

**DECISION OF THE  
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION  
DIVISION I INFRACTIONS APPEALS COMMITTEE**

**December 6, 2017**

Infractions Decision No. 460

Former Head Men's and Women's Track and Field Coach

University of Mississippi

Oxford, Mississippi

This decision is filed in accordance with NCAA Bylaw 32.11 and is organized as follows:

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## **I. INTRODUCTION.**

The former head men's and women's track and field coach at the University of Mississippi, appealed to the NCAA Division I Infractions Appeals Committee specific findings of violations and penalties as determined by the NCAA Division I Committee on Infractions. In this decision, the Infractions Appeals Committee addresses the issues raised by the former head men's and women's track and field coach (hereinafter referred to as former head coach).

## **II. BACKGROUND.**

On October 7, 2016, the Committee on Infractions issued Infractions Decision No. 460 in which the committee found violations of NCAA legislation in the men's and women's track and field program at Ole Miss. On the basis of those findings, the Committee on Infractions determined that this was a major infractions case and imposed penalties accordingly.

This case centered on violations of NCAA bylaws governing recruiting of prospective student-athletes.

After the Committee on Infractions issued its decision, former head coach filed a timely Notice of Appeal, October 22, 2016. A written appeal was filed November 28, 2016. The Committee on Infractions filed its Response January 5, 2017. Former head coach filed his Rebuttal to the Committee on Infractions' Response, January 24, 2017. The case was considered by the Infractions Appeals Committee September 15, 2017 (see Section VII below).

## **III. FINDING OF FACT AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.**

See Committee on Infractions decision for former head coach Page Nos. 5 through 14. A copy of the decision may be accessed via the NCAA Legislative Services Database for the Internet (LSDBi) at the following link: <https://web3.ncaa.org/lpdbi/>.

## **IV. ANALYSIS AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.**

See Committee on Infractions decision for former head coach Page Nos. 15 through 33. A copy of the decision may be accessed via LSDBi at the following link: <https://web3.ncaa.org/lpdbi/>.

## **V. PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS.**

The Committee on Infractions imposed a show-cause order because of the involvement of former head coach in violation. The show-cause order imposed on appellant is set forth in Section VII.14 of the Committee on Infractions' decision.

The former head coach will be informed in writing by the NCAA that should he be employed or affiliated in an athletically related position at another NCAA member institution during a one-year period, from October 7, 2016, through October 6, 2017, within 30 days of his hiring that employing institution shall ask for a date to appear before a hearing panel to show cause why restrictions on all coaching activities should not apply.

**VI. ISSUES RAISED ON APPEAL.**

In his written appeal, the former head coach asserted that the finding of violation against him should be set aside because it is clearly contrary to the evidence presented to the committee. Further, the former head coach asserted the Committee on Infractions abused its discretion in prescribing the show-cause order.

**VII. APPELLATE PROCEDURE.**

In considering this appeal, the Infractions Appeals Committee reviewed the Notice of Appeal; the record and transcript of the former head coach's July 25, 2016, hearing before the Committee on Infractions and the submissions by the former head coach and the Committee on Infractions referred to in Section II of this decision.

The oral argument on the appeal was held by the Infractions Appeals Committee September 15, 2017, in Indianapolis, Indiana. The former head coach was present via videoconference. The Committee on Infractions was represented by the appeals coordinator for the Committee on Infractions, the managing director of the Office of the Committees on Infractions and associate director of the Office of the Committees on Infractions. Also present were managing director of enforcement, director of enforcement, associate director of enforcement and assistant general counsel of the NCAA. There was one silent observer on behalf of the university. The oral argument was conducted in accordance with procedures adopted by the committee pursuant to NCAA legislation.

During his oral argument, former head coach introduced an email dated May 5, 2015, which was not part of the record before the Committee on Infractions. The former head coach indicated the email supported his argument that he was not aware of the impermissible recruiting contacts made by an assistant coach. (Infractions Appeals Committee Oral Argument Transcript Page No. 13)

Pursuant to Bylaws 19.02.2 and 19.10.4, if an appellant seeks to introduce new information during the appeal process, the Infractions Appeals Committee shall determine whether the new information is relevant, material information that could not

have reasonably been ascertained prior to the Committee on Infractions hearing. If the Infractions Appeals Committee determines this threshold has been met, it may stay the appeal and remand the matter to the assigned panel to determine if the new information affects the panel's decision.

