

## **2002 STUDENT RESEARCH AWARD WINNER**

# **Matt Lindland: The Fight For An Olympic Bid**

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### **INTRODUCTION AND BACKGROUND INFORMATION**

Athletes representing the United States at the Olympic Games are generally determined by the outcome of the United States Olympic Trials for a given sport. For example, the winner of the one hundred meter race at the Trials would be given one of the Olympic bids, as would those runners placing second and third. In other sports, only the winner receives an Olympic bid. However, there are exceptions to this method of determining U.S. Olympic delegates.

One alternate method would be a National Governing Body (NGB) making an exception due to injury. For example, the United States Figure Skating Association (USFSA) chose to place Nancy Kerrigan on the 1994 U.S. Olympic team, even though she did not complete the U.S. National competition, which served as the Olympic Trials (Heller, 2001). It was assumed, in this case, that Kerrigan would have placed in the top two, thus assuring her a spot on the team. However, once she was attacked and injured, she was unable to compete. The USFSA thus granted her a place on the U.S. team for the Olympics the following month, granting her an exception due to injury (Heller). Though not common practice, the USFSA and other NGBs have used the injury exception in extreme cases where the would-be national champion was unable to compete due to injury.

Another alternate and more recent method of choosing U.S. Olympic delegates is by taking into account an athlete's performance from the U.S. Championships and U.S. Olympic Trials throughout the year, as USA Gymnastics does (Markon, 2000). They hold a formal Olympic trial, but it is factored in only as a percentage of a gymnast's overall showing at this event, at the U.S. Championships and also of the coaches' perceptions of the athletes.

In this case, placing first through sixth at the Trials does not guarantee a spot on the U.S. team (comprised of six gymnasts), as it would have in the past (Markon).

These are just two examples of how the makeup of an Olympic team can alter from the Olympic trial format. In each example, the decisions are still based on athletic ability. However, until recently it is doubtful that anyone ever thought that the U.S. courts would intervene in the process, much less determine who deserves a bid. However, this occurred in *Lindland v. United States of America Wrestling Ass'n, Inc.* (2000a, 2000b). This paper examines whether the court has a right to intervene and determine who should be on an Olympic team once the team members have already been determined in the arena of sport.

### THE LANDMARK CASE

A fascinating situation arose in August 2000 when Matt Lindland brought suit to be the United States delegate in the 76-kilogram weight class for Greco-Roman Wrestling at the Sydney Olympics. At the U.S. Olympic Trials on June 24, a referee decided that Lindland lost a "best-of-three series of wrestling bouts in the 76-kilogram weight class" (Manson, 2000, p. 1) to Keith Sieracki. Lindland, however, requested a rematch claiming that in the final match, Sieracki tripped him, a move that is illegal in Greco-Roman wrestling where "unlike freestyle wrestling, competitors may use only their arms and upper bodies to attack and may only hold those parts of their opponents" (Vock, 2000, p. 1).

Lindland immediately appealed the outcome, requesting a rematch. This is not unusual in Greco-Roman wrestling, however in this case, Lindland's review was denied (Vock). In fact, his first protest was denied, and his second appeal using an official United States of America Wrestling Association, Inc. (USA Wrestling the NGB for Greco-Roman wrestling as designated by the United States Olympic Committee (USOC)) grievance procedure, was also denied by the United States of America Wrestling Association, Inc. (Manson, 2000).

At this point, Lindland initiated arbitration with USA Wrestling under the Ted Stevens Olympic and Amateur Sports Act of 1978, which "provide swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations" (36 USCS § 220503(8), 2002). Arbitrator Daniel Burns ordered a rematch to be rewrestled according to the rules of USA Wrestling (*Lindland v. United States of America Wrestling Ass'n, Inc.*, 2000a, p. 1037).

This match took place on August 14 and Lindland prevailed, however in the interim, Sieracki initiated arbitration of his own (*Lindland v. United States of America Wrestling Ass'n, Inc.*, 2000c, p. 1001). Arbitrator Campbell sided with Sieracki, and noted that he should remain the U.S. Olympic candidate for the 76-kilogram weight class. Now there were two arbitrators with two different rulings.

USA Wrestling, as the NGB for Greco-Roman wrestling, was still charged with naming one of these athletes to the Olympic team. However, they still did not name Lindland, as they chose to side with Arbitrator Campbell and name Sieracki the U.S. representative (*Lindland*, 2000c).

