

American Arbitration Association

In the Matter of the Arbitration Between
Jean Lopez, George Weissfisch and David Montalvo, Complainants
vs.
United States Taekwondo Union, Respondent

Arbitrator's Opinion

Jurisdiction

This expedited arbitration was conducted under the auspices of the American Arbitration Association in accordance with Article IX of the Constitution of the United States Olympic Committee ("USOC") and under the Amateur Sports Act of 1978, 36 U.S.C. §371, et seq.

Article IX, Section 1 says: "No member of the USOC may deny or threaten to deny any amateur athlete the opportunity to compete in...a World Championship competition,...as defined in Article I, Section 2(G)...."

Article IX, Section 2 allows any amateur athlete alleging that he/she has been denied such a right by a USOC member to "...submit to...the American Arbitration Association for binding arbitration, a claim against such USOC member documenting the alleged denial not later than six (6) months after the date of denial."

The complainants (also referred to as "the athletes") are amateur athletes accorded rights under the USOC Constitution and the By-laws of the United States Taekwondo Union ("USTU"). They have represented the United States with distinction in International Taekwondo competition. USTU is the National Governing Body for Taekwondo competition and a member of the USOC.

Relief Sought

The complainants assert that USTU engaged in a course of conduct before and during the National Team Trials held in Phoenix, Arizona on June 13 and 14, 1997 ("Team Trials") that denied them the opportunity to compete in the World Taekwondo Championships ("World Championships") to be conducted in Hong Kong beginning November 19, 1997. They also seek removal from the USTU Executive Committee of Jin Song Chung, Sun Hee Sup Lee and Han Won Lee alleging that these men controlled and/or influenced the Team Trials in such a way as to result in complainants not being selected for the National Team.

Complainants seek "...an opportunity to, under fair conditions, vie for a position on the (National) team to compete at the World Championships," by "asking that the team selection in the Fin, Welter and Heavyweight division be redone before the World Championships."

The Hearing

The hearing was held November 11, 1997 at the offices of the American Arbitration Association, 1005 First City Tower in Houston, Texas.

Appearances

Complainants appeared in person representing themselves.

Respondent, USTU, was represented by Mr. Michael L. Weintraub, Executive Director and Mr. Mark L. Bryant, Attorney.

Mr. Sam Pejo, Secretary of the USTU Athletes Advisory Council, was entitled to be present as representative of the United States Taekwondo National Team members whose status could be affected by the results of the hearing. He was contacted by telephone, during the hearing, placed under oath, spoke briefly by conference call with those present, acknowledged the opportunity to participate in the hearing, and waived the right to be present.

Stipulations

Before the hearing commenced, the athletes and USTU stipulated as follows:

1. That the athletes were entitled to a hearing *de novo* on the issues whether USTU had denied or threatened to deny them the opportunity to compete in the 1997 World Championship Competition;
2. The issue of removal of Messrs. Chung, Lee and Lee from the Executive Committee of USTU would *not* be submitted to arbitration; and

3. The arbitration would *not* involve an attempt to re-judge or re-score Complainants' individual team trial matches.

The Claim

Since the complainants actually participated in the Team Trials the charge that they were denied the opportunity to compete is based on their allegations that Messrs. Jin Song Chung, Sun Hee Sup Lee and Han Won Lee individually and collectively established and carried out a plan to influence the competition and control the results of matches so that the Complainants would lose and not make the team. Mr. Jin Son Chung was President of the Texas Taekwondo Chapter and, since June, 1997 Chairman of the USTU Coaching Science Committee. Mr. Han Won Lee was head coach of the U.S. National Team, Chair of the Athletes Advisory Committee, Coach of the Olympic Training Center permanent residency program, and personally coached some of the Competitors. Mr. Sun Hee Sup Lee was a past president of the Texas Taekwondo Chapter and Chair of the USTU Referees Committee for the past 3 years. The athletes claimed that these men were able to and did convert the Team Trials into a stacked deck against them. They offered evidence of a number of statements, acts and occurrences which they claimed supported their "conspiracy" theory. These are not listed as findings of fact or conclusions of law but to show the thrust of claimants' evidence:

1. After Jean Lopez and Paris Amani opened their Elite Tae Kwon Do Center ("ETC") in Houston in 1996, Mr. Chung suggested to Jean Lopez that he was "stealing" students from other schools that were operated by Taekwondo Masters of Korean origin, that that was "wrong" and could even be "dangerous" to Lopez's competitive career.

