

## Issued Decision

# UK Anti-Doping and Eric Molina

### Disciplinary Proceedings under the Anti-Doping Rules of the British Boxing Board of Control

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This is an Issued Decision made by UK Anti-Doping Limited (“UKAD”) pursuant to the Anti-Doping Rules (“the ADR”) of the British Boxing Board of Control (“BBBoC”). It concerns a violation of ADR Article 10.12.1 committed by Eric Molina.

Capitalised terms used in this Decision shall have the meaning given to them in the ADR unless otherwise indicated.

#### Facts

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1. The BBBoC is the governing body for the sport of professional boxing in the UK. UKAD is the National Anti-Doping Organisation for the UK.
2. Mr Molina is a 37-year-old professional boxer. At all material times he was subject to the jurisdiction of BBBoC and bound to comply with the ADR. Pursuant to the ADR, UKAD has results management responsibility in respect of all Athletes subject to the jurisdiction of BBBoC.
3. By a decision dated 27 April 2018, the National Anti-Doping Panel (“NADP”) issued Mr Molina with a period of Ineligibility of two years, effective from 28 October 2017, for a violation of ADR Article 2.1, relating to the Presence of the Specified Substance, dexamethasone in a Sample he provided In-Competition on 11 December 2016 (the “ADRV”). The Sample had been provided by Mr Molina following a fight in the UK against Anthony Joshua and the period of Ineligibility was effective from the date on which a provisional suspension had been imposed (28 October 2017). That period of Ineligibility is due to expire at midnight on 27 October 2019.
4. An Athlete’s status during a period of Ineligibility is set out at ADR Article 10.12.1 as follows:

*An Athlete or other Person who has been declared Ineligible, may not, during the period of Ineligibility, participate in any capacity (or, in the case of an Athlete Support Person, assist any Athlete participating in any capacity) in a Competition, Event, or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened, authorised or recognised by (a) the NGB or by any body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory’s member organisation; (b) any Signatory; (c) any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory’s member*

*organisation; (d) any professional league or any international or national-level Event organisation; or (e) any elite or national-level sporting activity funded by a government agency.*

5. UKAD obtained information that during the period of his Ineligibility, Mr Molina had engaged in six sparring sessions with New Zealand professional boxer, Joseph Parker, in preparation for Mr Parker's fight with Dillian Whyte. This bout, which was due to take place in London on 28 July 2018, was governed by the BBBoC, which in turn had issued a licence to fight to Mr Parker.
6. UKAD investigated this as a suspected breach of the terms of Mr Molina's period of Ineligibility (set out at ADR Article 10.12.1). UKAD has concluded that Mr Molina has breached the terms of his period of Ineligibility by acting as an Athlete Support Person and assisting an Athlete participating in a Competition licensed by the BBBoC.
7. The relevant terms in Article 10.12.1 are defined in the ADR as follows:

Athlete Support Person:

*Any coach, trainer, manager, agent, team staff, official, nutritionist, medical, paramedical personnel, parent or any other Person working with, treating or assisting an Athlete participating in or preparing for sports competition.*

Athlete:

*Any Person who competes at any level in the sport under the jurisdiction of the NGB; save that for the purposes of Article 2.8 and Article 2.9, an Athlete is any Person who participates at any level in any sport under the authority of any Signatory, government or other sports organisation accepting the Code.*

Competition:

*A single race, match, game or other sport contest*

8. The term "assist" is not specifically defined in the ADR. However, the comment to Article 2.10 of the WADA Code 2015 (which addresses Prohibited Association on the part of Athletes) states:

*Athletes and other Persons must not work with coaches, trainers, physicians or other Athlete Support Personnel who are Ineligible on account of an anti-doping rule violation or who have been criminally convicted or professionally disciplined in relation to doping. Some examples of the types of association which are prohibited include: obtaining training, strategy, technique, nutrition or medical advice; obtaining therapy, treatment or prescriptions; providing any bodily products for analysis; or allowing the Athlete Support Person to serve as*

*an agent or representative. Prohibited association need not involve any form of compensation.*

9. It follows that the type of assistance which is prohibited on the part of an Athlete Support Person whilst Ineligible includes *training with* an Athlete preparing for a Competition. Where this assistance is provided to any Athlete who competes under the jurisdiction of an NGB, in this case the BBBoC, and participates in any BBBoC Competition or Event, an Athlete Support Person will be in breach of the terms of their period of Ineligibility.
10. The evidence of Mr Molina's assistance to Mr Parker is set out below.