At this time, Lindland went to court under the Federal Arbitration Act to confirm Arbitrator Burns' award, as the Federal Arbitration Act "provides a private right of action, authorizing (and requiring) judges to confirm awards on the demand of the prevailing party. . ." (*Lindland*, 2000a, p. 1038). Initially, the district court dismissed Lindland's petition saying that the court did not have jurisdiction, and that Arbitrator Burns only ordered a rematch, not that the results of the rematch should hold any bearing (*Lindland*, p. 1038). However Lindland appealed to the United States Court of Appeals for the Seventh Circuit contending that the rematch was wrestled following USA Wrestling rules, according to Arbitrator Burns' ruling, and that as a result of winning the rematch, he should rightfully be the U.S. representative to the Sydney Games.

The Seventh Circuit court sided with Lindland. The court ruled that "federal jurisdiction plainly is present" (p. 1038). The court then ruled that Lindland was entitled to be the United States nominee to the Games because Arbitrator Burns award made clear that the rematch be wrestled according to USA Wrestling rules. The Burns Award was not ambiguous in regard to the type of match to be wrestled - it was to follow the specific rules used during the previous match. By following these rules, the winner of that match would be the U.S. Olympic representative (p. 1038-1039).

The court also held that a "party to arbitration cannot refuse to implement an existing award just because it dreads the prospect of a later incompatible award" and as such, Sieracki's arbitration should not hold (p. 1039). Sieracki had no right to initiate his own arbitration to provide for the chance that he might not agree with Arbitrator Burns' decision.

A key to this first appeal, however, is that the Seventh Circuit did not require the USOC to directly follow this ruling, since they were not part of arbitration. Thus, the ruling only directly affected USA Wrestling, and stated that they should recommend the USOC name Lindland to the team. The court

trusted that "the USOC will act responsibly once it receives USA Wrestling's nomination of Lindland" (p. 1040).

The next day, August 25, USA Wrestling sent the USOC a notice under protest informing it of the court's decision yet not nominating Lindland (*Lindland v. United States of America Wrestling Ass'n, Inc.*, 2000b, p. 783). It also sent the USOC another note nominating Sieracki (*Lindland*, p. 783).

Lindland returned to the district court asking it to enforce the Seventh Circuit's opinion and asked that USA Wrestling be held in contempt (p. 783). His motion was again denied.

Lindland then appealed to the Seventh Circuit Court of Appeals seeking a writ of mandamus (an order to follow a previous decision) enforcing the Burns Award (*Lindland*, 2000b). The court agreed with Lindland and issued the writ immediately. USA Wrestling was then obligated to immediately nominate Lindland or be held in contempt. The court was clear in stating that USA Wrestling erred by following Arbitrator Campbell's decision to nominate Sieracki because the court never confirmed that award as it stated "[o]n the other hand, [USA Wrestling] has received instructions from the Judicial Branch of the United States of America requiring it to implement Arbitrator Burns's award by making Lindland its nominee. Choosing which to follow should not be difficult. . ." (p. 783).

On August 26, USA Wrestling finally complied with the Seventh Circuit's order and sent Lindland's name to the USOC as the 76-kilogram nominee (*Lindland v. United States of America Wrestling Ass'n, Inc.*, 2000c, p. 1002). The USOC then refused to accept this nomination as they had already sent Sieracki's name to the International Olympic Committee (IOC) as the U.S. representative (*Lindland*, 2000c, p. 1002).

This action caused Lindland to again return to the district court in Illinois, asking that it force the USOC to comply with the Seventh Circuit's original order and send forth his name as the United States delegate (p. 1002).

On the other hand, Sieracki asked a different district court in Colorado to confirm Arbitrator Campbell's decision that he should be able to compete in Sydney (*Id.*). The judge in Colorado transferred the case to Illinois consolidating all of the cases.

The district court then ordered the USOC to submit Lindland as the U.S. wrestler, and this time the IOC complied with the change (*Id.*). The USOC and Sieracki appealed; however, Lindland's award was affirmed (p. 1008).

### Overview/Interpretation of the Law

When examining Lindland's case, three areas are pertinent: the Ted Stevens Olympic and Amateur Sports Act of 1978, the intent of Congress, and the Federal Arbitration Act.

