GABRIEL BARBOSA ALMEIDA V. UNIÃO FEDERAL DO BRASIL & AUTORIDADE BRASILEIRA DE CONTROLE DE DOPAGEM (ABCD), CAS 2024/A/10473

Paul J. Greene

Founding Partner of Global Sports Advocates

ABSTRACT

This comment examines the Court of Arbitration for Sport (CAS) award in *Gabriel Barbosa Almeida v. União Federal do Brasil & Autoridade Brasileira de Controle de Dopagem (ABCD), CAS 2024/A/10473*, concerning the conduct of Brazilian footballer Gabriel Barbosa Almeida during an out-of-competition sample collection session. The CAS Panel found that, although the player had been uncooperative and disrespectful towards the Doping Control Officers (DCOs), his conduct did not constitute an anti-doping rule violation under either Article 2.3 or Article 2.5 of the World Anti-Doping Code (WADC). The comment analyses the requirements for establishing evasion, refusal or failure to submit to sample collection and tampering or attempted tampering, with particular attention to the athlete-notification requirements and the threshold of intentional conduct necessary to subvert the doping control process. It also considers the possibility of sanctioning obstructive or disrespectful behaviour falling below the threshold of an anti-doping rule violation through sporting organisations' disciplinary rules. Finally, the comment identifies the principal lessons arising from the *Barbosa* award for DCOs, athletes, clubs and anti-doping organisations, emphasising proper notification, education, procedural compliance and mutual respect as essential elements of an effective anti-doping system.

KEYWORDS

Court of Arbitration for Sport (CAS); World Anti-Doping Code (WADC); anti-doping rule violation; doping control; sample collection; tampering; evasion; athlete notification; Doping Control Officers (DCOs); Gabriel Barbosa Almeida.

https://doi.org/10.36151/fifalegaljournal.2026.2.05

GABRIEL BARBOSA ALMEIDA V. UNIÃO FEDERAL DO BRASIL & AUTORIDADE BRASILEIRA DE CONTROLE DE DOPAGEM (ABCD), CAS 2024/A/10473

Paul J. Greene
Founding Partner of Global Sports Advocates[1]

Summary: I. Introduction. II. CAS case study: Gabriel Barbosa Almeida v. União Federal do Brasil & Autoridade Brasileira de Controle de Dopagem (ABCD), CAS 2024/A/10473. What happened? Decision at first instance of the Brazilian Anti-Doping Tribunal. Issues on appeal before the CAS. 1. Tampering/attempted tampering under Article 2.5 of the WADC. A. The elements of a tampering/attempted tampering ADRV. B. Gabi's conduct did not amount to a tampering/attempted tampering ADRV. 2. Evasion, refusal and/or failure to submit to sample collection under Article 2.3 of the WADC. A. The elements of an evasion, refusal and/or failure to submit to sample collection ADRV. B. Gabi's conduct did not amount to an evasion, refusal, or failure to submit ADRV. 3. Gabi was not sanctioned. 4. The CAS Panel aspires for a better doping control process in the future. III. The lessons of the Barbosa

[1] Paul J. Greene is the Founding Partner of Global Sports Advocates, LLC, an international law firm specialising in sports disputes. He has represented clients in sports cases around the world, including in anti-doping matters before the Court of Arbitration for Sport.

Case. 1. DCOs, clubs and players must be properly educated. 2. Sporting organisations should consider whether to adopt a Code of Conduct rule to sanction "obstructive and disrespectful behaviour below the threshold of an antidoping rule violation" 3. The bar for a tampering/attempted tampering ADRV is extremely high 4. Notification of an athlete by a DCO must be done in person. IV. Conclusion: the rules in place must be enforced.

I. INTRODUCTION

In the recent Court of Arbitration for Sport ("CAS") case involving Brazilian striker Gabriel Barbosa Almeida ("Gabi"),[2] the limits of Article 2.3 (evasion, refusal or failure to submit to sample collection) and Article 2.5 (tampering/attempted tampering) of the World Anti-Doping Code ("WADC") are on full display. The CAS Panel found that Gabi was uncooperative, difficult and purposefully disrespectful to the Doping Control Officers ("DCOs"), and yet not guilty of committing an anti-doping rule violation ("ADRV"). While Gabi's behaviour could have amounted to an ADRV, it did not, because the DCOs neither notified Gabi properly nor warned him more robustly that further delays in the doping control process were not permitted.[3]

