



News Release

[THIS REPORT DOES NOT REFLECT THE DECISIONS MADE BY THE NCAA DIVISION I INFRACTIONS APPEALS COMMITTEE RELATIVE TO THIS CASE. FOR A FULL EXPLANATION OF THE APPEALS COMMITTEE'S DECISION, SEE THE INFRACTIONS APPEALS COMMITTEE'S REPORT LINKED TO THIS CASE'S WEBPAGE.]

FOR RELEASE:
March 21, 2001
2 p.m. Eastern Time

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Committee on Infractions
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UNIVERSITY AT BUFFALO, THE STATE UNIVERSITY OF NEW YORK **PUBLIC INFRACTIONS REPORT**

I. INTRODUCTION.

On February 9, 2001, officials from the University at Buffalo, the State University of New York, appeared before the Division I Committee on Infractions to address allegations of NCAA violations in the institution's men's basketball program. The University at Buffalo is a Division I-A institution and a member of the Mid-American Conference. The university has an enrollment of approximately 25,000 students and sponsors 10 men's and 10 women's intercollegiate sports. The university's last major infractions case occurred in 1993 and also involved the men's basketball team. That case centered on violations of NCAA bylaws relating to extra benefits and unethical conduct. The university had one other infractions case, in 1970, and it concerned improper financial aid and eligibility violations involving the institution's football and men's basketball programs.

Although the institution's current case is within the time period to be subject to the NCAA's repeat violator provisions, the two cases were unrelated, involved different issues and different coaching staffs. The present case originated from information that was reported to the institution during an exit interview with a student-athlete in the spring of 1999. In response to this information, the university sought and obtained the assistance of the Mid-American Conference office in conducting an inquiry of the men's basketball program. In early 2000, the conference forwarded its investigation report to the NCAA. The NCAA enforcement staff's subsequent investigation confirmed most of the violations found in the conference's inquiry. The case primarily concerned violations of NCAA bylaws governing preseason practice, tryouts, coaching staff restrictions, impermissible scouting of opponents, extra benefits, unethical conduct and a lack of monitoring.

In reaching its decision in this case, the committee was required to weigh the credibility of a large number of affidavits that were submitted by both the university and counsel for the former head men's basketball coach (henceforth referred to as the "the head coach"), some of which were from the same individuals, yet contained conflicting information. The committee was concerned about the nature of many of the affidavits submitted on behalf of the head coach. A significant number of these documents were drafted by counsel a few days prior to the hearing, sent out for signature and returned immediately without any alterations. A number of them contained the same, rote language and were crafted in such a way so as to lead the individual signing the document to attest to general conclusions that were favorable to the head coach's cause, rather than reflecting the exact information the individual may have actually reported. The committee believed that this undermined the credibility of such information. Further, of some concern to the committee was the fact that these affidavits were improperly included in the head coach's "supplemental reply." Counsel for the head coach was given special permission to submit the "supplemental reply" just prior to the hearing with the clear understanding that it would relate only to a recent amendment to an allegation made by the enforcement staff. (Finding II-D of this report). However, the head coach's counsel submitted information that was, for the most part, unrelated to the amended allegation and contained information as to other allegations to which the university and the enforcement staff did not have an opportunity to respond. There was no showing that most of the information contained in the supplemental reply could not have been obtained earlier and submitted with the head coach's original response. In considering the head coach's supplemental reply, the committee was of the view that it was little more than a thinly veiled, last-minute attempt to overcome substantial evidence against him by his submission of questionable affidavits.

Finally, as discussed in greater detail in Finding II-E, the committee did not find the testimony of the head coach at the hearing to be credible.

II. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.

A. IMPERMISSIBLE OBSERVATION OF PRESEASON BASKETBALL ACTIVITIES. [NCAA Bylaws 17.5.2, 17.5.2.2 and 17.5.6]

On numerous instances during the 1995-96 through a portion of the 1999-00 academic years, the head coach and occasionally other members of the men's basketball staff, observed informal scrimmages between men's basketball student-athletes prior to the October start date for NCAA Division I men's basketball practices. During the 1996-97 academic year, in addition to the head coach, an administrative assistant in the men's basketball program, who later became an

assistant coach (henceforth referred to as “assistant coach A”), observed the informal scrimmages. During the 1997-98 academic year, in addition to the head coach and the administrative assistant (who had, by then, been hired as an assistant coach), another assistant men’s basketball coach (henceforth referred to as “assistant coach B”) observed the informal scrimmages.

Committee Rationale

Regarding Finding II-A, impermissible observation of preseason basketball activities, the committee, the university and the enforcement staff are in agreement with the facts as set forth above and that violations of NCAA legislation occurred. The head coach disputed a portion of this finding, but did admit he was present before, during and after informal preseason scrimmages during the 1995-96 academic year and up to October 10, 1997, although he claims that his presence during this time was not for the purpose of evaluating or instructing student-athletes and thus no violations of NCAA legislation occurred. The head coach’s position is that neither he nor his assistants watched these scrimmages after the university’s compliance officer caught assistant men’s basketball coach B watching a scrimmage on October 10, 1997, which resulted in a 10-day suspension of assistant coach B by the director of athletics and a “rules violation” notice to the head coach.