2. Complainants claimed that Mr. Chung, who was from Dallas and of Korean origin and others resented the Houston area Taekwondo athletes who were affiliated with ETC, were not of Korean origin, but who were a dominant force on the National Team.
3. That Coach Lee told them that the opening of ETC "created a lot of pressure" within the USTU and that the Olympic Training Center might be shut down because of Lopez and Amani.
4. At the 1997 World Competition in Cairo, Egypt, Coach Lee lined up the entire team, of which Lopez was Captain and singled him out as having "...fought like shit...", telling him, in front of the entire U.S. Team that he wouldn't make the National Team in the future because of the way he fought. At the same time Coach Lee was making these statements he looked at Complainant Montalvo who testified he felt that the threat of not making the National Team was directed at both him and Lopez.
5. Mr. Chung and Coach Lee made other statements before the Team Trials criticizing the attitudes of Lopez, Montalvo and Weissfisch, their egos, lack of respect for their elders, and indicating they wouldn't make the National Team unless they "cleaned up their acts."

6. Two Fin weight athletes (Montalvo's weight class), Yung Han and Gilbert Johnson, and at least one heavy weight (Weissfisch's weight class), were entered in the Team Trials as "wild card" entries after the "wild card" deadline had passed.
7. Coach Lee worked hard to make Nico Davis, a welter weight (Jean Lopez's division) with dual United States and Swedish Citizenship, eligible for the team trials. Although Mr. Davis did not participate in the Team Trials complainants say Coach Lee's efforts showed malice towards Jean Lopez
8. The same identical set of six officials was maintained throughout the second day of competition at Ring #2 for every fight involving George Weissfisch and for Jean Lopez's last two fights.
9. Mr. Sun Hee Sup Lee, Chair of the Referees Committee at the Team Trials, and USTU Team Trial Officials did not rotate referee teams (referee, judges and heads of court) every five matches during the competition as called for in Foundations of Refereeing, the authoritative work on officiating Taekwondo competition (Gyoroogi Competition Rules) (Complainants Exhibit 17). It should be noted that the reason the text gives for rotation of officials is to maintain their "physical and mental strength," due to "the great power and speed of Taekwondo techniques," i.e., to keep them fresh, not to "reshuffle"

the deck. Mr. Sun Hee Sup Lee said USTU didn't have enough officials present at the Team Trials to rotate them.

10. During the Team Trials another officiating rule was broken by virtue of a California official refereeing a match when Mr. Lopez's opponent was from California and an official from Massachusetts served as judge when Mr. Weissfisch's opponent was from Massachusetts. The athletes said they didn't challenge this at the time because they weren't aware of the residence of the officials.
11. At the Team Trials after Jean Lopez won all of his preliminary matches he was sent to Ring #2 for his "final matches" against Troy Garr. When Lopez protested, Mr. Kahn, the official responsible for assigning rings, told him there would be absolutely no ring change.
12. After losing earlier matches in Ring #2, George Weissfisch asked for a ring change or a change of officials. A USTU official named Barbara Wakefield ordered a change of referees but a higher official, Dae Sung Lee, reversed that decision, sending the same team of officials back to judge Weissfisch's last match, which he lost.