### **Evidence of Breach**

11. Mr Molina was contracted by Mr Parker as a "sparring partner", in preparation for his fight against Mr Whyte on 28 July 2018. Mr Molina attended during Mr Parker's 8-week training camp in Las Vegas, USA, arriving on 2 July 2018 and departing on 14 July 2018. During this period, Mr Molina engaged in six sparring sessions with Mr Parker. Mr Molina was paid for his assistance in sparring with Mr Whyte.
12. Mr Parker's application for a licence with the BBBoC as a "Foreign Boxer" was authorised on 19 June 2018. Article 31 (iii) of the 2018 BBBoC Rules & Regulations states:

*The Anti-Doping Rules apply to all persons licensed permanently, provisionally or temporarily to participate in professional boxing in accordance with the Rules and Regulations of the Board, whether or not the licence holder is a citizen of, or resident in, the Territory.*

13. Mr Parker was, therefore, an Athlete bound by the ADR from 19 June 2018 through to 28 July 2018 inclusive; the date of his bout against Mr Whyte at the O2 Arena in London. Mr Molina was an Ineligible Athlete throughout that period.
14. UKAD informed Mr Molina of its investigation into the potential breach of his period of Ineligibility in October 2018. Mr Molina's representative provided UKAD with detailed submissions in response to that allegation, the details of which are set out below.

### **Jurisdiction**

15. Mr Molina has challenged UKAD's jurisdiction in this matter. Mr Molina's challenge rests on two contentions:
  - 15.1 That Mr Molina's fight on 11 December 2016 against Mr Joshua, which took place in London, was governed by the International Boxing Federation ('IBF') and not by the BBBoC. Since the IBF is not a signatory to the World

Anti-Doping Code, Mr Molina asserts that UKAD had no jurisdiction to manage the results of the Sample he provided at that bout, nor to bring proceedings for any resulting violation.

- 15.2 That UKAD continues to act without jurisdiction since Mr Molina is not presently licensed by the BBBoC. Mr Molina asserts that UKAD is therefore not permitted to impose any further penalty in respect of a breach of his ban.
16. UKAD rejects Mr Molina's assertions and sets out the basis on which it has jurisdiction below:
- 16.1 The BBBoC is the governing body for professional boxing in the UK. It has adopted the ADR and has given UKAD responsibility for results management of anti-doping matters, including any Testing conducted under the ADR, and for bringing enforcement proceedings where such Testing indicates the presence of a Prohibited Substance in a boxer's Sample.
- 16.2 Where a fight takes place under the auspices of the BBBoC, the boxers are licenced by the BBBoC for that particular fight and for a period leading up to the fight. While licenced by the BBBoC, boxers are bound to comply with the rules of the BBBoC, including the ADR. This applies to all boxers who are licenced by the BBBoC, notwithstanding the boxer's nationality.
- 16.3 Mr Molina was granted a licence by the BBBoC to participate in a fight with Mr Joshua under the auspices of the IBF Heavyweight Championship, which took place on 11 December 2016. Mr Molina was, at all material times, subject to the jurisdiction of the BBBoC and therefore bound by the ADR at the time of his ADRV. UKAD had jurisdiction to conduct results management in relation to Mr Molina and retains jurisdiction to ensure that the period of Ineligibility is respected.
- 16.4. In respect of the period of Ineligibility, ADR Article 10.12.5 confirms that the Anti-Doping organisation which brought the original charge, in this case UKAD, shall determine whether there has been a breach of the ban and the appropriate penalty. It is irrelevant that Mr Molina does not presently hold a BBBoC licence: these can be granted in respect of individual fights and Mr Molina is Ineligible to participate in any boxing governed by the BBBoC as a result of his suspension.
- 16.5 In order to commit a breach of ADR Article 10.12.1 in the capacity of an Athlete Support Person, the Athlete who receives assistance must also be subject to the jurisdiction of UKAD and the ADR. In this matter, Mr Parker was licensed by the BBBoC for a fight against Mr Whyte. Mr Parker's licence, which remained in place during each of his sparring sessions with Mr Molina, brought him under the jurisdiction of UKAD and the ADR.

16.6 It follows that any assistance Mr Molina was providing to Mr Parker as a result of the sparring sessions in July 2018 fell under the jurisdiction of UKAD. The fact that Mr Parker's training camp was based in the USA has no bearing on the application of the ADR to Mr Parker and/or Mr Molina or on the status of the sparring arrangements.

### UKAD Conclusion

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17. In considering the evidence as a whole, UKAD has concluded that Mr Molina was acting as an Athlete Support Person in respect of Mr Parker whilst Ineligible, by assisting him with his preparation for a BBBoC Competition. Mr Molina has therefore breached the terms of his period of Ineligibility.

### Sanction

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18. ADR Article 10.12.5 sets out the consequences of breaching the terms of a period of Ineligibility:

*If an Athlete or other Person who is Ineligible violates the prohibition against participation during Ineligibility set out in Article 10.12.1, any results he/she obtained during such participation shall be Disqualified, with all resulting Consequences, including forfeiture of all medals, titles, points and prizes, and a new period of Ineligibility equal in length to original period of Ineligibility shall be added to the end of the original period of Ineligibility. The new period of Ineligibility may be adjusted based on the Athlete's or other Person's degree of Fault and other circumstances of the case. The determination of whether an Athlete or other Person has violated the prohibition against participation, and whether an adjustment is appropriate, shall be made by the Anti-Doping Organisation which brought the charge that led to the initial period of Ineligibility. This decision may be appealed under Article 13.*

19. It follows that UKAD, as the Anti-Doping Organisation which brought the original charge, will determine both whether a breach has occurred and the new period of Ineligibility. UKAD will also determine whether any downward adjustment should be made from a period of two years, that being the length of the original period of Ineligibility. The question of adjustment is determined by the degree of Fault which UKAD ascribes to Mr Molina, along with "other circumstances of the case".

