

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

May 6, 2020

Decision No. 522

Former Head Men's Basketball Coach

University of Connecticut

Storrs, Connecticut

**FORMER HEAD MEN’S BASKETBALL COACH
UNIVERSITY OF CONNECTICUT
APPEAL DECISION SUMMARY**

Outcome

The former head men’s basketball coach appealed to the NCAA Division I Infractions Appeals Committee the following findings of violations by the NCAA Division I Committee on Infractions:¹

- IV.A.2: A trainer provided extra benefits to three student-athletes when he gave them free training, lodging, meals and local transportation. The institution then failed to withhold the ineligible student-athletes from subsequent competition, which resulted in impermissible competition and expenses.
- IV.B.2: The men's basketball program exceeded permissible CARA limitations during the preseason over four academic years when it failed to record time from pick-up games that became CARA due to the actions of student managers, and the program also exceeded the number of countable coaches when the video coordinator provided impermissible coaching instruction during the latter three of these years.
- IV.C.2: The head coach violated ethical conduct legislation when he knowingly provided false or misleading information during the investigation regarding violations.
- IV.C.3: The head coach violated ethical conduct legislation and failed to cooperate when he declined to participate in a second interview with the enforcement staff after his termination.
- IV.D.2: The head coach violated head coach responsibility legislation through his failure to monitor staff, personal involvement in violations, and failure to stop and prevent violations.

He also appealed to the prescription of the following penalty by the Committee on Infractions:²

- VII.5: Show-cause order: The head coach shall be subject to a three-year show-cause order.

Head coach restriction: Should the head coach become employed in an athletically related position at an NCAA member institution during the three-year show-cause period, the head coach shall be suspended from 30 percent of the first season of his employment.

The Infractions Appeals Committee affirmed all appealed findings of violations and penalty.

¹ For full details of these findings of violations, please go to the University of Connecticut Committee on Infractions Decision (July 2, 2019) via NCAA Legislative Services Database for the Internet (LSDBi) by clicking [HERE](#).

² For full details of this penalty, please go to section VII of this Infractions Appeals Committee decision or the Connecticut Committee on Infractions Decision via LSDBi by clicking [HERE](#).

Members of the Infractions Appeals Committee

The members of the Infractions Appeals Committee who heard this case were: Jonathan Alger, president at James Madison; W. Anthony Jenkins, committee chair and attorney in private practice; Patricia Ohlendorf, retired special advisor in the office of legal affairs at Texas; Allison Rich, senior associate athletics director and senior woman administrator at Princeton; and David Shipley, law professor and faculty athletics representative at Georgia.

TABLE OF CONTENT

I.	INTRODUCTION.....	1
II.	BACKGROUND.....	1
III.	FINDING OF FACT AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.	1
IV.	ANALYSIS AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.	1
V.	APPEALED VIOLATIONS FOUND BY THE COMMITTEE ON INFRACTIONS.....	2
VI.	LEVEL III VIOLATIONS.....	2
VII.	APPEALED PENALTIES PRESCRIBED BY THE COMMITTEE ON INFRACTIONS.	3
VIII.	ISSUES RAISED ON APPEAL.....	4
IX.	APPELLATE PROCEDURE.....	4
X.	INFRACTIONS APPEALS COMMITTEE’S RESOLUTION OF THE ISSUES RAISED ON APPEAL.....	5
XI.	CONCLUSION.....	11

I. INTRODUCTION.

The former head men's basketball coach at the University of Connecticut appealed to the NCAA Division I Infractions Appeals Committee specific findings of violations and penalty 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 basketball coach (hereinafter referred to as former head coach or appellant).

II. BACKGROUND.

The Committee on Infractions issued Infractions Decision No. 522 July 2, 2019, in which the committee found violations of NCAA legislation in the men's basketball program. On the basis of those findings, the Committee on Infractions determined that this was a Level I–Aggravated case for the former head coach and prescribed penalties accordingly.³

This case centered on violations of NCAA bylaws governing benefits, practice, coaching personnel, recruiting, ethical conduct and head coach responsibility.