In explaining the occasions he did witness preseason basketball activity, the head coach claimed that, in walking between his parking place near the institution’s arena and his office, he was required to pass through the areas in which student-athletes were scrimmaging, thus he could not avoid being present (albeit for a short duration) when these scrimmages took place. In response to the substantial number of student-athletes who reported that the head coach was present during the scrimmages, the head coach claimed that members of the university’s athletic administration exerted pressure on student-athletes, threatening them with the loss of their financial aid if they did not provide information that was damaging to him. Finally, the head coach claimed that there was a concerted effort by the university’s athletics administration to remove him from his position as head men’s basketball coach.

Ultimately, the committee concluded, based on the preponderance of evidence, that the head coach (and assistant coaches) did observe preseason basketball activities both before and after October 10, 1997, that this observation was not inadvertent and that it occurred on a regular basis. In making this decision, the committee carefully assessed the evidence submitted by the enforcement staff, the institution and the head coach. This evidence included reports of witness interviews as well as a substantial number of affidavits. The committee closely examined the floor plan of the Alumni Arena, the building housing the athletics department offices (including that of the men’s basketball staff) as well as the

venue in which the men's basketball team competes and practices and the so-called "triple gym" where informal "pick-up" games were played.

Particularly compelling to the committee was the testimony provided by assistant coach A. Assistant coach A reported that he observed the preseason scrimmages throughout the fall of 1996 and even played with the student-athletes occasionally. He also reported that he ceased observing the preseason scrimmages during the fall of 1997 just before official practice started. Assistant coach A stated that when he was in attendance at the scrimmages, he watched for approximately 15 to 20 minutes, as did the head coach. Assistant coach A noted that the head coach observed the scrimmages approximately two to three times a week with increased frequency as the official practice start date approached. Assistant coach A reported a "cat and mouse game" between the compliance officer and the head coach. Specifically, assistant coach A stated, "The compliance guy we had from time to time, who would come in, you know, and (the head coach) would hide, you know, in a doorway. I remember one time he came in and this was the end of my experience watching, uh, we went out the back door, you know, and that was when I realized that this was something that I shouldn't be doing. And it was more like a game to him (the head coach), you know. It was more like, we didn't get caught, you know. And that was probably, that time was the end of my doing that. But he (the head coach) did it on a regular basis." Assistant coach A noted that once a full-time compliance officer was hired, the coaching staff became more careful about observing scrimmages and generally stood by the back door so that they could leave in case anything happened. Further, assistant coach A reported that more than once the student-athletes told him that sometimes the head coach would be hiding between the court dividers of the "triple gym" when the compliance officer came in and that he would not know the head coach was present. Assistant coach A reported, "I remember one time I was working out, I had stopped, this was when I had stopped going to the gym and I was working out. And I was at the water fountain and they were in there playing and I saw (the compliance officer) coming. And I just peeked in the door and said, '(the compliance officer's) coming,' and they (the other coaches) dispersed."

Of specific interest to the committee was assistant coach A's portrayal of the head coach's reaction to the "rules violation memorandum" from the director of athletics, which included the 10-day suspension of assistant coach B for observing preseason scrimmages in October 1997. Rather than taking a position to ensure that such violations did not occur again, assistant coach A reported that the head coach downplayed the incident and told the coaching staff, "You are on your own if you get caught." The committee also noted that the director of athletics "rules violation memorandum" to the head coach characterized the observation as a "major" violation. The head coach replied to the director's memorandum with a memorandum of his own disagreeing that it was a "major" violation and maintaining that assistant coach B's suspension was "too harsh."

In the head coach's response to the official inquiry, he asserts that assistant coach A was unhappy with him and was publicly critical of him. The committee believes that even if the assistant coach was unhappy as a member of the head coach's staff, one cannot jump to the conclusion that assistant coach A provided false statements in this inquiry. Moreover, the committee found assistant coach A's testimony regarding the head coach's involvement in violations to be credible in light of the fact that assistant coach A admitted his own involvement in violations, as noted in this finding.

With regard to the question of whether the coaches continued to observe preseason basketball activities after October 10, 1997, the committee concluded that this did occur based upon information received from student-athletes attending the institution during this time. Specifically, student-athlete 1 who was a member of the 1998-99 men's basketball squad, reported, "We played in basically what is called a "triple gym." It has three gyms right next to each other. Well, they partitioned off one of the gyms so that basically, volleyball would practice in there occasionally, and we could go and scrimmage. Well, with the 1998-99 season, that partition was not completely operational. For some reason, it could only be pulled to about 90 percent of the way closed. So there was about a five-foot opening between the double part of the gym and the single part. And routinely, the coaches would make a joke of standing close to that opening and then walking over to the door if there was any suspicion of somebody coming down. If someone did appear, they would walk over to the double part and act like they were just watching pick-up basketball. And they would routinely return to then watch us continue our scrimmage. And it was a joke and we laughed about it. It's just, you know, we could see them joking about it and it was like it was us versus, you know, the cops out trying to catch us." Student-athlete 1 stated that all the members of the men's basketball team knew that the coaches were not supposed to be observing the preseason scrimmages.