According to Berry & Wong (1993), one of the reasons Congress passed the Ted Stevens Olympic and Amateur Sports Act of 1978 was to address the relationship between eligible athletes and NGBs. The Act "established the [USOC] as the principal mechanism for the attainment of these goals and assigned the USOC the following. . . objectives and purposes as guidelines for its operation. . ." (Berry & Wong, 1986, p. 10). Accordingly, the USOC has "exclusive jurisdiction . . . over all matters pertaining to United States participation in the Olympic Games. . ." (36 USCS § 220503(3(A)), 2002).

The USOC is also charged with finding, through the NGBs, the most competent athletes to represent the United States in the Olympic Games (36 U.S.C. §220503(4)). In addition, through the Act, the USOC must quickly resolve all disputes involving athletes, NGBs, etc., while protecting the athlete's opportunities to compete (36 U.S.C. §220503(8)). It is also important to note that the Act allows the USOC to choose the NGB for each sport, and the NGB, in turn, organizes the team for that sport (Ansley, 1995; Berry & Wong, 1993; Bitting, 1998; Mack, 1995). Further, Congress created the Act with the intent "to prevent judicial interference with the authority of the USOC to determine the eligibility of United States athletes in amateur athletic competition" (Mack, 1995, p.665).

Congress also "provided that an unsatisfied party has a right to review from any regional office of the American Arbitration Association. 36 USCS § 220529(a). Disputes with the national governing bodies are also subject to arbitration by the American Arbitration Association" (Bitting, 1998, p. 658). This pertains to the Federal Arbitration Act (FAA) (9 U.S.C. §1, et seq.), created by Congress and upheld by the United States Supreme Court (*Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.*, 1985). The Act states that "an agreement in writing to submit to arbitration an existing controversy. . . shall be valid, irrevocable, and enforceable. . ." (9 U.S.C. §2). Thus, the decision of an arbitrator is binding, and the courts can enforce such a decision if necessary.

### Main Legal Issues

Returning to Lindland's case, the affirmation of the Burns Award was important for several reasons. First, the court displayed that USA Wrestling

and the USOC were not independent of each other. The suit Lindland brought was against both USA Wrestling and the USOC, and the USOC did not follow its part of the judgment. This was in error, though, because the court viewed USA Wrestling as working in conjunction with the USOC, therefore neither was independent of the other. "The inference that USA Wrestling and the USOC undertook a joint effort to defeat the Burns Award (and our decision) is very strong" (*Lindland v. United States of America Wrestling Ass'n, Inc.*, 2000c, p. 1006).

Next, Lindland originally argued to Arbitrator Burns that there were problems with USA Wrestling's grievance procedures. Clearly, as demonstrated by his decision, Burns agreed. What surprised the court, though, was that Sieracki's arbitrator, Campbell, directed USA Wrestling to ignore the result of the rematch. This was the same as telling Sieracki not to comply with the Burns Award. Sieracki began his arbitration to prevent implementation of the Burns Award so that he could continue on to the Olympic Games, and it appeared for a short time he had achieved his goal.

This arbitration was problematic from the outset because an arbitrator cannot rule on a determination already awarded. This is an American Arbitration Association rule - one that the court pointed out Arbitrator Campbell chose to ignore. Arbitrator Burns had already made a ruling and Arbitrator Campbell chose to ignore it by making his own ruling. Because of this, the Seventh Circuit court found the Campbell Award to be invalid, and thus, not binding. This resulted in the Burns Award being upheld.

It is important to note here that Lindland was not entitled to the nomination per the Burns Award, he was simply given the opportunity for a rematch according to the rules - if Sieracki had won the rematch, he would have been entitled to the nomination. The court held this point as essential to sport: "Athletic disputes should be settled on the playing field—as the Burns Award provided" (*Lindland*, 2000c, p. 1005).

Also, the USOC themselves took several different angles on their position in the dispute. First, the USOC felt that they were protected because, in their opinion, Lindland had no legal standing, as in other previous cases where the athletes had no private right of action, such as was decided in a case which will be discussed further on in this article, *Michels v. United States Olympic Comm.* (1984). According to the Seventh Circuit, this point was incorrect and misunderstood.

The USOC also felt that they were an "independent organization, entitled to make the final decision" (p. 1006). They felt that USA Wrestling was only making a recommendation but that they themselves had the final say.

However, the court asserted that the USOC is essentially not independent of any NGB, in this case USA Wrestling, according to the Amateur Sports Act.