After the Committee on Infractions issued its decision, the former head coach filed a timely Notice of Appeal July 17, 2019. A written appeal was filed September 27, 2019. The Committee on Infractions filed its Response October 28, 2019. The former head coach filed his Rebuttal to the Committee on Infractions Response November 20, 2019. The enforcement staff provided an enforcement submittal December 6, 2019. The former head coach submitted a response to the enforcement submittal December 19, 2019. The Infractions Appeals Committee approved a request by the former head coach to submit non-substantive edits to the appellant's Rebuttal. The former head coach submitted an edited Rebuttal January 15, 2020. The case was considered by the Infractions Appeals Committee February 12, 2020 (see Section IX below).

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

See Committee on Infractions decision for Connecticut Page Nos. 3 through 10. A copy of the decision may be accessed via the NCAA Legislative Services Database for the Internet (LSDBi) by clicking [HERE](#).

IV. ANALYSIS AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.

See Committee on Infractions decision for Connecticut Page Nos. 10 through 21. A copy of the decision may be accessed via LSDBi by clicking [HERE](#).

³ The Committee on Infractions classified the case as Level II–Standard for Connecticut.

V. APPEALED VIOLATIONS FOUND BY THE COMMITTEE ON INFRACTIONS.

The former head coach appealed the following findings of violations found by the Committee on Infractions:⁴

- IV.A.2: A trainer provided extra benefits to three student-athletes when he gave them free training, lodging, meals and local transportation. The institution then failed to withhold the ineligible student-athletes from subsequent competition, which resulted in impermissible competition and expenses.
- IV.B.2: The men's basketball program exceeded permissible CARA limitations during the preseason over four academic years when it failed to record time from pick-up games that became CARA due to the actions of student managers, and the program also exceeded the number of countable coaches when the video coordinator provided impermissible coaching instruction during the latter three of these years.
- IV.C.2: The head coach violated ethical conduct legislation when he knowingly provided false or misleading information during the investigation regarding violations.
- IV.C.3: The head coach violated ethical conduct legislation and failed to cooperate when he declined to participate in a second interview with the enforcement staff after his termination.
- IV.D.2: The head coach violated head coach responsibility legislation through his failure to monitor staff, personal involvement in violations, and failure to stop and prevent violations.

VI. LEVEL III VIOLATIONS.

See Committee on Infractions decision for Connecticut Page Nos. 21 and 22. A copy of the decision may be accessed via LSDBi by clicking [HERE](#).

⁴ The findings of violations were copied from the Committee on Infractions Decision via LSDBi by clicking [HERE](#).

VII. APPEALED PENALTIES PRESCRIBED BY THE COMMITTEE ON INFRACTIONS.

The former head coach appealed a penalty prescribed by the Committee on Infractions. The appealed penalty is:⁵

VII.5: Show-cause order: The head coach violated ethical conduct legislation when he knowingly provided false or misleading information during the investigation. He also failed to cooperate and further violated ethical conduct legislation when he declined to participate in a second interview after his termination from Connecticut. Therefore, the head coach shall be subject to a three-year show-cause order from July 2, 2019, to July 1, 2022. Pursuant to COI IOP 5- 15-3-1, if the head coach seeks employment or affiliation with any athletically related position at an NCAA member institution during the three-year show-cause period, any employing institution shall be required to contact the Office of the Committees on Infractions (OCOI) to make arrangements to show cause why restrictions on all athletically related activity should not apply.

Head coach restriction: The head coach violated head coach responsibility legislation when he failed to monitor his staff and promote an atmosphere of compliance. Bylaw 19.9.5.5 and the Figure 19-1 penalty guidelines contemplate head coach suspensions to address head coach responsibility violations. Therefore, should the head coach become employed in an athletically related position at an NCAA member institution during the three-year show-cause period, the head coach shall be suspended from 30 percent of the first season of his employment.¹⁶ The suspension shall run concurrently with the first year of the show-cause order. Because the show-cause order restricts the head coach from all athletically related activity, this suspension is subsumed within the show-cause order.

¹⁶ Although the panel classifies the head coach's overall violations as Level I-Aggravated, the suspension is based on a Level II head coach responsibility violation in accordance with the penalty guidelines at Figure 19-1.

For the other penalties prescribed found by the Committee on Infractions, see Committee on Infractions decision for Connecticut Page Nos. 23 through 31. A copy of the decision may be accessed via LSDBi by clicking [HERE](#).