13. Several witnesses offered their expert opinions on the matches of Jean Lopez, George Weissfisch and David Montalvo.

- (a) By affidavit Jimmy Graesser, Mr. Lopez's coach, said that Mr. Lopez beat Troy Garr in their final match and that "no reasonable referee could score it otherwise." He also said David Montalvo "clearly" beat Yung Han and that George Weissfisch "clearly" won his matches against David Wilbur and Charles Alexander. He also said that except in matches involving Complainants the referees were "accurate and fair in their scoring of all other matches," and they must have been "coerced" to single out those three Houstonians to lose (Exhibit 7).
- (b) By affidavit, Clayton Barber, an experienced Taekwondo athlete, said the losses of the Complainants were the result of "egregious unfairness" by the officials (Exhibit 8).
- (c) By affidavit Larry Rogers, a National referee, USTU Level A, said that in his expert opinion, based on a study of videotapes, George Weissfisch won against David Wilbur and Jean Lopez won over Troy Garr. He did not say he thought the results were egregious or could only have been produced by coercion or bias.

(d) Paris Amani, Jean Lopez's business partner and George Duty, George Weissfisch's coach both testified that Mr. Lopez and Mr. Weissfisch clearly won their matches and that no reasonable official could have concluded otherwise.

14. After the Team Trials, when Messrs. Weissfisch, Lopez and Montalvo were "bowing" to Jin Song Chung, as President of the Texas Taekwondo Chapter, Mr. Chung told them he was "happy you guys lost." Mr. Lopez said that Mr. Chung sounded as if he had controlled the results of the team competition.
15. Mr. Lopez and Mr. Weissfisch protested the loss of their final matches under Article 25(3) of the USTU Competition Rules, paid the \$200.00 protest fee, but claimed that up to the time of the hearing they had not been told of the disposition of those protests although they assumed they lost and had not expected to be sustained.
16. USTU raised technical defenses to the written complaints filed by the athletes under Article XXVI of the USTU By-laws which were made on or about August 5, 1997, delaying the complaint process to late September. USTU did not hold a hearing on the complaints until October 23, 1997 when an all day hearing was held in Houston.

17. No decision was rendered under the USTU complaint process until October 30, 1997, less than three weeks before the World Championships were to be held.
18. USTU never provided the athletes with the names of the officials at Ring #2 who judged their matches.
19. USTU officials suggested that score sheets and records of the ring assignments of officials were not retained because the athletes did not file the complaint within a thirty day time limit after the matches. It is difficult to understand this claim because the USTU complaint process (By-laws, Article XXVI) allows sixty (60) days for the filing of a complaint. It is true that under USTU's Rules of Competition, protests must be filed within ten (10) minutes of the end of the match and the rulings of the Board of Arbitration that considers the protest are deemed "final and conclusive." This issue is discussed further below.

Although these technical matters and the failure to produce relevant records related to officials and scoring did not reflect well on USTU's sensitivity to the athlete's complaints, in the end USTU waived many technical defects in the athletes presentations and appeared, finally, to deal thoughtfully and thoroughly with the substantive issues.

20. Jesse Torres, the father of fly weight Jason Torres one of the Houston "ETC" athletes who did make the National Team said he overheard Jin Song Chung tell George Weissfisch before Team Trials in Phoenix, "you will not win again and be on the National Team until things settle down--Jean Lopez is out of control."

21. Oscar Montalvo, David Montalvo's father, said that he overheard Coach Han Won Lee tell a fly weight fighter, Angel Arenzamendi, who was scheduled to fight Jason Torres in a final match but was withdrawing because of injury, "just get up there and you will win." Mr. Montalvo said that the implication of Coach Lee's statement seemed to be that the outcome had already been determined against Mr. Torres if Arenzamendi would just make it into the ring. He did not.

22. One time during the Team Trials when George Weissfisch was awaiting assignment to a ring, there seemed to be a deliberate plan to have him go only to Ring #2 because other rings became available and other fighters who came for scheduling after Mr. Weissfisch were assigned to those other rings until Ring #2 became available for the Weissfisch match.