The court found the entities were in active concert based on their joint action in contesting Lindland's claims and their joint resistance to the Burns Award and the subsequent judicial orders (*Id.*). Specifically, the Court pointed to the USOC's promise to enforce the decision of the Campbell hearing and its implicit promise to ignore the Burns Award as evidence of its active participation in the entire conflict (*Id.*).

Therefore the USOC was also required to comply with the court's orders. Since USA Wrestling accepted Lindland as the 76-kilogram wrestler, Lindland was put forward as the USOC nominee and accepted by the IOC (Steadman, 2001).

That was not the end though. Sieracki asked the United States Supreme Court to stay the orders the next day, but Justice John Paul Stevens denied the motion for a stay four days later (Vock, 2000). His last resort was to appeal to "the Court of Arbitration for Sport [CAS], a special panel that convenes during the Olympics to expedite dispute resolutions. . . that arise during the games" (Vock, p.1). Lindland then received an injunction in federal court to prevent Sieracki from proceeding in the CAS (Vock). Lindland was finally an official member of the 2000 U.S. Olympic Team. As a final note, Lindland eventually earned the silver medal in Sydney, losing to gold medalist Mourat Kardanov of Russia in the title match (*Id.*).

In summary, Lindland originally sought not to be deemed the Olympic nominee outright, but to be heard on his protest. Lindland followed all prescribed procedures by first appealing to USA Wrestling, and then via arbitration with them according to the Ted Stevens Olympic and Amateur Sports Act of 1978. Arbitrator Burns fulfilled his request and a rematch was ordered. Lindland then won the rematch. In all of these steps, the courts held that Lindland followed the proper steps, and that all of the countermeasures of Sieracki, USA Wrestling, and the USOC were improper. Therefore, as the winner of the rematch under the official rules, Lindland won the right to represent the USA at the Sydney Games, an outcome continuously held up by the courts.

#### Previous Cases Involving Potential Olympic Athletes and the Courts

Some prior cases are very similar to Lindland's case. While not dealing directly with the outcome of a sport event, they deal with United States Olympic teams and athletes fights to be named to their respective teams.

*Michels v. United States Olympic Committee*

While competing in the Pan American Games, Jeffrey Michels, an amateur weightlifter, tested positive for drugs. The International Weightlifting Federation (IWF) immediately suspended him, causing him to be ineligible to compete in the 1984 U.S. Olympic Trials, and in the following Olympics. Michels then sued the USOC, the IWF, and the United States Weightlifting Federation (USWF) saying, among other things, that the test results were invalid. "Michels alleged that. . . the USOC violated the Amateur Sports Act. . ." (Mack, 1995, p. 665). Though the federal district court initially granted Michels an injunction causing him to be named as an Olympic alternate, the "appellate court held that 'the legislative. . . history of the Act clearly reveals that Congress intended not to create a private cause of action under the Act'" (*Michels v. United States Olympic Comm.*, 1984, p. 157). Michels was denied, and only the American Arbitration Association was authorized to hear the dispute (Mack, 1995, p. 667).

*DeFrantz v. United States Olympic Committee*

In 1980, the United States boycotted the Moscow Olympics. Twenty-five athletes still wanted to participate in the Games, and filed for an injunction to keep the USOC from preventing American participation. They felt that, among other things, they were "denied. . . the opportunity to compete in Games on a basis other than their want of athletic merit, or for a sports related reason" (*DeFrantz, et al. v. United States Olympic Comm.*, 1980, p. 1185).

The court concluded "that the USOC not only had the authority to decide not to send an American team to the Summer Olympics, but also that it could do so for reasons not directly related to sports considerations." (*DeFrantz*, 1980, p. 1189). Moreover, the court held that the Act does not guarantee an athlete the right to compete in the Olympics if the USOC decides not to send an American team, and therefore the plaintiffs had no 'right' under the Act to bring an action in court (p. 1191).

*Tonya Harding*

Arguably, the top story during the winter of 1994 was the attack on Nancy Kerrigan ordered by Tonya Harding's former husband, Jeff Gillooly (Heller 2001). Kerrigan was unable to compete in the National Championships that January (also serving as the Olympic Trials), which Harding eventually won (Heller). This victory assured Harding of a spot on the U.S. Olympic team, or so she thought (*Id.*).