⁵ The penalty was copied from the Committee on Infractions Decision via LSDBi by clicking [HERE](#).

VIII. ISSUES RAISED ON APPEAL.

In his written appeal, the former head coach asserted that the findings of violations should be set aside because they are clearly contrary to the information presented to the panel, and that the penalty should be vacated.

IX. APPELLATE PROCEDURE.

In considering the former head coach's appeal, the Infractions Appeals Committee reviewed the Notice of Appeal; the record and transcript of the institution's May 2, 2019, 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.

On February 7, 2020, five days before the scheduled oral argument, the former head coach submitted a request to introduce new information into the case record. The Infractions Appeals Committee decided that in order to address the request in a manner that preserves fairness to the parties, to the Infractions Appeals Committee and respects the infractions appeals process, the former head coach and the Committee on Infractions were provided a brief period at the outset of the February 12, 2020, oral argument to address the appropriateness of the request to introduce new information.

The oral argument on the appeal was held by the Infractions Appeals Committee February 12, 2020, in Indianapolis, Indiana. The appellant was present and was represented by his legal counsel. The Committee on Infractions was represented by the appeals coordinator for the Committee on Infractions and the managing director and associate director of the Office of Committees on Infractions. The enforcement staff was represented by the managing director of enforcement, a director of enforcement and an assistant director of enforcement. Also in attendance were the director of legal affairs and associate general counsel and the vice president of hearing operations. Two representatives of the University of Connecticut attended as silent observers. The oral argument was conducted in accordance with procedures adopted by the committee pursuant to NCAA legislation.

The Infractions Appeals Committee heard argument on the appropriateness of the former head coach's request and determined further explanation was necessary. The Infractions Appeals Committee took the parties' arguments under advisement and proceeded with the oral argument based on the information that was in the appellate record at that time, but requested that the former head coach provide a written submission to include an explanation of why the request to introduce "new" information could not have been submitted prior to February 7, 2020; a descriptive summary of the "new information"; and why the information is relevant and material to the infractions case.

The former head coach provided his written submission March 10, 2020. The Committee on Infractions submitted a response to the former head coach's written submission March 25, 2020.

After reviewing and discussing the post-oral argument submissions and "new" information, the Infractions Appeals Committee found that the former head coach failed to demonstrate that the information he wanted added to the record met the definition of new information under NCAA Bylaw 19.02.2. Therefore, the Infractions Appeals Committee proceeded to resolve this appeal based on the information referenced at the beginning of this section of the decision.

X. INFRACTIONS APPEALS COMMITTEE'S RESOLUTION OF THE ISSUES RAISED ON APPEAL.⁶

Review of Appealed Findings of Violations

In this appeal, the appellant challenged several of the findings of violations. The standard used by the Committee on Infractions' panel when making its decisions regarding factual findings, conclusions and findings of violations, states that a panel will base its decisions on:

"... information presented to it that it determines to be credible, persuasive and of a kind on which reasonably prudent persons rely in the conduct of serious affairs. The information upon which the panel bases its decision may be information that directly or circumstantially supports the alleged violation." ([Bylaw 19.7.8.3](#))

In reviewing a panel's decision, the Infractions Appeals Committee may overturn factual findings and its conclusion that one or more violations occurred on appeal only on a showing by the appealing party that:

- a. A factual finding is clearly contrary to the information presented to the panel;
- b. The facts found by the 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 panel would not have made the finding or conclusion. ([Bylaw 19.10.1.2](#))

⁶ In this section of the decision, the cites to other infractions cases and NCAA bylaws will be linked to the full text of the infractions decisions and bylaws in LSDBi.

Findings of Violations IV.A.2, IV.B.2 and IV.C.2

In his appeal submissions and during the oral argument, the appellant primarily focused on identifying inconsistencies in the information provided during individuals' interviews and challenging the credibility and reliability of those individuals in an attempt to demonstrate that the appealed findings of violations were clearly contrary to the information presented to the panel. Several sections of the interview transcripts were quoted and the appellant argued for a different view of the accuracy and credibility of the individuals who provided information in this infractions case. The appellant argued that the Committee on Infractions erred in its application and/or weighing of the individuals' interviews and affidavits.

