

NEW ERA ADR

Case No. 24040501

In the Matter of the Arbitration between

DEDRICK CROCKLEM, Claimant

and

USA BOXING, INC. Respondent

and

EMILIO GARCIA, Affected Athlete.

OPERATIVE AWARD

I, THE UNDERSIGNED ARBITRATOR, having been designated by New Era ADR, and in accordance with the Ted Stevens Olympic and Amateur Sports Act ("ASA"), 36 U.S.C. §220505 et seq., and Section 9 of the United States Olympic and Paralympic Committee ("USOPC") Bylaws (effective April 1, 2023—March 31, 2024), having been duly sworn, and having fully considered the Claimant's March 25, 2024 Section 9 Complaint and Demand for Arbitration; the Respondent's April 19, 2024 Answering Statement and Prehearing Brief; and the Affected Athlete's April 19, 2024 Prehearing Statement as well as the parties' respective exhibits, legal authorities, and witness testimony during an approximately six-hour video hearing on April 21, 2024, does hereby AWARD, as follows:

The Arbitrator has undisputed jurisdiction to resolve the parties' dispute, specifically, whether Respondent has denied Claimant the opportunity to participate in the International Olympic Committee (IOC)'s World Qualification Tournament #2 in Bangkok, Thailand in May 2024, during which successful boxers will earn an opportunity to compete in the sport of boxing at the 2024 Paris Olympic Games, which is a "protected competition" pursuant to Section 1.3(x) of the USOPC Bylaws.

In his Section 9 Complaint and Demand for Arbitration, Claimant requests "an opportunity for a box-off" against the Affected Athlete with the winner earning the opportunity to participate in the World Qualification Tournament #2. He asserts that his "current circumstance . . . is a result, at some level, of the current USA Boxing qualifying process" established by the 2024 USA BOXING ELITE HIGH PERFORMANCE TEAM SELECTION

PROCEDURES - MEN & WOMEN (April 3, 2023) (2024 Selection Procedures).

More specifically, he contends that “as a result of this process [he] has found himself in an untenable position” because [the Affected Athlete] is the current Select Athlete who has been chosen by the [USA Boxing] select committee to participate in the upcoming [World Qualification Tournament #2] for the United States in the 139lb division.”

To the extent that Claimant is challenging the facial validity of Respondent’s published and USOPC-approved 2024 Selection Procedures and/or specifically its team selection procedures for the World Qualification Tournament #2 included therein, the Arbitrator determines that these claims are time barred. Section 9.9 (Time Bar”) of the USOPC Bylaws expressly provides that “A claim against a respondent will be prohibited unless filed with the arbitrator no later than 180 days after the alleged date of denial and the competition that is the subject of the dispute is still upcoming.” Claimant’s Section 9 Complaint and Demand for Arbitration was filed on March 25, 2024, which is considerably more than 180 days and almost one year after the April 3, 2023 written publication and effective date of the 2024 Selection Procedures.

During the hearing, Claimant asserted that Respondent did not apply its 2024 Selection Procedures for selecting its 2024 Elite High Performance Team in a fair and transparent manner, which deprived him of an “equal opportunity . . . to participate in the selection process” for the World Qualification Tournament #2.

Lui and USA Table Tennis Ass’n, Inc. and Tio, AAA Case No. 01-19-0001-4377 (June 20, 2019) (Matthew J. Mitten, Arbitrator) summarizes the applicable Section 9 jurisprudence regarding Claimant’s foregoing assertion:

In a Section 9 team selection dispute, it is well established that the athlete has the burden of proving by a preponderance of evidence a claimed denial of a fair opportunity to compete for selection as a member of a team that will participate in a “protected competition”. . . *Tibbs v. United States Paralympics*, AAA Case No. 71 190 E 00406 12 at 14 (August 28, 2012) (citing several prior Section 9 awards). “Section 9 jurisprudence requires [the Claimant] to prove [the National Governing Body (NGB)] breached its approved and published Athlete Selection Procedures for the [protected competition], applied them inconsistently to athletes similarly situated, acted in bad faith towards or with bias against [her], and/or violated applicable federal or state laws (e.g., Ted Stevens Olympic and Amateur Sports Act).” *Id.*

Id. at p. 17. *See also Dillon v. USA Taekwondo and Greenwood*, AAA Case No. 01-22-0003-5392 (August 23, 2022) (Christian Dennie, Arbitrator) at pp. 8-9; *Jurak v. U.S. Speedskating and Affected Athletes*, AAA Case No. 01-22-0000-1852 (January 28, 2022) (Maidie Oliveau, Arbitrator) at pp. 3-5.