Harding had been connected to the Kerrigan attack, and the United States Figure Skating Association (USFSA), as the NGB for figure skating, had to decide what action, if any, to take against Harding. They decided that a hearing must be held to determine if there were ethical violations (Hollis, 1995, p. 194). However, the date for the disciplinary hearing was set for after the Olympic Games, so her name was sent forth to the USOC to submit to the IOC as one of the U.S. Ladies' skaters.

On the other hand, the USOC elected to have its own disciplinary hearing one-week before the Olympic Ladies' Figure Skating competition. "The legal issue was whether Harding had discredited her teammates, the USFSA, the USOC, and the U.S. by her alleged criminal conduct" (Jones, 1999, p. 29).

Hearing of this, Harding sought an injunction in Oregon state court to prevent the USOC hearing. It is also important to note that along with the injunction sought against the USOC, Harding also sought a restraining order and \$25 million in compensatory and punitive damages in the event that she was banned from competing in Lillehammer (Hollis, 1995, p. 194). "A judicial review, but absent any explicit finding, suggested the USOC's disciplinary rules applied to conduct while a member of the U.S. Olympic team and did not apply to activities prior to joining the Olympic team" (Jones, 1999, p. 29). Therefore, the USOC chose not pursue the matter, Harding dropped the lawsuit, and was able to compete in the Lillehammer Games.

Even though she much later pled guilty to criminal conspiracy, at the time of the Games, Harding had not yet pled guilty. And the USFSA, though they did find that she "violated the USFSA's rules of ethics and sportsmanship," (Hollis, 1995, p. 196) waited to hand down a suspension or any sort of disciplinary action until a disciplinary hearing could be held where Harding could present her side of events. Eventually, Harding was banned for life from competing in USFSA events (Hollis).

### *Butch Reynolds*

After a track meet in 1990, the International Amateur Athletic Federation (IAAF), the International Federation (IF) for track and field, randomly tested Butch Reynolds for drug use. Reynolds test came back positive for banned anabolic steroids, and the IAAF immediately suspended him for two years. This made Reynolds ineligible for the 1992 Barcelona Olympics. He initially filed suit in federal court "alleging that the test was given negligently and provided incorrect results" (Bitting, 1998, p. 660). The district found that Reynolds had not exhausted all administrative remedies and that there was not state action and dismissed his complaint (*Reynolds v. Athletics Congress of the*

*U.S.A., Inc.*, 1991a, p. \*11). On appeal, the case was again dismissed (*Reynolds v. Athletics Congress of the U.S.A., Inc.*, 1991b, p. \*1).

As a result, he entered arbitration, as was his right under the Act, where he was completely cleared. Eventually, he was exonerated in 1991 and "cleared by U.S. Olympic authorities" (Hollis, 1995, p. 661).

However, the IAAF disagreed and holding another arbitration hearing, it reaffirmed Reynolds' guilt (p. 661). They even went so far as to say that any athletes who competed against Reynolds would be contaminated, thus becoming ineligible for the Olympics themselves (*Id.*).

Reynolds sued The Athletic Congress (TAC), the U.S. NGB for track and field, and the IAAF in federal court (*Reynolds v. Int'l Amateur Athletic Fed'n*, 1994a, p. 1113). He won his suit, however it was appealed all the way to the U.S. Supreme Court (*Reynolds v. Int'l Amateur Athletic Fed'n*, 1994b). As a result, Reynolds was permitted to qualify for the Olympics. (Bitting, 1998; Jones, 1999) However, he did compete in the U.S. Olympic Trials, and he was not allowed "to actually compete in the Olympics and [the IAAF] added four months to the two-year ban as a penalty for competing in the United States trials" (Bitting, 1998, p. 662).

### Analysis

In looking at *Michels*, the court determined that there were two main issues on which to base its decision. First, *Michels* was deemed to have no private right of action, or legal standing to bring suit. The court held that Congress did not intend for the courts to decide who should or should not be a member of an Olympic delegation. This decision was based on the fact that *Michels* did not go through the proper channels before filing suit. The court ruled he should have not only appealed to the USWF, but then to the American Arbitration Association. The AAA was the next logical step, according to the Ted Stevens Olympic and Amateur Sports Act of 1978, and this was a crucial step missed by *Michels*. Also, the court held that *Michels* had no complaint against the USOC, as the main issue was with the USWF and IWF.