The athletes expressed concern about a "Korean" or "Korean-American" cultural influence within USTU's leadership that called for deference to be shown to elders like Messrs. Chung, H.W.

Lee and S.H. Lee. They believe that this cultural influence became a bias against them because they were not of Korean origin and did not always display the deferential niceties they felt Messrs. Chung, Lee and Lee expected them to show. They also expressed concern that officials "helped" athletes who were coached by Han Won Lee because he was team coach, although it appears that his athletes fared no better than the Houston group.

Analysis

While some or all of these facts may have been consistent with the athletes' claims of a conspiracy against them, they fall far short of establishing a conspiracy. And there were many other facts and events which argue against such a conclusion.

1. Two members of the Houston "ETC" team did win their way onto the National Team selected at the Team Trials in Phoenix: Jason Torres, a fly weight and Steven Lopez, a feather weight. Steven Lopez is Jean Lopez's brother.
2. David Montalvo fought and lost all of his matches in Ring #1 and fought no matches in ring #2 where the alleged bias against the ETC team was said to be manifested.
3. None of the athletes and none of the witnesses who testified on their behalf ever saw any conversations between Messrs. Jin Song Chung, Sun Hee Sup Lee or Han Won Lee with any of the officials who worked at Ring #2.

4. The USTU Board of Arbitration which considered and unanimously overruled the protests of George Weissfisch and Jean Lopez (concerning their final matches) were appointed by John Holloway, Vice President of USTU and included Kim Dotson-Peck, Barbara Wakefield and Pam Chase as well as Mr. Holloway. There is no evidence in the record that they were controlled, coerced or intimidated by Messrs. Chung, Lee or Lee.

At the heart of the alleged conspiracy would have to be (a) the four ringside judges at Ring #2, at least two of whom would have to have falsely scored the matches, or (b) the Head of Court who would have to have falsely announced the scores. Not one word of testimony was offered even as to who these officials were, much less what they had to say about such allegations. To impugn their integrity anonymously and without affording them the courtesy of an opportunity to respond would require far stronger evidence of conspiratorial control over their actions than has surfaced to date.

The major reason for the absence of information about the identity of the officials was the failure or refusal of USTU to provide the Complainants with their names and this was highly prejudicial to the athletes' ability to pursue their complaint effectively (see note below).

At the arbitration hearing USTU did, finally, produce the records related to Mr. Lopez's protested final match (see Respondent's Exhibit 5). The record of Mr. Weissfisch's protest remains

"unavailable," though Mr. John Holloway was able to state that the arbitration panel had unanimously overruled the protest before the next heavy weight match at the Team Trials.

With the Lopez protest records it is possible to figure out who some, perhaps all, of the Ring #2 officials were by comparing the list of Team Trial Officials (Exhibit A of the Panel Decision Report of October 30, 1997) with the score sheets attached to the Protest. Mr. Lopez's coach, Jimmy Graesser had already identified the referee as Myung Kim. The judges who are identified by reference to the score sheets were James Montgomery of Massachusetts, Ji Young Song of Florida (the name "Song" appears on one of the scoring sheets, and there is only one "Song" on the Official Referee List); Valerie Long of California ("Long" appears on one of the scoring sheets and there's only one "Long" on the Official Referee's List); and the other judge was from South Carolina and would have been either Linda Litchford or Victoria Serbin. It is difficult to decipher the signature as belonging to either Ms. Litchford or Ms. Serbin. Although others might be able to do so, the Arbitrator was not able to match the signature of the official who signed the Head of Court's Paper for the match. There is nothing in the record that demonstrates any kind of relationship between these officials and Messrs. Chung, Lee and Lee that would lead them to score the match falsely to produce losses by Messrs. Weissfish and Lopez.

It is truly unfortunate and not a little suspicious that USTU did not provide the athletes with information that would have allowed them to summon these individuals as witnesses or investigate their possible connections with or influence by Messrs. Chung, Lee and Lee.