### Fault

20. In assessing Mr Molina's level of Fault, UKAD has had regard to the definition of Fault within the ADR:

*Fault is any breach or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or other Person is a*

*Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.5.1 or 10.5.2.*

21. UKAD has accordingly taken account of the following factors in assessing the degree of Mr Molina's Fault:

**Factors Increasing the Level of Fault**

22. Mr Molina had seen the decision of the NADP Tribunal, which outlined his status during his period of Ineligibility.
23. Mr Molina is an experienced boxer fighting at the highest level of Competition. Given his experience with UKAD in respect of the ADRV, Mr Molina must have been aware of his obligations under the ADR.
24. Mr Molina's breach was early into his ban; it occurred just four months after the NADP's decision to impose a two-year period of Ineligibility.
25. When Mr Molina agreed to spar with Mr Parker, he would have known this was in preparation for Mr Parker's fight with Mr Whyte, which was announced to take place in London. Mr Molina should have been alive to the prospect of that fight being sanctioned by the BBBoC. Mr Molina appears to have made no enquiry with Mr Parker's team to clarify the licensing arrangements for the fight before agreeing to spar.
26. There is no evidence that Mr Molina sought guidance from UKAD or the United States Anti-Doping Agency ("USADA") about whether he could spar with Mr Parker.
27. Mr Molina's attitude to his period of Ineligibility has generally been poor. UKAD has been required on a number of occasions to remind Mr Molina of his obligations under the ADR as an Ineligible Athlete.

**Factors Reducing the Level of Fault**

28. Mr Molina did not receive a letter from UKAD expressly setting out his obligations under the ADR as an Ineligible Athlete after his two-year period of Ineligibility was



imposed. Had Mr Molina received such a letter, it may have provided further clarity to him.

29. Mr Molina was not specifically warned that sparring with or assisting other Athletes subject to the ADR would be a breach of his period of Ineligibility.
30. Mr Molina's understanding was that his period of Ineligibility applied only in the UK. The breach of his period of Ineligibility took place in the USA.
31. The application of the World Anti-Doping Code (the "Code") to professional boxing is complicated. There is no global application of the Code and different anti-doping rules apply in different boxing jurisdictions. It is only via the BBBoc's adoption of the ADR and its consequent application to Mr Parker that the Code applies in these circumstances.
32. Mr Molina has had no obvious anti-doping education.
33. Mr Molina sought the advice of the Texas State Athletic Commission on the applicability of his period of Ineligibility in the USA generally and states that he received generic advice that his period of Ineligibility did not extend to the USA.
34. The sparring arrangements were agreed before Mr Parker's licence with the BBBoc was authorised.
35. Mr Molina played a relatively small role in Mr Parker's preparations for his fight with Mr Whyte. He was one of a number of sparring partners and played no role in the planning or execution of Mr Parker's wider training schedule.
36. There is no suggestion that Mr Molina was at Mr Parker's fight with Mr Whyte or assisted in any other capacity during Mr Parker's training camp. Mr Molina's involvement is limited to six sessions totalling 32 rounds of sparring which is a single course of action over a number of days.

### **Period of Ineligibility**

37. In light of all of the matters set out above, UKAD considers Mr Molina's Fault to be low and that a reduction of 23 months should be applied to the new period of Ineligibility. This results in a new period of Ineligibility of one month being applied.
38. The new period of Ineligibility will commence on 28 October 2019 and will expire at midnight on 27 November 2019.
39. During this period of Ineligibility, in accordance with ADR Article 10.12.1, Mr Molina shall not be permitted to participate in any capacity or, acting in the capacity of an Athlete Support Person, assist any Athlete participating in any capacity in a Competition, Event or other activity (other than authorised anti-

doping education or rehabilitation programmes) organised, convened, authorised or recognised by:

- 39.1 The BBBoC or by any body that is a member of, or affiliated to, or licensed by the BBBoC;
  - 39.2 Any signatory (as that term is defined in the ADR);
  - 39.3 Any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory's member organisation;
  - 39.4 Any professional league or any international or national-level Event organisation; or
  - 39.5 Any elite or national-level sporting activity funded by a government agency.
40. Mr Molina may only return to train with a team or to use the facilities of a club or other member organisation of the BBBoC or a Signatory's member organisation during the last two months of his period Ineligibility (i.e. from 28 September 2019) pursuant to ADR Article 10.12.4(b).
41. Mr Molina, the BBBoC and WADA have a right of appeal against this Decision or any part of it in accordance with ADR Article 13.4.

## Summary

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42. For the reasons given above, UKAD has issued this Decision, which records that:
- 42.1 Mr Molina has committed a violation of the prohibition against assisting Athletes pursuant to ADR Article 10.12.1;
  - 42.2 Mr Molina is issued with an additional period of Ineligibility of one month for his violation of ADR Article 10.12.1; and
  - 42.3 Mr Molina's status during his remaining period of Ineligibility shall be as detailed in ADR Article 10.12.

**25 September 2019**