Lindland's situation clearly does not follow this ruling. He followed all appropriate and prescribed steps in appealing his decision, according to USA Wrestling and the Act. His suit against the USOC was only after USA Wrestling and the USOC refused to comply with the arbitrator's decision to hold a rematch according to the rules, thus deeming the winner of that match the Olympic nominee.

Next, in *DeFrantz*, the court again deemed that *DeFrantz* had no private right of action. Here, the court specified that while the Act protects an

amateur athlete's right to compete, it did not guarantee that right if the USOC chooses not to field a team. The USOC acted independently of the government, and though strongly encouraged to boycott by President Carter, it was not mandated. The USOC decided on its own and was shown not to be a state actor, and was thus relieved of any wrongdoing.

In reference to *DeFrantz*, Lindland's cases have no connection. His cases were not about the right to compete in the Olympics; they were about the right to earn the chance to compete. Thus, as Lindland was not going to the Olympics in the first place, there was no opportunity to be taken away. Therefore, the *DeFrantz* case is not applicable.

Tonya Harding provides another interesting situation. Whereas she had legitimately won the right to compete in Lillehammer, the USFSA questioned this right. They saw ethical misconduct on her part, but were careful to protect her contractual rights to due process by holding a disciplinary hearing with the required thirty day notice after the Olympic Games. Plus, they ensured that they also covered the due process because they made it clear that she would need to be present.

Notwithstanding, the USOC still had reservations. Here, though, Harding's suit was a pre-emptive strike in that she had not been removed from the Olympic team. No action had been taken by the USOC; instead a hearing had been scheduled. Harding felt that she had won the right to compete by virtue of the U.S. Nationals results and filed suit to enforce that. The USOC, after the judicial review, backed down and allowed Harding to compete. The main issue here was that the USOC rules apply to Olympic team members at the time they are part of the team, and these rules do not apply to activities of a member before they are part of the team (Hollis, 1995; Jones, 1999).

It is clear that the court's review had an impact on the Olympic team, in that the composition of the team remained the same. This may not seem like an impact, but if they had found differently, the USOC might have been within its rights to remove Harding. However, unlike Harding, Lindland sought to enforce the results of the athletic competition, he was not suing due to the illegal actions of another competitor. Had this case gone to court, it might have been the most similar to Lindland, in that the USOC was seeking to alter the outcome of an athletic competition, which is what Lindland was looking to do. Only in Lindland's case, he did not ask for a reversal or that Sieracki be removed, but that he was afforded a fair shot. In the end, though, the situation is moot, because Harding's case never made it to court.

Reynolds was suing for the right to have a chance to be a part of the Olympic team. This was in accordance with the fact that he claimed his drug test was incorrect and negligently administered. In court, Reynolds won both

his suits, yet due to United States courts lack of jurisdiction outside the United States, was unable to compete in the Olympics (Bitting, 1998; Hollis, 1995).

Unlike Lindland, though, Reynolds was not contesting the outcome of an athletic competition. Additionally, his drug test was a random test after an event in Monte Carlo, and therefore he was fighting for the chance to compete at the trials and not in the event he was tested at. He was not an Olympic team member, nor was he contesting the results of a race. Therefore, these decisions, as can be argued about all decisions regarding drug testing, have no direct impact on Lindland's situation.

None of these cases are similar to the *Lindland* cases. Therefore, it can be said that *Lindland* set precedent according to the Ted Stevens Olympic and Amateur Sports Act of 1978. Here, the Act was applied as Congress had intended. Lindland exhausted all his avenues of appeal within USA Wrestling, proceeding to arbitration via the AAA as set forth in the Act. Sieracki sought his own arbitration, but in reality, had no standing to do so. The point of arbitration is not to circumvent an unfavorable outcome, and therefore, the court found Sieracki's arbitration invalid. Then, after Lindland won the rematch, he was deemed the winner and the rightful Olympic delegate. The arbitrator and the court did not set out to decide the outcome of the match. They set matters up so that the outcome would be decided in the arena of sport, which is what was intended by the Act. Lindland's pursuits in court only sought to enforce that outcome.