In the NCAA's infractions process, the Committee on Infractions determines the credibility of individuals who provide information in infractions cases. Generally, it is in the best position to assess and weigh the truthfulness and accuracy of the information as well as assessing bias or hostility that may impact the information provided by individuals. Further, to demonstrate that a finding of violation is clearly contrary to the information presented, the appellant must show more than an alternative reading or application of the information exists. As we stated in the University of Mississippi⁷ case:

“A showing that there was some information that might have supported a contrary result will not be sufficient to warrant setting aside a finding, nor will a showing that such information might have outweighed the information upon which the committee based a finding. The Infractions Appeals Committee under existing legislation will set aside a finding only upon a showing that information that might have supported a contrary result clearly outweighed the information upon which the Committee on Infractions based the finding. That the Infractions Appeals Committee will consider all the information that was presented to the Committee on Infractions does not mean that it will conduct an infractions hearing de novo.”

For violation IV.A.2, related to a trainer providing extra benefits, the appellant argued that the student-athlete who admitted that the trainer provided free training lacked credibility due to contradictions in his interviews.⁸ (Written Appeal Page Nos. 5 and 6) The panel recognized that the student-athlete had not been fully forthcoming in his interviews. ([Committee on Infractions Decision Page No. 5](#)) However, the panel found that other information supported the statements in the student-athlete's fourth interview and found credible his explanation for why he did not disclose that he trained with the trainer. ([Committee on Infractions Decision Page No. 6](#) and Committee on Infractions Response Page No. 18)

⁷ [University of Mississippi Infractions Appeals Committee Report \(May 1, 1995\) Page No. 8.](#)

⁸ The student-athlete was interviewed four times. In his fourth interview, the student-athlete admitted receiving free training. ([Committee on Infractions Decision Page Nos. 5 and 6](#))

For violation IV.B.2, related to exceeding the legislated limits for countable coaches when the video coordinator provided coaching instructions to student-athletes, the appellant identified information provided by other individuals in this case that he believes supports his arguments that this finding of violation is contrary to the information presented to the panel. (Written Appeal Page Nos. 15 through 18) Yet, the panel relied on information provided by three individuals, two student-athletes who received instructions from the video coordinator and a student manager who observed the video coordinator providing instruction to student-athletes. (Committee on Infractions Response Page Nos. 22 through 26)

For violation IV.C.2, related to the appellant providing false and misleading information to the enforcement staff⁹, the appellant argued that the information associated with this violation was speculative and contradictory. The appellant challenged information provided by the associate head coach and identified interviews provided by other individuals in this case to support his arguments. (Written Appeal Page Nos 18 through 47) The panel argued that there is extensive evidence in the record to substantiate this finding of violation. (Committee on Infractions Response Page No. 27) The panel pointed to information from the involved recruit, student-athletes and staff which contradicts the appellant's version of events related to this violation. (Committee on Infractions Response Page Nos. 28 through 36)

For each of these findings of violations, the appellant challenged the credibility of some individuals who provided information in this case and pointed to an alternative narrative that could be derived from the information in the record before the panel. However, as noted above, the panel assesses and determines the credibility of individuals and the information he/she provides. This committee has been "deferential to the Committee on Infractions in determining credibility of evidence before it, specifically in relation to weighing the veracity of individuals before it, and is hesitant to overturn such determinations absent a clear demonstration to the contrary." [[The University of Southern Mississippi, Former Head Men's Basketball Coach Infractions Appeals Committee Decision \(February 2, 2017\) Page No. 5](#)] Further, the appellant must demonstrate more than an alternative narrative based on the information in the record. Here, the appellant has failed to demonstrate that the information he used to challenge the credibility of some individuals, who provided information in this case and to support his narrative, clearly outweighed the information used by the Committee on Infractions to support these findings of violations. Therefore, we affirm these findings of violations.