This comment closely examines the *Barbosa* award and shows what DCOs must do when conducting a sample collection session to ensure that the elements of an Article 2.3 or Article 2.5 ADRV can be established. Further, the comment explains how offensive conduct that does not amount to an ADRV (like that of Gabi) could still be sanctioned under the disciplinary rules of a sporting organisation as a non-doping offence, but was not in this case, because the Brazilian sports organisation seeking to discipline Gabi had never implemented such rules in its code of conduct. Finally, the comment details how the *Barbosa* award seeks to establish an aspirational behavioural code for all players and teams to follow when undergoing sample collection: polite behaviour should be followed and demanded; directions by the DCOs should be followed and obstructions to cooperation should be stopped and prevented from the outset. Overall, the *Barbosa* award calls for respect for anti-doping authorities as an essential element of a properly functioning anti-doping system.[4]

---

2 *Gabriel Barbosa Almeida v. União Federal do Brasil & Autoridade Brasileira de Controle de Dopagem* (*ABCD*), CAS 2024/A/10473.

3 *Id.* at para. 150.

4 *Id.*

II. CAS CASE STUDY: *GABRIEL BARBOSA ALMEIDA V. UNIÃO FEDERAL DO BRASIL & AUTORIDADE BRASILEIRA DE CONTROLE DE DOPAGEM (ABCD)*, CAS 2024/A/10473

WHAT HAPPENED?[5]

On the morning of 8 April 2023, DCOs from the Brazilian Doping Control Authority (ABCD) came to the training ground of the famed football club Flamengo to conduct out-of-competition blood and urine testing on multiple Flamengo players, including Gabi. In what would prove a fatal mistake, the DCOs never notified Gabi in person that he was to be tested. Instead, shortly after arriving at around 9 a.m., the DCOs informed Flamengo's team doctor, Dr Tannure, that Gabi was to report for testing. Gabi was then notified of the test by Dr Tannure. Gabi did not immediately report to provide blood and urine samples after being notified by Dr Tannure. Instead, he went to training, which started at 10 a.m. Gabi then went to lunch at around noon. After lunch, Gabi did report and provide a blood sample (at 1:17 p.m.) and later a urine sample (at 2:14 p.m.), although, according to the DCOs, he "used disrespectful language" and was uncooperative. The doping control process ended for Gabi at 2:18 p.m.

As for the uncooperative, difficult and purposefully disrespectful behaviour, at one point Gabi turned his back on the DCO in the bathroom when preparing to provide a urine sample and said, *"Fuck, do you want to see my dick?"* before throwing the collecting vessel to the side and leaving without providing a sample. At another point he told the DCOs to *"fuck off"*. When he did finally provide a urine sample, he headed off to the bathroom without warning, forcing the DCO to run after him. Finally, Gabi wrote by hand on the doping control form, in Portuguese, "*it is the last one that I do*" and "*why I am always chosen*". More broadly, the DCOs reported that Gabi had intentionally made their lives difficult throughout the five hours it took for his samples to be collected.

DECISION AT FIRST INSTANCE OF THE BRAZILIAN ANTI-DOPING TRIBUNAL

In March 2024, the *Brazilian* Anti-Doping Tribunal found that Gabi had committed an ADRV of attempted tampering and banned him for two years, backdated to the date of sample collection (8 April 2023):

> The members of the [Anti-Doping Tribunal] agree, by majority of votes, to apply the sanction to the ATHLETE GABRIEL BARBOSA ALMEIDA in 24 (twenty-four) months of suspension, based on Art. 122, combined with Art. 163, all of the Brazilian Anti-Doping Code for attempted tampering during an out of competition anti-do-

5 *Id.* at paras. 6–13 (background facts).

ping control, and such penalty should start from the date of collection of samples, i.e. 8 April 2023.[6]

Gabi filed a timely appeal (on 2 April 2024) with the CAS against the decision of the *Brazilian* Anti-Doping Tribunal.[7] As it turns out, Gabi was correct to challenge the decision, since the CAS Panel found that the *Brazilian* Anti-Doping Tribunal had wrongly interpreted Article 2.5 of the WADC. In fact, the CAS Panel even took the rare step of issuing provisional measures to stay the decision of the *Brazilian* Anti-Doping Tribunal (on 30 April 2024) and then confirmed its decision to keep the stay in place (on 15 January 2025) before setting aside the first instance decision (on 4 July 2025).[8]

ISSUES ON APPEAL BEFORE THE CAS

In light of what took place, the *Barbosa* CAS Panel presented the following issues on appeal:

1. Is Gabi responsible for a tampering/attempted tampering ADRV under Article 2.5 of the WADC?
2. In the alternative, is Gabi responsible for an evasion, refusal and/or failure to submit to sample collection ADRV under Article 2.3 of the WADC?
3. In the event of a positive answer to either of those two questions, what is the sanction to be applied to Gabi?[9]