Student-athlete 2 who also competed on the 1998-99 men's basketball team, reported that the head coach observed scrimmages on occasion. Specifically, student-athlete 2 stated that he had seen the head coach observing scrimmages from the track above the main gym and looking through the glass in the door of the triple gym, or just standing in plain view in the triple gym. According to student-athlete 2, the head coach generally observed the preseason scrimmages for 15 to 20 minutes, approximately three times per month. This student-athlete said that the head coach definitely was observing the scrimmages and was not doing other tasks. Student-athlete 2 reported that occasionally, the head coach would talk with him about how he played during the scrimmage games and the areas of his game on which he needed to work.

During the hearing, the committee carefully scrutinized the floor plan of the institution's basketball arena, which also contained athletics department offices, including the offices of the men's basketball staff. The committee concluded that, contrary to the head coach's claim that the route between his parking place caused him unavoidably to view the

preseason scrimmages, there was a convenient route available between his office and his parking place that bypassed the area in which the preseason scrimmages took place. Moreover, the scrimmages took place in the afternoon when, according to the head coach's own submission, he was involved in overseeing conditioning and skill-related activities and engaging in personal workouts, and thus not likely to have been going to and from the parking lot.

It should also be noted that there were allegations that the head coach provided coaching instruction to student-athletes in conjunction with the preseason activities. After carefully weighing the evidence on both sides of this charge, the committee could not make a finding that this violation had occurred based upon the standard set forth in Bylaw 32.7.6.2.

B. IMPERMISSIBLE TRYOUTS. [NCAA Bylaw 13.12.1]

During the period July 1997 to August 1999, the head coach and other members of the men's basketball coaching staff conducted, or had conducted in the institution's gym facilities, athletics tryouts for at least four prospective student-athletes who were visiting the institution's campus so that the coaches could evaluate the prospects. Specifically:

1. In July 1997, a prospective student-athlete from Germany took an official paid visit to the institution and participated in a skill-related drill that was conducted by an assistant men's basketball coach (henceforth referred to as "assistant coach C") and then participated in a five-on-five scrimmage with members of the men's basketball team in the institution's gym facilities. These activities were observed by the head coach and assistant men's basketball coaches A and B.
2. In early June 1998, three prospective student-athletes (henceforth referred to as "prospective student-athletes A, B and C") made unofficial visits to the institution at the same time; and during this visit, participated in five-on-five scrimmages with members of the men's basketball team in the institution's gym facilities. These scrimmages were observed by the head coach who afterward provided comments to the prospects of an evaluative nature.
3. Between January and May 1999, a prospective student-athlete (henceforth referred to as "prospective student-athlete D") made approximately five to seven unofficial visits to the institution, and each time participated in five-on-five scrimmages with members of the men's basketball team in the institution's gym facility. During at least four of these scrimmages, the

head coach observed the prospect and provided comments to him of an evaluative nature. Also, an assistant men's basketball coach (henceforth referred to as "assistant coach D") observed at least one of these scrimmages involving this prospect.

Committee Rationale

Regarding Finding II-B, impermissible tryouts involving prospective student-athletes, the committee, the university and the enforcement staff were in agreement with the facts as set forth above and that violations of NCAA legislation occurred. The head coach denied having conducted tryouts for any prospective student-athlete and, thus, disputed this allegation. The head coach did, however, during the hearing state that scrimmages were an important facet of prospects' visits to the university because it demonstrated how the prospect would interact with the current members of the team. The head coach attempted to explain the participation of prospective student-athletes in scrimmages during campus visits as being permissible under Bylaw 13.12.2.2, which allows a visiting prospect to participate in physical workouts or other recreational activities during a visit to an institution's campus, provided such activities are not organized or observed by members of the coaching staff and are not designed to test the athletics abilities of the prospect. The committee concluded that, in the above specified instances, the head coach clearly organized and observed this activity and that such activity constituted impermissible tryouts.

With specific reference to Finding II-B-1, the committee concluded that a violation of NCAA tryout legislation occurred as set forth in this finding, based upon information provided by two of the three assistant coaches who were present as well as a student-athlete who took part in the activity. Assistant coach A reported that he was present when the prospect from Germany visited the university's campus and scrimmaged with the team. Assistant coach A stated that the visit occurred during the summer and that the scrimmage was prearranged and included other individuals who were not Buffalo men's basketball student-athletes. Assistant coach A reported that the head coach and assistant coach C were present as well. Assistant coach A recalled that student-athlete 1 dislocated his shoulder during the scrimmage. Assistant coach A further stated that he was almost positive that assistant coach B also was present, as was student-athlete 1's father, who lived in the vicinity and frequently came by to watch his son play.