⁹ The panel identified two pieces of false and misleading information: (1) denying that he planned or arranged a video call with a highly recruited prospect and a former Connecticut student-athlete and NBA player; and (2) denying he knew that student-athletes trained with a trainer in the spring and summer of 2016. ([Committee on Infractions Decision Page Nos. 14 through 16](#))

Unethical Conduct and Failure to Cooperate (IV.C.3)

The panel found that the appellant violated the unethical conduct legislation when he declined to participate in a second interview with the enforcement staff and the institution. ([Committee on Infractions Decision Page Nos. 16 and 17](#)) The appellant argued, before the Committee on Infractions and in his appeal, that he did not violate the bylaw because he declined to participate in a second interview¹⁰ on the advice of his employment litigation counsel to "...abstain from a second interview until such time as the grievance arbitration process could be resolved."¹¹ Additionally, he alleged that the second interview could be detrimental to him in a separate legal proceeding. (Written Appeal Page Nos. 49 and 50) Finally, he argued that he did not withdraw entirely or disengage from the process and "continued to cooperate as much as possible" by providing various records to the enforcement staff. (Written Appeal Page No. 49)

The panel argued that former institutional staff members have an affirmative obligation to cooperate fully and assist the NCAA enforcement staff, the Committee on Infractions and the Infractions Appeals Committee to further the objectives of the Association and its infractions process.¹² It argued that the enforcement staff had the express authority to request information and that the appellant failed to participate in an interview requested by the enforcement staff. (Committee on Infractions Response Page Nos. 38 and 39) Further, the panel stated that there is no automatic exception to full cooperation for reliance on the advice of counsel nor does such reliance or partial cooperation negate the responsibility of an individual to fully cooperate in the infractions process. ([Committee on Infractions Decision Page No. 40](#))

Cooperation by institutions and individuals in the infractions process is central to the NCAA having an effective process that upholds integrity and fair play among the NCAA membership, and ensures that those institutions and student-athletes abiding by the NCAA constitution and bylaws are not disadvantaged by their commitment to compliance.¹³ In this case, the appellant declined to participate in a second interview due to concerns related to the potential impact on a pending legal proceeding. However, the appellant participated in the hearing before the panel and answered its questions even though the same legal proceeding was still pending. It is difficult for this committee to draw a distinction between the circumstances at the time of the request for a second interview and the circumstances

¹⁰ The enforcement staff requested a second interview with the appellant based on a request by appellant's counsel for an opportunity for the appellant to correct a statement in his previous interview and also to address new facts identified by the enforcement staff. ([Committee on Infractions Decision Page Nos. 9 and 10](#))

¹¹ [Committee on Infractions Decision Page No. 16](#), June 11, 2018, Letter from Joseph "Ricky" Lefft [Factual Information 008 (FI008)] and June 19, 2018, Letter from Jacques Parenteau [Factual Information 011 (FI011)].

¹² Committee on Infractions Response Page No. 37 and [Bylaw 19.2.3](#).

¹³ [Bylaw 19.01.1](#).

at the time of the panel's hearing in which the appellant fully participated. Additionally, the appellant did not provide any further explanation for his failure to participate in the second interview beyond the advice provided by his counsel and that the university would have access to the substance and content of the second interview.¹⁴ Even with the appellant participating in the initial interview and cooperating with the production of documents, the bylaw requires full cooperation which the appellant failed to meet by declining to participate in a second interview with the enforcement staff.¹⁵ Therefore, we affirm this finding of violation.

Head Coach's Responsibility (IV.D.2)

The panel found that the appellant failed to monitor his staff, in particular the student managers and the video coordinator. ([Committee on Infractions Decision Page No. 18](#)) As related to the student managers, the panel determined that the appellant was aware that the student-athletes played pick-up games attended by student managers but failed to monitor the student managers' actions to ensure the pick-up games complied with NCAA legislation. ([Committee on Infractions Decision Page No. 18](#)) For the video coordinator, the panel found that the appellant instructed the student-athletes to visit the video coordinator for questions about plays but failed to ensure that the video coordinator did not engage in impermissible instruction. ([Committee on Infractions Decision Page Nos. 18 and 19](#)) Further, the panel determined that by being personally involved in violations, providing false and misleading information, and failing to prevent impermissible training, the appellant failed to promote an atmosphere of compliance. ([Committee on Infractions Decision Page No. 19](#))

The appellant argued that the finding of violation that he failed to promote an atmosphere of compliance was clearly contrary to the information presented to the panel. (Written Appeal Page No. 50) He points to information that he believes shows that the appellant "demanded compliance with the rules, constantly educated his staff, regularly reviewed staff activity, created an atmosphere of compliance, demanded respect for the rules, produced a track record of compliance, and regularly communicated with compliance staff." (Written Appeal Page No. 57)

Head coaches have an obligation to promote a culture of compliance among the entire team, including assistant coaches, staff and other student-athletes, and monitor individuals in the program that are supervised by the head coach.¹⁶ This concept is in [Bylaw 11.1.1.1](#).

