



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
ATHLETIC COMMISSION

BOB BENNETT
Executive Director

Chairman: Anthony A. Marnell III

Members: Francisco V. Aguilar, Raymond Avansino, Dr. J. Daniel Carpenter, Michon Martin

December 27, 2016

Morgan Smith
3:5 Management
morgan@threefivemanagement.com

Re: UFC TUF 24 Finale Decision Appeal: Combatant Jake Ellenberger

Dear Mr. Smith:

The Nevada State Athletic Commission ("Commission") is in receipt of your formal appeal, on behalf of Jake Ellenberger, regarding Mr. Ellenberger's contest against Jorge Masvidal during the TUF 24 Finale on December 3, 2016.

Nevada Administrative Code ("NAC") 467.770, as amended by Section 112 of LCB File No. R062-16, governs changes of decisions after contests or exhibitions and it provides as follows:

Except as otherwise provided in section 37 of this regulation, the Commission **will not change a decision rendered at the end of any contest or exhibition unless:**

1. The Commission determines that there was collusion affecting the result of the contest or exhibition;
2. The compilation of the scorecards of the judges discloses an error which shows that the decision was given to the wrong unarmed combatant; or
3. **As a result of an error in interpreting a provision of this chapter,** the referee has rendered an incorrect decision.

Here, your appeal provides the following arguments for a change of decision in Mr. Ellenberger's contest: 1) Referee Dean erred in retroactively changing a timeout to a technical knockout (TKO); 2) the Nevada Administrative Code (NAC) does not include guidelines for TKOs in mixed martial arts contests and Referee Dean misapplied guidelines for TKOs in boxing contests to Mr. Ellenberger's contest; 3) Referee Dean did not follow precedent in cases involving cage interference and the ability of contestants to continue their contests; 4) the cage used during Mr. Ellenberger's contest failed to meet the standards defined in the NAC. A review of your arguments reveals that you have not provided adequate grounds for a change of decision in Ellenberger's contest pursuant to NAC 467.770. Therefore, the matter will not be presented to the Commission for hearing.

First, in addressing your argument that Referee Dean erroneously changed a timeout to a TKO, there is no provision in NAC 467 that prevents referees from calling a timeout to consult with other officials prior to rendering a decision. In the case of Mr. Ellenberger's contest, Referee Dean called a timeout to consult with Commission officials regarding the condition of the cage and a possible equipment malfunction. After consultation with Commission officials to determine that no equipment malfunction existed, Referee Dean called a TKO. Referee Dean did not misinterpret a provision of the NAC that could result in a change of decision.

Next, in addressing your argument that NAC 467 does not include guidelines for technical knockouts in MMA contests, NAC 467.718 grants authority to the referee to stop a contest if, in his or her determination, either of the combatants is in such a condition that to continue the contest would subject the combatant to serious injury. Pursuant to NAC 467.795, the referee's authority to stop contests under the guidelines of NAC 467.718 applies to MMA contests. Moreover, NAC 467.7968, as amended by Section 119 of LCB File No. R062-16, permits technical knockouts in MMA contests by the referee's decision to stop a contest. Therefore,

Referee Dean did not misinterpret a provision of the NAC that could result in a change of decision.

Third, in addressing your argument that Referee Dean did not follow precedent for allowing the continuation of contests in the case of cage malfunctions, NAC 467 does not include a provision that requires the continuation of contests in such circumstances. Alleged precedent does not provide grounds for a change of a referee's decision.

Finally, in addressing your argument that the cage used during Mr. Ellenberger's contest was not up to the standards of NAC 467, the argument does not provide grounds for a change of decision pursuant to NAC 467.770. Moreover, prior to the contest, Commission officials performed a thorough examination of the cage and determined that it complied with all NAC 467 provisions.

Ultimately, your request to change the decision of the contest does not allege collusion affecting the result of the contest, an error in the compilation of the judges' scorecards, or the referee's error in interpreting a provision of NAC 467. Therefore, pursuant to NAC 467.770, your allegations do not provide the Commission with a basis to change the decision of your December 3, 2016 contest and the contest decision will stand.

Sincerely,



Bob Bennett
Executive Director

cc: Caroline Bateman
Deputy Attorney General