Concerning campus visits by prospective student-athletes in general, assistant coach A reported that the prospects were not told to play but that scrimmages were arranged and it was assumed that they would participate. He further reported that whether the visit was official or unofficial, the reason that that prospect was brought to campus was to scrimmage. When asked to explain the reason that it was necessary to have the

prospective student-athlete play while on campus, assistant coach A responded that the head coach did not trust his assistant coaches' opinions of and ability to evaluate recruits. Assistant coach A stated that the head coach needed to see how the prospect mixed in with the men's basketball student-athletes, and that the head coach relied on the opinions of the student-athletes about prospects as much, if not more, than the assistant coaches. Assistant coach A stated that he did not know if the head coach saw every prospect play but believed that the head coach observed most of them. According to assistant coach A, the head coach never required the assistant coaches to watch and only informed them when a recruit was on campus. However, assistant coach A stated that if you wanted to have input in the decision to sign the prospect, then you attended the scrimmage and observed the prospect.

Assistant coach C confirmed assistant coach A's account of the foreign prospect's tryout. He also recalled the head coach instructing him to go onto the basketball court and throw the ball to the prospect a few times. Assistant coach C reported that the head coach felt that watching prospects work out was the best thing that occurred during prospects' visits to the institution. Assistant coach C further reported that after a pick-up game was completed, the coaches would typically meet in the basketball offices, and the head coach would evaluate the recruits with the other coaches. Assistant coach C reported that student-athletes provided evaluations for the head coach as well. When asked if the assistant coaches were aware that the head coach was violating NCAA rules, assistant coach C reported that the assistant coaches were aware of this and informed the head coach as such. Assistant coach C said that the head coach responded to this warning by telling the assistant coaches "everyone does it," referring to on-campus evaluation of prospects.

Student-athlete 1 reported that during the summer of 1997, a prospective student-athlete from Germany was on campus and scrimmaged with the team. Student-athlete 1 stated that prior to the scrimmage, assistant coach C ran a drill where he would pass the ball into players set up at the low-post position. After this drill and prior to commencing the scrimmage, the head coach pulled student-athlete 1 aside and instructed him to guard the recruit to see what the foreign prospect could do offensively. Student-athlete 1 reported that he remembered the scrimmage vividly because he played particularly well, and the coaching staff was surprised by how well he had played offensively. He further reported that he specifically recalled the head coach speaking with him at the conclusion of the scrimmage about the foreign prospect's lack of ability. Student-athlete 1 noted that the head coach always queried the student-athletes about the ability of prospects. Student-athlete 1 also noted that at the end of the scrimmage, he separated his shoulder, and he subsequently was unable to play during the 1997-98 season. Additionally, student-athlete 1 reported that he was attending summer school at the time and living with two other men's basketball student-athletes. Student-athlete 1 reported that on the day the foreign prospect played, either he or one of his roommates received a telephone call from a

coaching staff member indicating that they should come to the gym to play, as a recruit was on campus. Student-athlete 1 stated that three additional men's basketball student-athletes were also present on that occasion. Student-athlete 1 stated that to the best of his recollection, the head coach and all three assistant coaches were present during the whole scrimmage, but that they may have stepped out at times. Student-athlete 1 also reported that his father attended the scrimmage. The committee noted that a statement from the foreign prospect was contained in the "supplemental reply." In the statement, the foreign prospect denied that coaches were present while he participated in scrimmages during his campus visit. This statement was drafted by counsel for the head coach, sent to the prospect, signed by the young man, and returned without any additional comments or edits. The committee considered this statement, but ultimately found the opposing information to be more credible.

With specific reference to Finding II-B-2, the committee concluded that a violation of NCAA tryout legislation occurred when three prospective student-athletes participated in a scrimmage in the presence of the head coach during their visits to the institution in early June 1998. The committee based its decision on information provided by two of the three prospective student-athletes.

Prospective student-athlete B reported that the head coach watched him play on the second day of his campus visit and was on the sidelines critiquing players. Later that evening at the head coach's home, the head coach told him that he played like a certain prominent NBA player. When prospective student-athlete B was asked what the head coach had said about others, he responded that the head coach told prospective student-athlete A that he was a good shot-blocker, but that he needed to get stronger in order to improve offensively.

Prospective student-athlete A reported that he was accompanied on his unofficial visit by prospective student-athletes B and C and that they played pick-up basketball on the second day of the visit. Prospective student-athlete A stated that during the scrimmage, the head coach watched the team play from the side of the court and then later from outside the door of the triple gym looking in. Prospective student-athlete A was not certain how long the head coach was in the gym, but speculated that he was present for "a while." Prospective student-athlete A recalled speaking with the head coach after the scrimmage, at which time the head coach critiqued him on his play. Prospective student-athlete A specifically remembered that the head coach made comments about his shot blocking ability. Prospective student-athlete A reported that he later went to the head coach's home where he had refreshments and watched a televised game involving the Chicago Bulls of the National Basketball Association. Prospective student-athlete A also reported that the head coach discussed his skills compared to other players and his "style" of play.

With specific reference to Finding II-B-3, the committee concluded that a violation of NCAA tryout legislation occurred when prospective student-athlete D participated in several scrimmages with enrolled student-athletes during unofficial visits to the institution's campus, many of which were observed by the head coach. [Note: Prospective student-athlete D lived in the local area.] The committee based its decision on information provided by a variety of sources, including the prospective student-athlete, his father, an assistant coach and a team manager.