¹⁴ June 11, 2018, Letter from Joseph "Ricky" Lefft [Factual Information 008 (FI008)].

¹⁵ This committee, in a unique circumstance, has identified a situation in which an individual's failure to provide information was not a failure to cooperate. [[Former Prep School Coach University of Southern Mississippi Infractions Appeals Decision \(April 6, 2017\)](#)].

¹⁶ [NCAA Division I Proposal No. 2004-102](#).

Previously, there were times when assistant coaches or other administrators were involved in serious violations, and the head coach would claim ignorance regarding such violations while indicating that such responsibilities were entrusted to their assistant.¹⁷ The adoption of the bylaw established that the head coach would be presumed to have knowledge of and responsibility for the actions of those associated with the team which the head coach directly or indirectly supervised. Later, the bylaw was modified to shift from the presumption of knowledge to a presumption of responsibility.¹⁸ Now, a head coach is presumed responsible for the actions of his or her staff that result in a violation. In order to rebut the presumption and escape responsibility, a head coach must establish before the panel that he or she has done all that is necessary to monitor the individuals (supervised by the head coach) in the program and create an atmosphere of compliance in his or her program. [[Syracuse University Head Men's Basketball Coach Infractions Appeals Decision \(December 3, 2015\) Page No. 4](#)]

The Committee on Infractions acknowledged the appellant's "previous lack of violations, examples of good communication, that he encouraged staff to report issues and efforts to educate staff." ([Committee on Infractions Decision Page No. 20](#)) Even with these positive actions and approach, the appellant provided false and misleading information¹⁹ to the enforcement staff as well as failed to take action on red flags and ask questions related to the program. Asking questions and monitoring activities is an important component of the responsibilities of a head coach and of rebutting the allegation of a violation of [Bylaw 11.1.1.1](#). The appellant was aware of the pick-up games that were attended by student managers, directed student-athletes to the video coordinator for questions and was aware a student-athlete was participating in training. However, he failed to ask questions and inquire further to gain a greater understanding of these activities and ensure compliance with NCAA legislation. Therefore, we affirm this finding of violation.

Procedural Arguments Raised in the Appellant's Rebuttal

In his rebuttal, the appellant identified several new arguments related to procedural error which were not included in his written appeal, the initial submission. According to [Bylaw 19.10.3.3](#), the rebuttal may only address issues contained in the initial submission or in the Committee on Infractions response. The appellant did not raise these procedural error issues in his written appeal, the initial submission, and the Committee on Infractions did not discuss any procedural error issues in its response. These procedural error arguments made by the appellant in his rebuttal are not properly before this committee for consideration or review. Therefore, this committee did not consider these arguments in its review of this appeal.

¹⁷ [Proposal No. 2004-102](#).

¹⁸ [NCAA Division I Proposal No. 2012-15](#).

¹⁹ In this decision, the Infractions Appeals Committee affirmed finding of violation IV.C.2.

Review of Appealed Penalty

A penalty prescribed by the Committee on Infractions may be set aside on appeal if the imposition of the penalty is an abuse of discretion.

As we stated in the Alabama State 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 Report \(June 30, 2009\) Page No. 23](#)]

While the appellant identified in his notice of intent to appeal that he was appealing penalty VII.5 prescribed by the panel, he included little or no argument related to whether the prescription of the appealed penalty was an abuse of discretion. As such, the appellant failed to demonstrate that the panel abused its discretion in prescribing the penalty VII.5.

XI. CONCLUSION.

Findings of violations IV.A.2, IV.B.2, IV.C.2, IV.C.3 and IV.D.2 as well as penalty VII.5 are affirmed.²⁰

NCAA Infractions Appeals Committee

W. Anthony Jenkins, chair
Jonathan Alger
Patricia Ohlendorf
Allison Rich
David Shipley.

²⁰ According to the Division I Infractions Appeals Committee Internal Operating Procedure 4-4 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. Therefore, the appellant's affirmed penalty VII.5 (three-year show-cause order) shall be applied May 6, 2020, through May 5, 2023.