Based on the record evidence, Claimant did not satisfy his burden of proving that Respondent breached any provisions of the 2024 Selection Procedures (which were

adopted to identify the boxers most likely to be successful and to win medals in international boxing competitions) or applied them “inconsistently to athletes similarly situated” or in bad faith towards or bias against him. He does not contend that Respondent’s application of its 2024 Selection Procedures violated any applicable federal or state laws.

Mr. Garcia was eligible to participate in USA Boxing’s 2024 Elite High Performance Team Athlete Selection process for the 63.5 kg/139 lbs category because he was a member of the 2023 Elite High Performance Team (undisputedly in accordance with the 2023 Elite High Performance Team Selection procedures) and won two medals at 2023 international boxing competitions (i.e., gold in the 2023 Gee Bee International Tournament; bronze in the 2023 Strandja tournament). Mr. Crocklem was eligible to participate in the athlete selection process for this category because he won the 2023 USA Boxing Olympic Trials for Boxing Qualification.

During a four-week January 2024 training camp in Colorado Springs, Colorado, both boxers were fairly evaluated based on the same objective and subjective criteria by USA Boxing’s 8-person High Performance Staff set forth in the High Performance Evaluation Guidelines in Attachment A of the 2024 Selection Procedures, which list primarily boxing performance factors. (Testimony of Matthew Johnson, USA Boxing High Performance Director). Claimant did not identify any bias or improprieties in the High Performance Staff’s application of any guidelines either individually or collectively to either boxer. Mr. Johnson credibly testified that Mr. Crocklem was not discriminated against “on the basis of race, color, religion, sex, sexual orientation, age, or national origin” during the USA Boxing training camp or boxer evaluation process.

Claimant did not challenge the accuracy of the 80 points he received in his evaluation or the 83 points Mr. Garcia received in his evaluation. In accordance with the 2024 Selection Procedures, Mr. Johnson and USA Boxing’s AAC Athlete Representative reviewed both boxer’s evaluations and ensured that the 2024 Selection Procedures had been followed. Based on its 2024 Selection Procedures and his higher total points evaluation, Respondent properly selected Mr. Garcia for its 2024 Elite High Performance Team in the 63.5 kg category, which entitled him to participate in both the IOC’s March 2024 World Qualification Tournament #1 in Italy and May 2024 World Qualification Tournament #2 in Thailand.

In *Lui*, the Arbitrator explained:

In a Section 9 team selection dispute, “[a]rbitrators are not ombudsmen; they are authorized to resolve disputes under contracts and rules, not to declare how the world should work in the large.” *Lindland v U.S. Wrestling Ass’n, Inc.*, 227 F.3d 1000, 1004 (7th Cir. 2000). . . .

[Arbitrators] have authority only to determine whether [Claimant] had a fair opportunity to compete for a position on the [team that will compete in a protected competition] and whether [an NGB's] Team Selection Committee used and rationally applied [its] published [Athlete Selection Procedures]. [Their] role is not to determine whether [an NGB] "chose the best process for selecting teams" *Cameron Booth* at 19, or to substitute [their] judgment for the expert professional judgment of [an NGB] in establishing selection criteria or the Team Selection Committee in applying the criteria to individual [athletes]."

Id. at p. 18.

The Arbitrator rejects Claimant's contention that, notwithstanding Respondent's 2024 Selection Procedures, he is entitled to a box-off with Mr. Garcia to determine which one of them will compete in the 2024 World Qualification Tournament #2 because Mr. Crocklem defeated him in the 2021 U.S. Junior National Championships in the 132 lb. weight class and Mr. Garcia failed to qualify to compete in the 2024 Paris Olympic Games in the 63.5 kg/137 lb category based on his performances in the 2023 Pan American Games and 2024 World Qualification Tournament #1. Respondent's published and USOPC-approved 2024 Selection Procedures establish a multi-week Selection System, which included officiated "test matches" between Mr. Crocklem, Mr. Garcia, and other international boxers, to determine the U.S. boxer most likely to be successful in international competitions as a member of its 2024 Elite High Performance Team in the 63.5 kg/137 lb category. Based on *Lui*, the Arbitrator has no authority to substitute a head-to-head boxer competition Trials System by ordering a box-off between Mr. Crocklem and Mr. Garcia to determine Respondent's entrant in the 2024 World Qualification Tournament #2 for the 63.5 kg/137 lb category.

The Arbitrator affirms USA Boxing's selection of Mr. Garcia to participate in the 2024 World Qualification Tournament #2 in the 63.5 kg/137 lb weight category as a member of its 2024 Elite High Performance Team and rejects Mr. Crocklem's Section 9 Complaint in its entirety.

This Award fully resolves all claims and defenses submitted by the parties in connection with this arbitration proceeding. All claims and defenses not expressly granted herein are denied.

The Arbitrator will issue a written reasoned award by June 7, 2024.



Matthew J. Mitten, Arbitrator

April 23, 2024