USA Wrestling entered arbitration with Lindland, and was therefore bound by its results. By Lindland winning the rematch, USA Wrestling should have honored that result and sent Lindland's name forward to the USOC, since according to the FAA, arbitration is "valid, irrevocable, and enforceable" (9 U.S.C. §2). Once the USOC received Lindland as the 76-kilogram representative, they should have done everything within their power from that point to ensure the IOC accepted his name. The USOC's argument, however, that they are independent of NGBs, and thus USA Wrestling, was found to be erroneous. The Act charges the USOC with choosing the NGBs, and the NGBs with setting up the teams for each sport. Therefore, the NGB and USOC act in accord when nominating Olympic team members, especially since the USOC most times takes the recommendations of the NGB without question.

Had the court found that the USOC had an independent ground for its decision, it may not have found an obligation for the USOC to abide by a judgment originally directed against the USAW. But it is readily apparent that the USOC had no just motivations independent of the USAW's to exclude Lindland from the Olympics. (Steadman, 2001, p. 149).

In addition, some may contend that the USOC was within its rights as it had been immune from judicial interference in the past. However those cases either did not follow prescribed procedures or were based on completely different issues than Lindland's cases, as, perhaps most importantly, Lindland sought to enforce a valid and binding arbitration award. This was his right under the FAA, which provided for a private right of action.

The USOC is only protected from judicial interference when determining the eligibility of United States athletes in amateur athletic competition as provided for by the Act's dispute resolution provisions (Mack, 1995). This area of the Act would apply to drug testing cases; however it would not apply to Lindland. He did not contest eligibility. He contested his opportunity to be heard in an appeal. This is an important distinction to make in this case.

An extremely troubling situation was that of Keith Sieracki. Though the outcome of the arbitration directly affected him via his status as an Olympic delegate, he was unable to present his side of the situation. This is perhaps one of the most important issues pertaining to Lindland's case. Lindland correctly entered arbitration, as per the Ted Stevens Olympic and Amateur Sports Act of 1978, with the NGB for wrestling, USA Wrestling. When the outcome resulting from the arbitration decision was ignored by USA Wrestling and the USOC, Lindland again correctly brought suit against those organizations. Though Sieracki was directly involved in the outcome, and directly affected by it, at no time was he involved in the legal proceedings. "It is simply unfair to presume that a contested winner's [Sieracki's] interests are fully represented by an NGB" (Nafziger, 2001, P. 372).

What is lost in the myriad of litigation that surrounded the case was that the original issue was whether the Olympic Trials referee so botched the final bout that a rematch was in order. Questionable officiating is an inseparable aspect of all sports, especially in events like Greco-Roman wrestling where the rules are complicated and the officials have a broad level of judgment. (Steadman, 2001, P. 154)

Many sports, such as swimming and basketball, are not as subjective in deciding a winner. Swimmers must be the fastest to touch the wall to win and basketball teams must score more points than their opponent to win. However, several sports are subjective. For example, gymnastics and figure skating rely on the opinions of judges to provide a winner. What would happen if an athlete in one of these sports decided that the outcome was unfair and decided to protest, only to have an inadequate hearing? Would arbitration result? Would lawsuits erupt? The answers to these questions remain to be seen. However it is possible that sport outcomes could be decided in court.

## CONCLUSIONS

After reviewing Lindland's situation and the related cases, several recommendations can be made. First, athletes should be careful before initiating arbitration or filing suit against their NGBs, or any governing bodies. It is imperative that all efforts are exhausted within an athlete's given sport before attempting outside remedies. In addition, it is also of the utmost importance that athletes seeking to voice grievances do so according to the methods prescribed by their sport. Not doing so will be looked upon unfavorably by the courts, as seen in Reynolds' situation. This is probably the most important thing an athlete can do if they have a grievance. Jumping straight to the courts will not do any good. Following the appropriate measures already in place will.

The NGBs would also be prudent in ensuring that they have adequate grievance procedures in place, and that they are followed. This is what the USFSA did in the circumstances relating to Harding. By publishing these procedures and following them, the NGBs are themselves covered should a protest ever go to arbitration or court.

Finally, the USOC needs to recognize that they are intertwined with the NGBs, and that they do need to follow court decisions that apply to the NGBs when dealing with Olympic bids. They are not independent, and this is an important message sent by the court in Lindland's final case.

## ABOUT THE AUTHOR

SUSAN SCHWARTZ recently received her M.A. in Education with a specialization in Sport Management from The Ohio State University. While earning her degree, she was a Graduate Administrative Associate in the Department of Recreational Sports and an intern in the Department of Athletics. Susan also has a B.S. in Education from New York University. Her current interests are event management and development/fundraising

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