Using the legislated standard for new information, the committee determined the May 5, 2015, email predated the former head coach's hearing before the Committee on Infractions. Further, former head coach did not demonstrate that he was not able to reasonably discover the email prior to that hearing. Therefore, the Infractions Appeals Committee determined the May 5, 2015, email did not meet the threshold for new evidence, and will not be made part of the record on appeal.

**VIII.       INFRACTIONS APPEALS COMMITTEE'S RESOLUTION OF THE ISSUES RAISED ON APPEAL.**

In reviewing this case, the Infractions Appeals Committee may overturn factual findings and conclusions that one or more violations occurred only if:

- a.       The hearing panel's finding clearly is contrary to the evidence presented to the panel;
- b.       The facts found by the hearing panel do not constitute a violation of the NCAA constitution and bylaws; or
- c.       There was a procedural error and but for the error, the hearing panel would not have made the finding or conclusion. [Bylaw 19.10.1.2]

Pursuant to Bylaw 19.10.1.1, a penalty prescribed by the hearing panel, including determinations regarding the existence and weighing of any aggravating or mitigating factors, shall not be set aside on appeal except on a showing by the appealing party that the hearing panel abused its discretion. The hearing panel determines the credibility of the evidence. [University of Mississippi, Public Infractions Appeals Committee Report, May 1, 1995, Page No. 10]

As we stated in the Alabama State University case:

“...we conclude that an abuse of discretion in the imposition of a penalty occurs if the penalty: (1) was not based on a correct legal standard or was based on a misapprehension of the underlying substantive legal principles; (2) was based on a clearly erroneous factual finding; (3) failed to consider and weigh material factors; (4) was based on a clear error of judgment,

such that the imposition was arbitrary, capricious, or irrational; or (5) was based in significant part on one or more irrelevant or improper factors.” [Alabama State University, Infractions Appeals Committee Public Report, June 30, 2009, Page No. 23]

In this case, former head coach challenged the factual findings, arguing they were inconsistent with the facts presented to the hearing panel. He argued he did not fail to promote an atmosphere of compliance in his program because he was unaware of his assistant coaches’ impermissible contacts with prospective student-athletes. (Written Appeal Page No. 1). Former head coach also argued he did not act unethically by not divulging knowledge of his assistant coaches’ recruiting violations, again, because he was not aware of those violations. (Written Appeal Page No. 1). Once he was informed of these impermissible contacts by his athletics compliance office, former head coach indicated he admonished both assistant coaches. (Written Appeal Page No. 2). Former head coach also appealed the one-year show-cause order imposed by the Committee on Infractions (Notice of Appeal Page No. 2), and argued the penalty was not consistent with penalties imposed on coaches at other universities. (Written Appeal Page No. 2)

The Committee on Infractions argued former head coach failed to promote an atmosphere of compliance in his program because he was aware of the impermissible recruiting contacts made by his former assistant coaches, failed to discourage these contacts or report them to his athletics administration, and in one instance even encouraged the same. (Committee on Infractions Response Page No. 11). The Committee on Infractions also determined former head coach engaged in unethical conduct by failing to divulge to his institutional compliance office and the NCAA enforcement staff during two of his four interviews his knowledge of impermissible recruiting activities by both of his former assistant coaches. (Committee on Infractions Decision Page Nos. 28 - 36)

The committee found nothing in the record to demonstrate the panel’s findings regarding former head coach's failure to maintain an atmosphere of compliance or unethical conduct was clearly contrary to the evidence. Accordingly, the one-year show-cause penalty is not an abuse of discretion.

**IX. CONCLUSION.**

The Infractions Appeals Committee upheld the factual findings, conclusions and appealed penalties.<sup>1</sup>

NCAA Infractions Appeals Committee

Patti Ohlendorf, chair  
Ellen Ferris  
Jack Friedenthal  
W. Anthony Jenkins.

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<sup>1</sup> According to the Division I Infractions Appeals Committee Policies and Procedures [See 3. b. (2) (d) at Page No. 4], any penalty that is appealed is automatically stayed through the course of the appeal process. This stay is triggered with the filing of the Notice of Appeal by the appellant and ends with the public release of the committee's decision. The former head coach appealed the one-year show cause order in his Notice of Intent to Appeal and in his written appeal. Therefore, the one-year show-cause penalty was automatically stayed during the appeal as outlined in Bylaw 19.10.2.2. Accordingly, the former head coach's show-cause order will run from December 6, 2017, through December 5, 2018.