

The Freeman Case — Cycling's Next Tribunal

Dr. Richard Freeman has been feeling the heat as his medical malpractice tribunal in Great Britain nears its conclusion. Meanwhile, the biological passport system has also recently come under fire in Spain. Anti-doping practices in pro cycling may change as a result.

The circus that is [Dr. Richard Freeman's Medical Practitioners Tribunal Service](#) (MPTS) hearing in Great Britain picked up again in October, with many new face-palm revelations by the former Team Sky and British Cycling medical director. Although it has made for a titillating media sideshow, we need to move beyond the more salacious details revealed by the hearings. Along with a Spanish court's [recent rejection](#) of the Athlete Biological Passport (ABP) system as proof of doping, the ever-thinner line between medical support and doping in sport has reached a critical point. Legally-empowered investigative organizations, outside of sports governance, may now start to play a more important role in anti-doping in the future.

Great Britain's MPTS is notable for how it was created following a major breakdown in its National Health Service (NHS) oversight – the case of serial killer [Dr. Harold Shipman](#), which was recently re-examined in a BBC program. Over an estimated 25-year span, Shipman purposely manipulated NHS medical reporting and medication ordering records, until he was apprehended in 1998. During this time, it is alleged that he may have killed upwards of 200 of his patients with overdoses of medical-grade heroin.

As a result, medical oversight throughout the NHS was restructured, and physician responsibilities for documentation and reporting were significantly improved. In particular, the [MPTS was granted](#) broader powers to investigate and prosecute malpractice when discrepancies in care are discovered. Outside of certain U.S. states' medical boards, the MPTS is among the most disciplined and empowered system anywhere in the medical field.

However, it is important to recognize that the MPTS is *not* tied to any sports governance bodies or stakeholders. Fans and stakeholders in pro cycling may either be upset or relieved that the tribunal was not convened to uncover a doping program. The MPTS's only charter is to reinforce the safety of the NHS and, in Dr. Freeman's case, only seeks to determine if evidence of his alleged malpractice requires disciplinary consequences.

From this perspective, it becomes clearer as to why the MPTS has carefully framed the public hearings around Dr. Freeman's questionable testosterone order, and to whom it was dispensed. Dr. Freeman has admitted destroying medical records that documented the health of individuals under his care, who *may or may not* have had conditions requiring treatment with the potent performance enhancer. He deliberately (twice) destroyed or lost his copies of the patient treatment histories which would validate his medical judgment for those prescriptions.

Furthermore, when testosterone values of the riders were to be reviewed, Dr. Freeman could not remember the password to access the data on a *fourth* laptop, and the existence of yet a *fifth* laptop was revealed shortly thereafter. All of these disclosures and claims that Sky never "crossed the line" from marginal gains into doping worsened his position, in that none of his treatment recommendations or medication orders would be verifiable against his patients' diagnoses. In a sense, the tribunal is weighing evidence that Dr. Freeman was inventing or otherwise falsifying patient information to mask unnecessary or unethical treatment – a central aspect of the Shipman case.

At first glance, Dr. Freeman's actions seemingly show incompetent record-keeping habits and poor professional relationships with his peers. However, this may just reflect him and his legal team positioning for a suspended license – due to inept documentation – rather than a permanent revocation for systemic

records tampering. In other words, sloppy, but not crossing the threshold for medical negligence. But whether or not this legal gambit succeeds, it is becoming increasingly obvious that Dr. Freeman should be suspended or otherwise restricted from practicing medicine in the future.

More broadly, this MPTS hearing may have wider implications for professional sports, like cycling, that have been tainted by doping scandals. The behaviors of medical professionals to facilitate doping are being increasingly scrutinized from outside of the sporting context – such as the ongoing Operacion Hypoxianet investigation in Spain and Operation Adderlass criminal proceedings in Germany.

