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**The German researchers Treutlein (left) and Spitzer (right) feel that their country still suffers from the GDR doping heritage**



## EXTRACT

# Which rules to follow?

**Sometimes athletes get trapped between different set of rules in national and international bodies.**

**The law Professor Richard H. McLaren from the University of Western Ontario in Canada is a member of the Court of Arbitration for Sports (CAS). In his lecture, he outlined the dilemma and presented a handful of examples:**

By Richard H. McLaren

**No** athlete could be said to be more trapped between conflicting rules than the United Kingdom's Alain Baxter. Not only was Baxter caught up in a purely technical violation of the rules of the OMAC but also he was duped by the domestic national drug laws of the country hosting the Olympic Games.

Baxter was the Bronze medallist in the slalom at the 2002 Olympic Games in Salt Lake City. He had a long-standing medical condition of

nasal congestion and for a number of years had been using a non-prescription Vicks Inhaler to relieve his symptoms.

This inhaler is included on the list of permitted substances issued by the United Kingdom's Sports Council. The domestic drug rules in the United States differ from those of the UK. In the United States, the same Vicks product has a different formulation. The American version of the inhaler contains levmetamfetamine the levo rotation of the stimulant methamphetamine, which is included in the banned substance list of the OMAC.

During his time in Salt Lake, Baxter began to suffer from nasal congestion. When he was unhappy with the medication provided by his

team doctor he proceeded to buy and use the American version of the Vicks inhaler which appeared to be the same product he used regularly in the UK.

Following his medal winning performance he tested positive for the presence of methamphetamine. Methamphetamine is a substance with two rotations, the dextro (methamphetamine) and the levo (levmethamphetamine). Although the IOC refused to order a test to determine which form was present in Baxter's sample the CAS panel was sufficiently satisfied that the sample contained levmetamfetamine resulting from the use of the US Vicks inhaler.

Despite the fact that levmetamfetamine is a much weaker stimulant, and that it was agreed by experts on both sides that it did not have a performance enhancing effect, Baxter was found to have committed a doping offense on a strict interpretation of the OMAC.

This conclusion reveals a stark contrast between a permissive national law and the International Rules, which are broader and more comprehensive. This conflict between national domestic law and international Rules in this case destroyed the athletes attempt to participate successfully.

Had Baxter been competing in

the UK or most other countries the non-prescription Vicks inhaler bought at the time of competition would not have resulted in a doping offense.

To make matters even more sympathetic to the athlete, even if Baxter had read the label on the US Vicks Inhaler and found the term levmetamfetamine, he would not have been able to match that term with any of the prohibited substance listed on the OMAC banned list.

Thus, the OMAC did not have regard for the fact that the levo rotation, levmetamfetamine, was used in non-prescription over the counter medication in the United States. While it should be remembered that Baxter did take a substance without the permission of his team doctor he was clearly caught in a conflict of international Rules and domestic law which was inconsistent with those Rules.

Although these rules were not specifically sporting in nature their effect was to permit an over the counter cold remedy to be sold to an athlete which in a doping context stood to deprive him of his competitive result and serves to illustrate the dilemma elite competitive athletes face today.

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