1. Tampering/attempted tampering under Article 2.5 of the WADC

A. The elements of a tampering/attempted tampering ADRV

As the definitions in the WADC explain, a tampering or attempted tampering ADRV can be committed only through intentional and/or purposeful conduct:

Tampering: Intentional conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods.[10]

Attempt: Purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an anti-doping rule violation.[11]

6 *Id.* at para. 22.
7 *Id.* at para. 25.
8 *Id.* at paras. 39 and 73.
9 *Id.* at para. 110.
10 *Id.* at para. 117; *see* World Anti-Doping Code (2021) at 176.
11 World Anti-Doping Code (2021) at 166.

Further, for a tampering or attempted tampering ADRV to be committed, truly egregious conduct (or an attempt to engage in such egregious conduct) must take place, as the examples given in the WADC illustrate:

- offering or accepting a bribe,
- making the collection of a sample impossible,
- falsifying documents,
- procuring false testimony, or
- committing any other fraudulent act.

This is confirmed by CAS jurisprudence interpreting Article 2.5 of the WADC, where tampering/attempted tampering ADRVs have involved conduct such as (a) sending doppelgangers to have a sample collected in an athlete's place,[12] (b) submitting fabricated medical records,[13] (c) deliberately contaminating a urine sample,[14] (d) attempting to bribe a DCO to prevent collection of a sample,[15] (e) altering the date on a document and thereby misleading an investigation[16] and (f) knowingly filing erroneous whereabouts information to mislead testers.[17] Conversely, a CAS Panel found that telling a lie to an investigator was not, on its own, sufficient to constitute tampering or attempted tampering.[18] Instead, more was required to show an intentional effort to subvert the doping control process.[19]

B. Gabi's conduct did not amount to a tampering/attempted tampering ADRV

Gabi engaged in the following behaviour during the sample collection process:

---

12 *Id.* at para. 122; *see Rebeca Braga Gusmão v. FINA*, CAS 2008/A/1572, 1632 & 1659 and *IAAF v. ARAF, Olga Yegorova, Svetlana Cherkasova, Yuliya Fomenko, Gulfiya Khanafeyeva, Tatyana Tomashova, Yelena Soboleva & Darya Pishchalnikova*, CAS 2008/A/1718 & 1724.

13 *Id.* at para. 122; *see International Association of Athletics Federations (IAAF) v. Rita Jeptoo*, CAS 2015/O/4128.

14 *Id.* at para. 122; *see FIFA v. FAF & Walid Abdelli*, CAS 2017/A/5142.

15 *Id.* at para. 122; *see Russian Anti-Doping Agency v. Andrei Valerievich Eremenko*, CAS 2018/A/6047.

16 *Id.* at para. 122; *see Brianna McNeal v. World Athletics & World Athletics v. Brianna McNeal*, CAS 2021/A/7983 & CAS 2021/A/8059.

17 *Id.* at para. 122; *see International Weightlifting Federation (IWF) v. Yunder Beytula*, CAS 2022/ADD/49.

18 *Id.* at para. 122; *see Drug Free Sport New Zealand v. Karl Murray*, CAS 2017/A/4937.

19 *Drug Free Sport New Zealand v. Karl Murray*, CAS 2017/A/4937, at para. 147.

- He failed to report to the doping control station upon notification without justification and received no authorisation to delay the doping control process;
- He remained unsupervised by the DCOs for over five hours from the moment of notification to the completion of the test;
- He was extremely disrespectful towards the DCOs, including turning his back when providing the urine sample, leaving the urine sample unsealed on a table at one point, and writing down rude comments on the doping control form.[20]

While Gabi's conduct was clearly offensive, it did not reach the very high threshold for intentional conduct that subverts the doping control process:

> [T]hese actions do not meet the (fairly high) threshold necessary to assume an attempt to subvert the doping control. In addition, this CAS Panel notes that some of those actions were not positively established. For instance, [one of the DCOs] confirmed at the hearing that he had an unobstructed view of the urine leaving the Athlete's body, when the second attempt to collect the sample was made.[21]

In summary, while Gabi was rude and uncooperative, he did not subvert the doping control process. Thus, in answer to question 1 before the CAS Panel, Gabi was not responsible for a tampering/attempted tampering ADRV under Article 2.5 of the WADC.

2. Evasion, refusal and/or failure to submit to sample collection under Article 2.3 of the WADC

   A. The elements of an evasion, refusal and/or failure to submit to sample collection ADRV

Article 2.3 of the WADC states as follows:

Evading Sample collection; or refusing or failing to submit to Sample collection without compelling justification after notification by a duly authorized Person.

