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## Braun

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SPORT AND SOCIETY FOR ARETE  
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From the time the story was leaked in early December, I had a feeling that Ryan Braun was going to be the first player to successfully appeal a positive drug test. I based this on two notions. First, someone sometime was going to be the victim of a false positive or some breach in the security of the urine sample. Second, I had a difficult time believing that someone of Braun's obvious talent and public image, who did not exhibit a huge jump in his offensive numbers, was taking performance enhancing drugs. In most of the power categories (doubles, triples, home runs, and OPS) last season was not a career year for Braun.

My feeling that Braun would successfully appeal the case proved out. However, Braun's case did not show any problems with the urine sample itself, only with the procedures that were followed in the process. So it was probably not a false positive, and the successful appeal came on a technicality of procedure rather than on the quality of the test itself.

After the success of the appeal the Commissioner's Office and many others in the baseball establishment denounced the arbitrator's decision and suggested that Braun was still guilty of using PED's and had gotten off on a technicality. Apparently in the case of failed drug tests you are guilty until somehow you or your lawyers prove you are innocent. This is a principle that is somewhat alien to the American justice system, although it has always been in play in politics, public opinion, and with certain crusading elements of the news media.

Ryan Braun's press conference at the opening of spring training was an interesting piece of public theater. Braun offered a well-spoken and carefully measured defense emphasizing the fact that he had been drug tested twenty-five times in his baseball career and three times in the previous year. This was the only positive.

He added that in terms of personal measurements such as weight or times running the bases, there were no changes in his metrics. He did not alter his workout regime, his arm strength did not change, and he had no increase in power. All of this, he said, is documented in team records that are kept by the Brewers organization. He also had a full

physical with blood tests when he signed his new long-term contract. And as far as I can tell, no one has commented on any change in his hat size.

None of this information is relevant to the appeal process, as it requires the accused prove that they did not take anything that would produce a positive, or that something went wrong in the procedures of collection or testing. What Braun and his attorney were able to find was a flaw in the collection process that raised some doubt about the security of the samples after collection and before delivery to the lab. Although the arbitrator has not yet issued his written report, this flaw seems to be what led to the successful appeal of the suspension.

It also led to suggestions that the collector himself might have been responsible for a breach in the security as well as some vague doubts that Braun cast on the character of the collector. One wonders if Braun would understand the irony that he was doing to the collector what he accused MLB or doing to him.

So these are the details of the case as we know them. I must say I regret that what happened to Braun is not all that clear, but I am pleased that by winning his appeal Braun has reopened the discussion on drug testing.

What is clear to me is that the current system is flawed at the point of attack. Random drug testing of everyone in a given population pool should never be allowed. It is a violation of the assumption of innocence inherent in our justice system, and, in my view, it is a clear violation of the right to protection against unreasonable search and seizure.

I am opposed to any drug testing that operates on a wide sweep of a given category of persons, and I believe that drug tests, if they are used at all, should only be used when there is some evidence of violation of the law. When that happens, drug tests, a clear form of search and seizure of the most intimate kind, can then be ordered.

The notion that playing a sport is of such critical importance that in doing so the athlete should forfeit their rights is an absurd and hysterical position. Certainly authorities that are running a sport can make judgments about those participating in their organizations,

and can therefore move to drug testing when there is sufficient cause to do so.

Beyond that, the notion that an athlete cannot use certain pharmaceutical products to treat various ailments or allergies because they may contain chemicals that are performance enhancers is ridiculous. The notion that steroids or human growth hormones should not be used to treat athletic injuries and speed recovery is also a nonsensical position. Certainly when drugs can be used as a curative or healing agent, it is foolish to deny those curative powers to athletes.

In a world that runs on drugs, a massive business in contemporary society, why should drugs not be used in sport? When it is perfectly legitimate to use all sorts of drugs that are performance enablers, why should athletes be denied the use of drugs that speed the healing process from injury or the recovery process from exhaustion?

Pain killers are routinely used and those athletes who use them in order to get back on the field of play are praised for being tough and playing with pain. The recent revelations about the use of Toradol which is encouraged and legal, as well as the wide-spread use of pain killers such as Vicodin, demonstrate that performance enabling drugs are ubiquitous. The consequences can be as serious and dangerous as PED's, and yet they are seen as legitimate, while PED's are illegal.

In the end the concern over drug use is misdirected and driven by hysteria. Drugs can be useful and safe, and if something that qualifies as a PED has medical uses, it should not be denied to athletes. Rather these drugs should be administered by leagues with the consent of personal physicians operating independent of teams.

Rational and controlled use rather than a blanket ban would seem to be a sensible drug policy.

On Sport and Society this is Dick Crepeau reminding you that you don't have to be a good sport to be a bad loser.

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