Prospective student-athlete D reported that he was recruited by the institution's men's basketball program in March 1999 through April 1999, and that the head coach asked him to play with the team when he came to the campus on his unofficial visits. The young man further reported that the head coach would call his father, and ask his father to send him to the campus in order to scrimmage with the team. Prospective student-athlete D reported that he came to the campus approximately four to five times on weekends and weeknights and that he also competed against other prospects who happened to be on campus making official visits. The young man reported that he saw the head coach in the gymnasium on approximately four of his visits, both in the "triple gym" and the main arena. Concerning the so-called "triple gym," prospective student-athlete D reported that the head coach would peer through the windows in the doors of the arena. Concerning the arena, the young man reported that the head coach would view the court by walking from his office and through a nearby door to the arena. Prospective student-athlete D further reported that in order to see the head coach watching the scrimmages you had to be looking for him because he was often not in plain sight. Prospective student-athlete D reported that the head coach summoned him to his office after the scrimmages and critiqued his play. According to the young man, the head coach compared his ability to other recruits who were on campus for official visits, and informed him as to what he needed to work on to become a better basketball player.

Prospective student-athlete D's father, who happened to be a local high school basketball coach, reported that assistant men's basketball coach D saw the young man play in a local high school game in January 1999 (the prospect's senior season), and subsequently invited him and his son to visit the institution's campus. The prospect's father reported that during their first campus visit, the university's head coach informed prospective student-athlete D that the men's basketball student-athletes played pick-up games every Tuesday and Thursday, and that the young man was welcome to come play with them. The prospect's father stated that his son did not participate in a pick-up game at the institution until his high school season was over in the spring of 1999. Prospective student-athlete D's father recalled that his son played pick-up games on the institution's campus approximately seven times and that he went with his son on three to four of those occasions. The prospect's father stated that on the three to four occasions that he observed his son playing in pick-up games, he also saw the head coach watching the student-athletes play. The father reported that the head coach did not stay long and that

he was not flagrant in his observing, as he might look while he was passing through the gym. The prospect's father estimated that the coaches generally were in the gym for approximately 15 to 20 minutes at a time. The prospect's father stated that the head coach provided his son an evaluation of his play after his participation in each of the scrimmage game sessions. The prospect's father added that he found the situation to be ironic in that each time his son played in a session of pick-up games, another prospective student-athlete also was on campus and playing basketball. The prospect's father stated that he got the impression that the head coach wanted to measure his son's skills against those of other prospective student-athletes. The prospect's father commented that the head coach would not have been able to critique his son's basketball skills unless he had observed him playing.

Assistant coach D reported to the conference investigator that on one occasion, he sat with the father of prospective student-athlete D in the gym watching prospective student-athlete D play while the head coach observed from the track above the gym floor.

A men's basketball team manager who was enrolled at the institution in the spring of 1999 reported that on one occasion during that spring, he was instructed by assistant coach D to ensure that prospective student-athlete D and another visiting prospect were always on the court and not off to the side while the team was scrimmaging. The manager noted that assistant coach D told him that the head coach wanted to ensure that the prospects were playing. The manager reported that both the head coach and assistant coach D were present on the occasion that both prospects played. When asked the duration the coaches observed the scrimmaging, the manager said that, although he could not recall how long the coaches observed, he was certain it was longer than simply walking in and out of the gym.

C. IMPERMISSIBLE EXTRA BENEFITS—LONG-DISTANCE TELEPHONE USE. [NCAA Bylaw 16.12.2.1]

From February 1998 through October 1999, several men's basketball student-athletes used the institution's men's basketball coaching staff telephones to place personal long-distance telephone calls at no expense to the young men. Specifically:

1. From February 1998 to July 1999, a student-athlete used the coaching staff telephone to place 17 personal long-distance calls. [NCAA Bylaw 16.12.2.1]

2. From May to July 1998, a student-athlete used the coaching staff telephone to place four personal long-distance calls. [NCAA Bylaw 16.12.2.1]
3. From June 1998 to April 1999, a student-athlete used the coaching staff telephones to place 13 personal long-distance calls. [NCAA Bylaw 16.12.2.1]
4. From June 1998 to March 1999, a student-athlete used the coaching staff telephones to place 15 personal long-distance calls. [NCAA Bylaw 16.12.2.1]
5. From June 1998 to October 1999, a student-athlete used the coaching staff telephone to place eight personal long-distance calls. [NCAA Bylaw 16.12.2.1]
6. During July and August 1998, a student-athlete used the coaching staff telephone to place six personal calls to his family's home in Russia totaling \$210.72. [NCAA Bylaw 16.12.2.1]
7. In December 1998 and August 1999, a student-athlete used the coaching staff telephone to place two personal calls to his family's home in Russia. [NCAA Bylaw 16.12.2.1]
8. From April to August 1999, a student-athlete used the coaching staff telephone to place three personal long-distance calls. [NCAA Bylaw 16.12.2.1]
9. During the spring of 1999, a student-athlete used the coaching staff telephone to place one personal long-distance telephone call to England for the purpose of obtaining a passport. [NCAA Bylaw 16.12.2.1]

Committee Rationale

Regarding Finding II-C, cost-free long-distance telephone use by student-athletes, the committee, the university and the enforcement staff were in agreement with the facts as set forth above and that violations of NCAA extra benefit legislation occurred. The committee notes that head coach was not named in this finding.