As the WADC comment explains, an athlete can evade or refuse a test only intentionally, for example by deliberately avoiding a DCO to evade notification. An athlete can negligently fail to submit to sample collection, but only after having been notified by a duly authorised person.[22]

   B. Gabi's conduct did not amount to an evasion, refusal, or failure to submit ADRV

---

20 *Gabriel Barbosa Almeida v. União Federal do Brasil & Autoridade Brasileira de Controle de Dopagem* (*ABCD*), CAS 2024/A/10473, at para. 125.

21 *Id.* at para. 138.

22 World Anti-Doping Code (2021) at 22.

Here, the CAS Panel found that (1) it was not established that Gabi tried to evade the testers, and (2) Gabi was never notified of the doping control test by a duly authorised person. Rather, the DCOs notified the club's doctor, Dr Tannure, instead of Gabi, in breach of Article 5.4 of the applicable International Standard for Testing and Investigations ("ISTI"), which required notification to be made only to Gabi himself:

> **5.4. Requirements for Notification of *Athletes***
>
> 5.4.1. When initial contact is made, the *Sample* Collection Authority, DCO or Chaperone, as applicable, shall ensure that the *Athlete* and/or a third party (if required in accordance with Article 5.3.7) is informed.[23]
>
> In answer to questions put by ABCD after the test, one of the DCOs even admitted that Gabi had never been notified by a DCO:
>
> *Question to the DCO: Was athlete Gabriel Barbosa Almeida notified by the DCO?*
> *Answer of the DCO: No*[24]

Since there was no intent to evade the testers, the failure to notify Gabi through a duly authorised person made it impossible to prove that an ADRV had been committed. Moreover, the DCOs' "tolerant approach" to the entire sample collection process deprived them of the ability to argue later that there were subsequent delays caused by Gabi:[25]

> [I]n any case, assuming that the "notification" of the Test to the Athlete took place through Dr Tannure, it is uncontroversial that the DCOs, when being informed by Dr Tannure of the Athlete's reasons for not reporting to the doping control station, did not react in any way. More particularly, they did not accompany Dr Tannure to see the Athlete, they did not verify the justification advanced by the Athlete for failing to report to the doping control station, they did not request Dr Tannure to immediately bring the Athlete to the doping control station or did not inform Dr Tannure of the need to continuously supervise the Athlete supervision. Furthermore, the DCOs did not make it clear to either the Athlete or Dr Tannure that a failure to comply with any of the above obligations would be tantamount to an antidoping rule violation.[26]

In sum, it could not be proven that an Article 2.3 ADRV had been committed, because the DCOs deviated from the well-established requirements for athlete notification, as CAS Bulletin 2021/02 explains:[27]

---

23 WADA's International Standard for Testing and Investigations (2023) at 43. Article 5.3.7 did not apply in this case since Gabi was not an athlete with an impairment nor a minor.

24 *Gabriel Barbosa Almeida v. União Federal do Brasil & Autoridade Brasileira de Controle de Dopagem* (*ABCD*), CAS 2024/A/10473, at para. 9.

25 *Id.* at para. 145.

26 *Id.* at para. 134.

27 CAS Bulletin 2021/02 at 12.

A. Notification of athletes

Selected athletes must not only be informed about their rights and responsibilities, but the Sample Collection Personnel must also identify themselves and provide documents of the sports organisation that ordered the sample collection. In this respect Article 5 of the ISTI provides – in its pertinent parts – as follows:

> *[...]*
>
> ***5.4.2. When contact is made:***
> ***[...]***
> ***b) Identify themselves to the Athlete using the documentation referred to in Article 5.3.3 [...]***

According to the aforementioned provisions, the Sample Collection Personnel must provide the selected athletes with official documents of the sample collection authorising ADO and their own identity during the notification process.[28]

Thus, in answer to question 2 before the CAS Panel, Gabi was not responsible for an evasion, refusal and/or failure to submit to sample collection ADRV under Article 2.3 of the WADC.

