


CLERK OF THE COURT

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17 Attorneys for Respondents

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 NICHOLAS DIAZ,)
13)
14) Petitioner,)
15)
16) vs.)
17)
18)
19)
20) KEITH KIZER, Executive Director for the)
21) Athletic Commission of the Department of)
22) Business and Industry, State of Nevada; and)
23) NEVADA STATE ATHLETIC COMMISSION,)
24)
25) Respondents.)
26)
27)
28)

Case No. A-12-665815-J
Dept. No. XXXI

19 **NOTICE OF ENTRY OF ORDER**

20 YOU, AND EACH OF YOU, PLEASE TAKE NOTICE that an Order Denying Petition for
21 Judicial Review was entered by the Court on the 14th day of February, 2013, in the above-
22 entitled action, a copy of which is attached hereto as Exhibit "A".

23 DATED this 15th day of February, 2013.

24 CATHERINE CORTEZ MASTO
25 Attorney General

26 By: /s/ VIVIENNE RAKOWSKY
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28 Deputy Attorney General
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CERTIFICATE OF SERVICE

I, hereby certify that on the 15th day of February, 2013, I served the **NOTICE OF ENTRY OF ORDER**, by causing to be delivered to the Department of General Services for mailing at Las Vegas, Nevada and via facsimile, a true copy thereof, addressed to:

Ross C. Goodman
Goodman Law Group, P.C.
520 S. Fourth St., 2nd Floor
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Attorneys for Plaintiff

/s/ TRACI PLOTNICK
An employee of Office of Attorney General

EXHIBIT “A”

Alvin D. Quinn
CLERK OF THE COURT

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DISTRICT COURT
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12 NICHOLAS DIAZ,)
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20) NEVADA STATE ATHLETIC COMMISSION,)
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22) Respondents.)
23)

Case No. A-12-665815-J
Dept. No. XXXI

ORDER DENYING PETITION FOR JUDICIAL REVIEW

20 The above-captioned matter came before the Honorable Joanna S. Kishner on
21 December 14, 2012 on Petitioner's Petition for Judicial Review of a Hearing Officer's Findings
22 of Fact, Conclusions of Law and Order.

Findings of Fact

- 24 1. There is substantial evidence to show that Nick Diaz tested positive for marijuana
25 metabolites in a post-fight urine test on February 4, 2012.
- 26 2. There is thereby substantial evidence to show that Nick Diaz used marijuana before his
27 February 4, 2012 contest, which is a violation of NAC 467.850(1)(c).

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<input type="checkbox"/> Voluntary Dis	<input type="checkbox"/> Stop Dis	<input checked="" type="checkbox"/> Open Judges
<input type="checkbox"/> Involuntary (stat) Dis	<input type="checkbox"/> Stop Judges	<input type="checkbox"/> Non-Jury Trial
<input type="checkbox"/> Jdgmt on Arb Award	<input type="checkbox"/> Default Jdgmt	<input type="checkbox"/> Jury Trial
<input type="checkbox"/> Mtn to Dis (by deflt)	<input type="checkbox"/> Transferred	

- 1 3. There is substantial evidence to show that because Nick Diaz had been disciplined by
2 the Commission in 2007 for using marijuana before a contest, he knew that the Nevada
3 State Athletic Commission will discipline any contestant who uses a drug which has not
4 been approved by the Commission before or during a contest.
- 5 4. Whether Mr. Diaz legally uses marijuana in California is not relevant to whether he
6 violated the regulations of the Nevada State Athletic Commission by using marijuana
7 before or during a contest.
- 8 5. There is substantial evidence to show that Nick Diaz admitted that he uses marijuana
9 to aid in training.
- 10 6. There is substantial evidence to support a finding that Nick Diaz understood that his
11 use of marijuana as a medication should have been disclosed to the Commission.
- 12 7. There is substantial evidence to show that Nick Diaz understood that he should have
13 disclosed his use of medical marijuana as either a prescription or over the counter drug
14 on the Pre-Fight Questionnaire.
- 15 8. There is substantial evidence to support a finding that Nick Diaz knew he should have
16 disclosed information regarding his medical condition on the Pre-Fight Questionnaire.
- 17 9. Although argued in the pleadings, the credibility issue was not argued before this Court
18 on December 14, 2012, however, this Court finds that there is substantial evidence in
19 the record that calls Mr. Diaz' credibility into question.

20 Conclusions of Law

- 21 1. The Nevada State Athletic Commission has broad jurisdiction to interpret and rule on
22 its own Statutes and Regulations.
- 23 2. In Nevada, to show a violation for the use of marijuana, the test that is the standard of
24 the industry is the urine test, which tests for the presence of marijuana metabolites.
- 25 3. A due process violation did not occur because by testing positive for marijuana
26 metabolites in his post-fight urine test, Mr. Diaz violated NAC 467.850.
- 27 4. The Nevada State Athletic Commission did not exceed its authority when it disciplined
28 Nick Diaz following his positive test for marijuana metabolites.

- 1 5. The Nevada State Athletic Commission did not exceed its authority when it disciplined
2 Nick Diaz for providing false or misleading information to the Commission or a
3 representative of the Commission.
- 4 6. In finding Nick Diaz violated NAC 467.850, NAC 467.885 and NAC 467.886, the
5 Commission did not act: (a) In violation of constitutional or statutory provisions; (b) In
6 excess of the statutory authority of the agency; (c) Upon unlawful procedure; (d) In
7 error of law;(e) Clearly erroneous in view of the reliable, probative and substantial
8 evidence on the whole record; or (f) Arbitrary or capricious or characterized by abuse of
9 discretion.
- 10 7. The Court, having reviewed the record and considered the arguments of the parties,
11 finds that there is sufficient evidence to support the Commission's Findings of Fact,
12 Conclusions of Law and Order disciplining Nick Diaz.

13 Order

14 Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Petitioner's
15 Petition for Judicial Review is DENIED.

16 DATED this 12 day of February, 2013.

17 JOANNA S. KISHNER

18 
19 _____
20 JOANNA S. KISHNER
21 DISTRICT COURT JUDGE
22 91

20 Respectfully submitted by:

21 CATHERINE CORTEZ MASTO
22 Attorney General

23 By: 

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26 Deputy Attorney General
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