Foley event had not ensured that Athletics Ontario, the provincial governing body had sanctioned this high school event. In order to be included in Athletics Canada's rankings, athletes must be registered members with their Provincial Branch, and the competitions that they enter must be sanctioned by the province as well. The request to sanction the April 27th competition was sent in late to Athletics Ontario by the competition organizers.

8. Without confirmation that the competition was sanctioned by Athletics Ontario, Mr. Hall's 2.10m winning mark could not be considered by Athletics Canada's National Team Selection Committee (NTC) as an eligible performance for the team selection, scheduled to take place on May 1, 2017. Without credit for that performance, Sam Hall was not selected to the team. The official paperwork was subsequently completed and Athletics Ontario has now sanctioned the competition. Athletics Canada in turn has validated the 2.10m performance of Mr. Hall and the jump is considered to have been legitimately achieved.

#### **IV. ISSUE**

9. The issue before me is whether Sam Hall's 2.10m high jump of April 27th satisfies the criteria for selection to the Commonwealth Youth Games team notwithstanding the administrative error which resulted in the meet director not obtaining the necessary sanction for the meet prior to its completion.

#### **V. SUBMISSIONS**

10. In essence both parties have submitted that but for the administrative error by the director of the school competition, Sam Hall's recorded jump of 2.10m would have placed him on the team. There are no affected athletes in this appeal. Both parties agree that this athlete was inadvertently caught up in a situation that was not his fault.

#### **VI. DECISION**

11. The Qualifying Period to achieve the selection standard was from May 1, 2016 to April 30, 2017. The Declaration Deadline was April 30, 2017 and the competition dates are July 19, 2017 to July 23, 2017 in Nassau, Bahamas.

12. In order to be eligible to participate in the Games, an athlete had to satisfy the following criteria:

- Must be a registered member of an Athletics Canada Branch at the time of qualification and through the 2017 Commonwealth Youth Games;
- Must hold Canadian Citizenship by the Selection Date;

- Must submit an Athlete Declaration form as per the dates outlined in Section 1.2
- Must comply with the Final Phase Preparation Requirements as outlined in Section 4.
- Must otherwise be eligible to participate in the 2017 Commonwealth Youth Games;
- have a Canadian passport valid for at least 6 months after the 2017 Commonwealth Youth Games;
- be born in 2000 or 2001

13. Section 3 of the Selection Criteria states that “all selections will be made in accordance with Athletics Canada’s (AC) National Team - Selection Rules Book”.

**NOTE: It is the responsibility of the athlete to submit eligible performances to Athletics Canada at [results@athletics.ca](mailto:results@athletics.ca) in order to be considered for selection.**

14. Section 2.0 of the National Team - Selection Rules Book states that “...[performance] results achieved at university, college or school competitions must be certified by the National Federation of the country in which the competition was organized”.

15. On the evidence before me, the Appellant met all of the eligibility requirements set out in Section 1.3 of the Games selection criteria. Furthermore the Appellant jumped 2.10m in a high school competition on April 27, 2017. Athletics Canada accurately states that the rules require that an eligible performance be turned in prior to May 1, 2017. Athletics Canada could not certify a result unless and until the competition at which that performance was achieved had been sanctioned.

16. IAAF Rule 149 states that “no performance accomplished by an athlete will be valid unless it is accomplished during an official competition organized in conformity with the rules”. The Michelle Foley Bay of Quinte Invitational has now been sanctioned by Athletics Ontario. It is an official completion as defined in the IAAF rules notwithstanding the fact that sanctioning took place ex post facto. The 2.10m high jump of Sam Hall is now a validated performance.

17. In my view there is a difference between having a valid performance by April 30, 2017 and having a performance validated by April 30, 2017. It is clear from the evidence that Sam Hall’s 2.10m high jump performance was not validated until after May 1, 2017. However, I am also satisfied on the evidence before me that Mr. Hall had turned in a valid performance prior to May 1, 2017. The difference is not one of semantics. I find that the Appellant’s jump on April 27, 2017 was a legitimate, valid jump that was, through no fault of his own, not recognized until after May 1. But it would seem indisputable at this point that his performance was a legitimate one which achieved the standard prior to May 1, and with the inclusion of the April 27th performance, his ranking in the event qualifies him for selection.

18. My reading of the rules is that a valid result must be submitted prior to May 1st. Mr. Hall’s now valid performance was submitted in advance of that date and if the NTC

had had this 2.10m result for their consideration, the Appellant would have been selected for the team.

19. Time is of the essence, so rather than sending the matter back to the NTC for re-consideration, I will exercise the authority given to the Commissioner to resolve appeals of selection decisions in any manner by directing that Sam Hall be added to the 2017 Commonwealth Youth Games Team in the mens High Jump event.

20. As a point of obiter dicta, I note that section 1.4 of the National Team Selection Rules Book reads as follows:

In situations where unforeseen circumstances do not allow the process for selection as contemplated in the Selection Criteria Document to be implemented, the NTC reserves the right to determine the appropriate course of action. Depending on the circumstances, such course of action may involve implementation of an alternate process for team selection.

21. In my opinion, failure on the part of the meet organizers to obtain sanction from Athletics Ontario prior to the event, coupled with the short time frame between the competition date, the selection of the team, and the confirmation that the Michelle Foley event was in fact sanctioned, are “unforeseen circumstances”. Had my decision been made on the basis of the unforeseen circumstances criteria, I would have recommended that the NTC consider an alternate process to select the mens high jump competitor.

22. This however is not necessary, based on my finding that Sam Hall has met all of the necessary criteria for selection to the team. For these reasons, the appeal submitted by Sam Hall is upheld. I therefore direct that Sam Hall be added to the 2017 Canadian Commonwealth Youth Games Team.

23. I thank both parties for their assistance in providing material to me on a very timely basis given the urgent nature of this appeal.

Dated at Ottawa, this 13th day of May, 2017.

[Hugh Fraser](#)

Athletics Canada Commissioner