To quote the CAS Panel, "[t]he process was flawed from the start".[29]

3. Gabi was not sanctioned

While Gabi's conduct did not amount to an ADRV, his behaviour could have led to sanctions had ABCD implemented rules in its code of conduct prohibiting it. The WADC in fact expressly permits an anti-doping organisation to adopt disciplinary rules that sanction offensive conduct towards a DCO that does not rise to the level of an ADRV:

> Offensive conduct towards a Doping Control official or other Person involved in Doping Control which does not otherwise constitute Tampering shall be addressed in the disciplinary rules of sports organisations.[30]

However, ABCD did not adopt such rules, which led to this very telling passage in which the CAS Panel practically encourages sporting organisations not to make the same mistake as the Brazilian authorities:

> [S]uch behaviour could have constituted an antidoping rule violation, had the DCOs notified the Athlete properly and/or had the DCOs adopted a more ro-

28 *Id.*

29 *Gabriel Barbosa Almeida v. União Federal do Brasil & Autoridade Brasileira de Controle de Dopagem* (*ABCD*), CAS 2024/A/10473, at para. 135.

30 World Anti-Doping Code (2021) at 177.

> bust approach by putting the Athlete clearly on guard and advising him that they would not tolerate any further delays. The DCOs, however, chose a different path in order not to escalate things. The behaviour of the Athlete, however unacceptable, does not reach the threshold of an anti-doping rule violation. It is for this very reason that the WADC encourages antidoping organizations to adopt a Code of Conduct in order to sanction an athlete's obstructive and disrespectful behaviour below the threshold of an antidoping rule violation. This CAS Panel observes that the Brazilian antidoping authorities have chosen not to implement such Code of Conduct.[31]

4. The CAS Panel aspires for a better doping control process in the future

The *Barbosa* award concludes with a paragraph that seeks to raise the bar and prevent future DCOs, players and clubs from engaging in the type of behaviour that led to the appeal:

> [The CAS Panel] notes that the DCOs and, more in general, the antidoping authorities must demand respect from all entities involved in football (clubs, players, support staff) and that clubs, players and support staff must pay respect to the DCOs. For instance, limiting the activities (such as restrictions to access to the training centres) beyond what is strictly necessary according to the antidoping rules, should neither be allowed nor be tolerated; polite behaviour should be followed and demanded; directions by the DCOs should be followed and obstructions to cooperation should be stopped and prevented from the outset. As previously mentioned, the respect of the activity of the antidoping authorities is of essence to the proper functioning of the system. All entities involved must recognize this as a starting point.[32]

III. THE LESSONS OF THE *BARBOSA* CASE

1. DCOS, CLUBS AND PLAYERS MUST BE PROPERLY EDUCATED

WADA's anti-doping system is complicated, with many mandates that must be followed. The failure to comply with one of them – the requirement that an athlete be notified in person – is what led to the ultimate decision in *Barbosa* not to sanction Gabi for an ADRV. Each organisation must prioritise the education of its members so that the mandates of the anti-doping system are better understood and the rules are followed in every case.

---

31 *Gabriel Barbosa Almeida v. União Federal do Brasil & Autoridade Brasileira de Controle de Dopagem* (*ABCD*), CAS 2024/A/10473, at para. 150.

32 *Id.*

2. SPORTING ORGANISATIONS SHOULD CONSIDER WHETHER TO ADOPT A CODE OF CONDUCT RULE TO SANCTION "OBSTRUCTIVE AND DISRESPECTFUL BEHAVIOUR BELOW THE THRESHOLD OF AN ANTIDOPING RULE VIOLATION"

Gabi was not sanctioned for behaviour deemed offensive towards the DCOs because the sporting organisation that governed him (and could have sanctioned him) did not have a rule in place to allow for it. Since the WADC allows for such a rule to be adopted, each sporting organisation should decide whether to have a rule in place that forbids offensive conduct towards a doping control officer or other person involved in doping control which does not otherwise constitute an ADRV.

3. THE BAR FOR A TAMPERING/ATTEMPTED TAMPERING ADRV IS EXTREMELY HIGH

Barbosa reinforced that an Article 2.5 tampering/attempted tampering ADRV cannot exist without intentional conduct that subverts the doping control process. Being rude and disrespectful is not enough.

4. NOTIFICATION OF AN ATHLETE BY A DCO MUST BE DONE IN PERSON

Barbosa confirmed that all players must be notified of the doping control test by a duly authorised person. A DCO cannot notify a club representative (*e.g.* the club's doctor) instead of the player.

IV. CONCLUSION: THE RULES IN PLACE MUST BE ENFORCED

Barbosa stands for the proposition that the rules in place, as defined, must govern. The CAS Panel explored the limits of Article 2.3 and Article 2.5 of the WADC and determined that Gabi's behaviour did not amount to a violation of either. All signatories would be well advised to read the *Barbosa* award closely and heed its lessons.[33]

[33] The lessons of the *Barbosa* decision will be equally applicable to the mandates of the new 2027 World Anti-Doping Code (which takes effect on 1 January 2027) since the wording of Articles 2.3 and 2.5 remains unchanged.