D. VIOLATION OF SCOUTING LEGISLATION; VIOLATION OF COACHING STAFF LIMITATIONS. [NCAA Bylaws 11.6.1, 11.7.1, 11.7.1.1.1, 11.7.1.1.1.1 and 11.7.4]

Between November 1996 and December 1999, on two occasions, the head coach arranged for an individual to scout opponents off campus and in person, and also permitted his administrative assistant to engage in coaching activities before and during a game. Specifically:

1. During the fall of 1996, the head men's basketball coach permitted his administrative assistant to engage in coaching activities in violation of NCAA legislation by allowing him to analyze a video tape of the St. Bonaventure University men's basketball team before the institution's contest with St. Bonaventure and then permitting the administrative assistant to sit with the coaching staff during the game against St. Bonaventure on December 7, 1996, where he observed, noted and commented on the opponent's game activities for the benefit of the institution's coaching staff and team. This activity also placed the institution in violation of NCAA Division I legislation governing coaching staff limitations.
2. During the fall of 1999, the head coach allowed an aspiring assistant coach to scout two upcoming opponents of the institution's men's basketball team (Niagara University and Cornell University).

Committee Rationale

Regarding Finding II-D, impermissible scouting of opponents and violations of coaching staff limitations, the committee, the university and the enforcement staff are in agreement with the facts as set forth above and that violations of NCAA legislation occurred. This finding originated from the amended allegation referenced in the introduction of this report. As indicated earlier, the head coach was provided an opportunity to address the amended allegation and did so in a supplemental reply received by the committee a short time prior to the infractions hearing. The only aspect of the amended allegation disputed by the head coach in his supplemental response was a passage in the case summary which made reference to a scouting report on Niagara University having been distributed to the Buffalo men's basketball team. It should be noted that the issue of a scouting report was not included in the actual allegation, but rather simply was part of the "background information" provided by the enforcement staff relating to the allegation.

With specific reference to Finding II-D-1, assistant coach A reported that in the fall of 1996 he was not yet a coach but an administrative assistant. He said assistant coach B was training him in the analysis of opponents' game videos when, at some point, assistant coach B was unable to perform these duties related to the preparation for the institution's game against St. Bonaventure. Because of this, assistant coach A analyzed the game film on St. Bonaventure for the benefit of the head coach's game preparation. When the institution competed against St. Bonaventure, assistant coach A sat with the coaching staff and "scouted" the opponent. Assistant coach A described "scouting" as observing St. Bonaventure's in-game play and then providing commentary and feedback to the team and coaching staff. After this game, assistant coach A said the head coach told him that the head coach at Canisius College had called to complain about assistant coach A's activities. The head coach told assistant coach A that he could no longer engage in such activities. Assistant coach A reported that he did not think the head coach knew his coaching activity was a violation of NCAA legislation.

The head coach did not dispute the facts as set forth in this finding.

With specific reference to Finding II-D-2, the "aspiring assistant coach" referenced in the finding above was a high school coach (hereafter referred to as "the former high school coach") whom the head coach attempted to hire as an assistant in the fall of 1999. However, after moving to Buffalo, the former high school coach was informed that he could not join the Buffalo men's basketball staff because the university's administration had issued protocols which precluded the hiring of any new assistant men's basketball coaches. The head coach reported that, despite the protocols, he was still hopeful that something could eventually be worked out which would allow the former high school coach to be hired. At this point, with no job, the head coach said the former high school coach asked him if he could attend the games of the institution's upcoming opponents and observe them. The head coach reported that he told the former high school coach that because he (the former high school coach) was not an employee of the institution, he could scout the institution's upcoming opponents. Related to his decision to have the former high school coach scout the opponents, the head coach told the enforcement staff, "I will admit that I didn't give an (expletive)." The head coach also indicated that, by doing this, he was showing his contempt for the director of athletics. After the former high school coach scouted one of the institution's upcoming opponents, Niagara University, and Niagara's athletics staff complained to the institution about this, the director of athletics confronted the head coach to question him about the scouting. The head coach replied to the director of athletics, "(the former high school coach) can do anything he wants. You screwed him by not hiring him."

Buffalo's associate director of athletics for compliance reported that the coaching staffs at Niagara and Cornell called the institution to complain that the former high school coach had been present at their games scouting. Both Niagara and Cornell staff had videotapes

proving the former high school coach was present. The day after the Cornell staff had complained, the compliance officer saw the former high school coach conferring with an assistant men's basketball coach in the head coach's office. He could not hear what they were talking about. The compliance officer reported that assistant coach D later provided him a copy of the former high school coach's scouting report on Niagara, which the assistant coach said he had obtained from a student-athlete. A copy of this scouting report was included in the university's response.