With regard to the matches themselves, Mr. Holloway said that he saw one or both of the matches involving Mr. Lopez and Mr. Weissfisch and felt that they were both close. He testified that could not say that Mr. Lopez and Mr. Weissfisch had "clearly" or "indisputably" won their matches.

Mr. Chung wrote a detailed letter to the President of USTU which was made part of the "Compliance Hearing" record and is Respondent's Exhibit 3 in the arbitration, responding to the charges of the athletes. While it is understood that such a letter would be crafted in such a way as to refute the athletes' charges, between the letter and Mr. Chung's testimony by long distance telephone from Korea, his version of the events and his interpretation of his words and actions are, in the opinion of the Arbitrator, very plausible.

Moreover, an extensive hearing was held by USTU under Article XXVI of its By-laws. Much testimony was received by a panel comprised of Ms. Lynnett Love, USTU Women's Committee Chair, Ms. Sharon Jewell, USTU AAC panel member, and Sung Chul Whang, Attorney at Law. It appears that the athletes were allowed to participate and cross examine witnesses. Technical defects in their presentations were waived. A lengthy reasoned decision was written that concluded that there had been no violation of USTU's Articles of Incorporation, By-laws or Competition Rules.

David Montalvo filed no official protest following his final defeat at the Team Trials. He protested his ouster by sitting in the ring and refusing to leave. He said that he feared an official protest would be held against his ETC teammates who would be fighting later in the competition.

Nevertheless he is not in a very good position to complain about the judging or scoring of his matches except as the results might have been part of a vast but essentially unproved conspiracy.

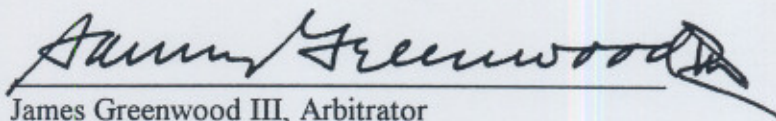
In the last analysis, what the athletes claims boil down to is the bold assertion that hostility directed at them by Jin Song Chung, Sun Hee Sup Lee and Han Won Lee kept them from making the National Team. Since none of these men had any direct control over the scoring of their matches, the Complainants assert that they accomplished this by several unnamed ring-side officials in rings #1 and #2 deliberately and falsely judging and scoring their matches in violation of their responsibilities as officials. They also implicated Mr. Holloway, Ms. Wakefield, Ms. Chase and Ms. Peck. No evidence was offered to support these implications except that these three athletes lost matches that they thought they should have won and that some others thought they should have won as well. Concrete proof, not suspicion, innuendo and speculation, is necessary to justify requiring three members of the National Team to fight again for the positions they gained at the Team Trials.

To be sure it is hard to prove a conspiracy. If the USTU had been more forthcoming with the names of officials, had retained and produced records identifying officials who served at each ring in the Team Trials, or had produced score sheets showing how the individual officials had scored the various matches, a more thorough investigation could have been done. Whether such an investigation would have provided information supporting the athletes' suspicions requires rank speculation in which no Arbitrator may properly engage.

The fact is that a National Team comprised of sixteen members was selected at the Phoenix Team Trials in June, 1997. Two of those members were part of the Elite Tae Kwon Do Center team from Houston. One other, a fin weight named Kay Poe was also from Houston. Only these three complainants have complained about the manner in which the team was selected, the officiating, the scheduling or ring assignments.

For the reasons stated, the Arbitrator concludes that the Complainants failed to establish by a preponderance of the evidence that they were denied the opportunity to compete in the 1997 Taekwondo World Championships. Therefore the relief which they requested is denied.

Respectfully submitted,

A handwritten signature in black ink that reads "James Greenwood III". The signature is written in a cursive style and is positioned above a horizontal line.

James Greenwood III, Arbitrator
November 11, 1997