One reason for this shift is that the World Anti-Doping Agency and its national signatory bodies haven't made long-lasting impacts on physician-assisted doping, despite the sporting sanctions which can be imposed. For example, lifetime bans from working in sports or with athletes were handed to Dr. Michele Ferrari and Dr. Geert Leinders, both of whom were identified in the U.S. Anti-Doping Agency's 2012 reasoned decision in Lance Armstrong's case (Ferrari at USPS and Discovery, and [Leinders at Rabobank](#), as implicated in testimony given by Levi Leipheimer during the Armstrong investigation).

Rather than being reviewed by a medical board, these cases were strictly measured on the doping allegations, not on patient care or medication mismanagement issues. (Notably, Dr. Freeman took over from Dr. Leinders at Team Sky in the wake of USADA's Armstrong-era disclosures.) Other previous cases were hamstrung by the lack of specific criminal codes for doping in many countries, including ones against Dr. Ferrari and his mentor [Dr. Francesco Conconi](#) in Italy, and Dr. Eufemiano Fuentes and the [Operacion Puerto investigation](#) in Spain.

As a result, these previous investigations were often limited to the sporting arena and many were overturned on appeal – banned from working in professional sports, but still able to practice medicine. (Persistent reports of Ferrari still clandestinely working with pro athletes continue to hint at the demand for his services.) The scrutiny on Dr. Freeman today is exactly where it should be, and it may finally set the precedent of a medical tribunal doing what sporting integrity bodies generally have not done: imposing meaningful, career-threatening disciplinary actions against practitioners, to dissuade other medical professionals from facilitating doping.

What else can sports like cycling do to reduce the risk of physician-assisted doping? Cycling, like many sports, is notorious for its lack of institutional oversight and peer review of medical protocols, and these factors were called out in the Cycling Independent Reform Commission findings in 2015. Most teams still only have one physician, and many individual riders employ separate personal physicians and “trainers.” Many women's teams lack consistent medical support.

Unfortunately, when cycling attempted to reinforce healthcare controls during the EPO era, the UCI hired Dr. Conconi as its medical standards czar. This was a complete disaster for various reasons, including his subsequent doping prosecution and reputation as [a catalyst for EPO abuse](#) in cycling. And Dr. Mario Zorzoli, the most recent UCI medical lead prior to the appointment of Professor Xavier Bigard in 2018, was accused of lax oversight during Dr. Leinders' case. It seems obvious that an independent medical board should be convened – to implement better infrastructure and oversight for minimum athlete care standards, and finally hold physicians accountable at the medical licensure level for negligent actions.

More medical tribunal-style cases involving sport could be forthcoming and will draw a different battlefield in the anti-doping field, especially given the inherent weaknesses of the biological passport system. Those passport weaknesses were crystallized recently when a Spanish court ruled in favor of overturning the ABP case of [Ibai Salas](#) because Salas' lawyer successfully argued that, on its own, a passport finding isn't a doping violation. Since no actual substance or WADA-prohibited method was named in his case, the court found that Salas could be presumed innocent of the charges.

If the ABP is just an evidentiary trail, as the Spanish court suggests, where does the evidence point? On one side, WADA is tied to the athlete and its burden to use ABP evidence to prove whether or not the athlete has cheated – and the Salas ruling has made that a tenuous stance. But on the other side, there is a tremendous amount of medical support needed to accurately measure an athlete's biological parameters at peak performance – and exceed that peak performance by illicit use of medications or methods such as blood transfusions. The Spanish ruling may have inadvertently kicked the ABP ball straight out of WADA's pitch and into the medical tribunal playing field.

It may be some time before the MPTS hands down a ruling in the Freeman case; some tribunal or medical board cases can take years to close. But the hunt for marginal gains in sport may be illuminated in a new and unfavorable light as Dr. Freeman's case concludes. The current and former officials at Team Sky (now Team Ineos-Grenadiers) and British Cycling may avoid the hammer, although Dr. Freeman will likely not. As Salas evaded the ABP charges he doped with one potentially landmark ruling in Spain, the MPTS scrutiny of Dr. Freeman's actions may be about to set another.

Written by Joe Harris, November 18th, 2020.

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