The committee concluded that the head coach, at a minimum, allowed the former high school coach to scout upcoming opponents of the institution's basketball team and generate scouting reports that were distributed to the team. The committee based this conclusion on the testimony from the head coach, the circumstances surrounding the attempted hire of the former high school coach (and whom, at the time, the head coach still hoped to eventually hire), and the fact that there was irrefutable evidence that the former high school coach did, in fact, scout upcoming opponents and provide scouting reports. The head coach's actions constituted violations of scouting limitation legislation.

E. UNETHICAL CONDUCT. [NCAA Bylaws 10.01.1 and 10.1-(c)]

The head coach acted contrary to the principles of ethical conduct inasmuch as he did not on all occasions deport himself in accordance with the generally recognized high standards of honesty normally associated with the conduct and administration of intercollegiate athletics for his involvement in Findings II-A, II-B and II-D of this report.

Committee Rationale

The information upon which this finding is based, as with most of the findings in this case, was in conflict. However, the committee made the findings set forth in this report based upon several factors. First, it appeared that the evidence submitted by the university, the conference and the enforcement staff (some of which involved affidavits) was more objective in that it did not contain the rote, "canned" language found in the affidavits submitted on behalf of the head coach. Also, the student-athletes had an opportunity to review the affidavits developed during the conference investigation to ensure their accuracy. In many cases, the student-athletes made edits and changes to these documents, something which was not seen in the affidavits submitted on behalf of the head coach. Moreover, in the eyes of the committee, the assistant coaches provided information that was consistent, truthful and, in some cases, clearly implicated themselves in violations. Lastly, and perhaps most importantly, the committee had the opportunity to question the head coach in person during the hearing. The committee found him to be evasive, deceptive and simply not credible. An example of this type of behavior was demonstrated by the following exchanges which took place during the infractions hearing:

CHAIRMAN: Did all of your athletes participate in the skill sessions?

HEAD COACH: All of the ones who were in the basketball program, yes, sir.

CHAIRMAN: And they came in and were they required to participate?

HEAD COACH: In the skills sessions?

CHAIRMAN: Yes.

HEAD COACH: Yes, sir, they were.

CHAIRMAN: That was your requirement?

HEAD COACH: Yes, it was.

CHAIRMAN: I see.

HEAD COACH: And the conditioning.

CHAIRMAN: They were required?

HEAD COACH: Yes, and they couldn't do more than eight hours a week total in those things. That is the rule.

* * *

CHAIRMAN: Now, as I understand what you have told me, you required the students to take part in your basketball program and the skill training sessions.

HEAD COACH: Yes, sir.

CHAIRMAN: All right. If you read, and maybe I am reading wrong, but if you read Bylaw 17.1.5.2.1, it says participation in individual skill instruction is permitted and no more than four student-athletes from the same team are involved in skill-related instruction with their coaches at any one time in any facility, and the student-athletes request the instruction. Now, it just seems to me that you have clearly stated that you were in violation by requiring these students to be there.

HEAD COACH: Well, all I can say is I haven't looked at the book lately, but if that is what it says, then we would let them or they would ask us.

It also appeared to the committee that there was a “common thread” throughout this case in which the former head men’s basketball coach attempted to gain competitive and recruiting advantages through a disregard of NCAA legislation specifically relating to limitations in the assessment and evaluation of prospective student-athletes, student-athletes and opponents.

F. FAILURE TO MONITOR; FAILURE TO REPORT VIOLATION OF NCAA LEGISLATION. [NCAA Constitution 2.8.1 and Bylaw 30.3.5]

It was found that the institution failed to adequately monitor the men's basketball program for NCAA compliance and report violations of NCAA legislation. Specifically:

1. The institution failed to monitor the use of the telephones in the men’s basketball office and the student services office, and as a result, the men’s basketball student-athletes were allowed to make the impermissible long-distance telephone calls as indicated in Finding II-C. [NCAA Constitution 2.8.1]

2. In October 1997, the institution failed to report to the institution's conference or the NCAA an NCAA violation involving an assistant men's basketball coach B in which the assistant coach observed an out-of-season practice, as noted in Finding II-A. [NCAA Constitution 2.8.1, NCAA Bylaw 30.3.5]

Committee Rationale

The committee, the university and the enforcement staff agreed on the facts contained in this finding and that violations of NCAA legislation occurred. In regard to Finding II-F-2, the committee noted that the "rules violation memorandum" sent to the head coach by the director of athletics in response to the impermissible observation of preseason practice by the assistant coach (and referenced in the discussion of Finding II-A) indicated that this was a "major" violation. Despite the director of athletics perception of this incident as a serious violation, he did not report it to the NCAA.

