

Double-Amputee Sprinter Blake Leeper Files Challenge In Swiss Supreme Court To Overturn CAS Ruling Permitting World Athletics To Bar Him From Competing Against Non-Disabled Athletes Based On Racially Discriminatory Rule

NOVEMBER 27, 2020

NEW YORK – November 26, 2020 –On November 26, 2020, double-amputee sprinter Blake Leeper filed a legal action before the Swiss Supreme Court challenging a decision issued in October by the Court of Arbitration for Sport (CAS), that permitted international track and field federation World Athletics (formerly known as IAAF) to bar Leeper from competing on the same basis against non-disabled athletes in the Olympic Games or World Athletics series competitions using his running-specific prosthetics (RSPs). The CAS arbitration panel upheld a World Athletics decision to bar Leeper on the basis that he runs at an “unnaturally” tall height on his RSPs, in violation of a so-called Maximum Allowable Standing Height (MASH) rule used in Paralympic competition but never adopted by World Athletics. Leeper’s challenge is based on the racially discriminatory nature of the MASH rule, which uses claimed “natural” limb proportions that were derived from studies done solely with Caucasian and Asian subjects, and which inexplicably excluded any subjects of African descent.

For reasons that have never been explained, the MASH height limits were derived exclusively from studies of the limb and other body proportions of Caucasians from Spain and Australia, and persons from Japan, and fail to include any data from Black persons of African descent, such as Mr. Leeper. This is so even though World Athletics’ own experts in the CAS proceeding admitted that it is “well accepted and well documented” in scientific studies that Black persons from Africa or of African descent have different “leg length to height ratios” than persons of other genealogical backgrounds, and that Black athletes have “different body dimensions” than Caucasian and Asian athletes because Black athletes typically have “long legs relative to their height.”

In the CAS proceedings, Mr. Leeper pointed out that these admissions and scientific studies conclusively demonstrate that the MASH rules which World Athletics abruptly applied to Mr. Leeper for the first time during the CAS proceedings, even though World Athletics had never before adopted those rules, discriminate against Black double amputee athletes of African descent such as Mr. Leeper, by forcing them to run at an unnaturally short height. For Mr. Leeper, that height is far less than the height he has run at for many years, including in compliance with a previous version of the MASH rules before they were modified based on the studies that excluded persons of African descent. Contrary to false insinuations by World Athletics, the height at which Leeper runs on his prostheses is comparable to the height at which other world class non-disabled 400-meter athletes run.

Even though these facts were presented to the CAS arbitration panel, the panel’s decision did not even mention the lack of Black subjects in the studies upon which the MASH limits are based, and also failed to mention the

admissions by World Athletics scientific experts. The CAS panel’s decision did not find any overall advantage in the actual studies conducted of Mr. Leeper that were submitted to the panel, and instead was based solely on the MASH limits. By doing so, the CAS decision rests on a flawed basis that overtly discriminates against Black persons of African descent, to force them to run at unnatural heights based on studies that inexplicably excluded Black persons.

In his Swiss court challenge, Leeper argues that the CAS decision violates the prohibition of discriminatory measures enshrined in the European Convention on Human Rights, and that forcing Black disabled athletes to be measured according to such a standard is contrary to human dignity and violates public policy, among other legal grounds.

Lead counsel Jeffrey Kessler issued the following statement upon filing the legal action: “It is deplorable that World Athletics is barring Mr. Leeper from competing against non-disabled athletes using his RSPs based on studies that excluded any Black subjects, when World Athletics’ own experts admit that Black athletes with an African genealogical background do not have the same body proportions as Caucasian and Asian athletes. World Athletics is a repeat offender in discriminating against disabled athletes first in the Pistorius case, and then in unjustly imposing the burden of proof on disabled athletes to compete against non-disabled athletes, which the CAS panel struck down as discriminatory against disabled athletes in Mr. Leeper’s CAS arbitration. Now, World Athletics is compounding their outrageous behavior by engaging in racial discrimination to disadvantage Black athletes. The international sporting community should be appalled.”

Blake Leeper issued the following statement: “I will never stop fighting for the rights of disabled athletes, and Black persons of African heritage, to be free of discrimination. These decisions of World Athletics are wrong and unjust. When the sporting world is fighting every day to inspire people to be free of racial discrimination, World Athletics should be leading that fight, instead of excluding Black athletes based on studies that ignore Black people and act as if we do not exist. We do. And we are not giving up this fight.”

Leeper is represented on a pro bono basis in this matter by the international law firm of Winston & Strawn LLP, with a team led by New York partners Jeffrey L. Kessler and David G. Feher, who previously represented double-amputee 400-meter runner and 2012 Olympian Oscar Pistorius in similar proceedings before the Court of Arbitration for Sport, establishing that Mr. Pistorius could compete in all IAAF-sanctioned events including the Olympics. Leeper’s Winston counsel also includes partners Michael J. Stepek (London) and Mathilde Lefranc-Barthe (Paris); and New York attorneys Angela A. Smedley, Brandon Annette, Scott Sherman, Drew Washington, and Malik Williams.

Leeper is represented in the Swiss proceedings by Dr. Franz X. Stirnimann, Jean Marguerat, and Dr. James F. Reardon of the FRORIEP Legal SA law firm in Switzerland.

4 Min Read

Related Locations

London

Los Angeles

New York

Paris

Related Professionals



Jeffrey Kessler



David Feher



Mathilde Lefranc-Barthe



Angela A. Smedley



Michael Stepek



Brandon Annette



Drew Washington



Adriano Pinto