SECONDARY VIOLATIONS

[NCAA Bylaws 13.02.14.2, 13.6.3, 13.7.1.1, 16.12.2.1 and 30.3]

The following secondary violations of recruiting, eligibility, extra benefit and administrative legislation were found:

1. During the 1997-98 academic year, the institution financed two visits to its campus for a prospective student-athlete. Specifically, the student-athlete took an official paid visit to the institution October 2-4, 1997. In early June 1998, the student-athlete took an intended unofficial visit to the institution's campus, but this visit became an official paid visit when an assistant coach provided local automobile transportation for the student-athlete to the home of the head coach and when another assistant coach provided local automobile transportation for the student-athlete to his (the assistant's) home.
2. During the summers of 1998 and 1999, the head coach permitted a student-athlete to store his personal items in the head coach's home at no expense to the young man.
3. In approximately August or September 1998, the head coach hosted a preseason picnic at his residence for the men's basketball team, which, for the team only, was permissible under NCAA legislation. However, the head coach violated

NCAA extra benefit legislation when he permitted the parents of the student-athletes to participate in the event at no cost.

4. During the 1994-95 through 1996-97 academic years, the director of athletics at the time failed to sign NCAA Certification of Compliance Forms, which are compliance monitoring forms required under NCAA legislation.

III. COMMITTEE ON INFRACTIONS PENALTIES.

For the reasons set forth in Parts I and II of this report, the Committee on Infractions found that this case involved several major violations of NCAA legislation.

A. CORRECTIVE ACTIONS TAKEN AND PENALTIES (PROPOSED OR SELF-IMPOSED) BY THE UNIVERSITY.

In determining the appropriate penalties to impose, the committee considered the institution's self-imposed corrective actions and penalties. Among the corrective actions and penalties the university has taken or will take are the following:

1. A reduction of one grant-in-aid in men's basketball for a limit of 12 grants during the 2000-01 academic year.
2. A reduction of two official paid visits in men's basketball for the 2000-01 academic year.
3. A reduction by one in the number of coaches who recruit off-campus during the 2000-01 academic year.
4. A delay in the starting dates for preseason conditioning and regular season practices for the 2000-01 men's basketball season.
5. A reorganization of the reporting lines for athletics compliance to allow direct liaison between the institution's president and the associate director of athletics for compliance.
6. Mid-American Conference probation through the 2000-01 academic year. During this period of probation, the conference will conduct on-campus compliance reviews.

7. Suspension of the head coach by the university on December 1, 1999. The university signed an agreement with the coach that they would accept his resignation on December 3, 1999.
8. Counseling of assistant coach C by the athletics director on March 24, 2000. Coach C is no longer involved with men's basketball, however, he is currently the assistant baseball coach.
9. Counseling of assistant coach D with regard to infractions of NCAA Bylaw 13.12.1 and 13.9.3.3.1. Immediately following the counseling session, he submitted his resignation from his position.
10. Counseling of the former director of athletics by the university's president in April 2000 regarding the failure to self-report to the NCAA the fall 1997 incident involving the observation of preseason practice by assistant coach B. The former director of athletics retired from the university's employment in September 2000.

B. ADDITIONAL PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS.

The Committee on Infractions agreed with and approved of the actions taken by the university, but it imposed additional penalties because of the involvement of the former head men's basketball coach in a number of the violations and a lack of monitoring by the institution.

As indicated in the introduction of this report, this case occurred within the time period for the institution to be subject to the NCAA's repeat violator provisions. However, the two cases were unrelated, involved different issues and different coaching staffs. Further, as the violations in the previous case were, as stated in the 1993 report, "limited and resulted from a few acts by one assistant coach in several extra benefit violations involving one student-athlete and another extra benefit violation involving two student-athletes." For these reasons, the committee decided not to impose the penalties allowed under the repeat-violator provisions of Bylaw 19.6.2.3.2.

The committee also chose not to impose all of the presumptive penalties permitted under Bylaw 19.6.2.1. The committee made this decision not to impose all of the presumptive penalties because of the actions taken by the university to institute appropriate corrective measures and to self-impose meaningful penalties

upon its men's basketball program. The additional penalties imposed by the committee are:

1. The institution shall be publicly reprimanded and censured.
2. The institution shall be placed on two years of probation from March 21, 2001.
3. During the 2001-02 and 2002-03 academic years, the institution shall be limited to a total of eight official paid visits in the sport of men's basketball. (Note: The institution averaged nearly 10 official paid visits annually in the previous four academic years.)
4. The former head men's basketball coach will be informed in writing by the NCAA that, due to his involvement in certain violations of NCAA legislation found in this case, if he seeks employment or affiliation in an athletically related position at an NCAA member institution during the period of time commencing with the date this report was released, March 21, 2001, and concluding on December 2, 2002 (three years subsequent to his release from the employ of the University at Buffalo), he and the involved institution shall be requested to appear before the Division I Committee on Infractions to consider whether the member institution should be subject to the show-cause procedures of Bylaw 19.6.2.2-(l), which could limit the coach's athletically related duties at the new institution for a designated period.
5. During this period of probation, the institution shall:
 - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all university staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
 - b. Submit a preliminary report to the director for the NCAA infractions committees by May 5, 2001, setting forth a schedule for establishing this compliance and educational program; and
 - c. File with the committee's director annual compliance reports indicating the progress made with this program by February 1 of each year during the probationary period. Particular emphasis

should be placed on adherence to NCAA legislation relating to out-of-season practice, tryouts, scouting of opponents, coaching staff limitations and monitoring of athletics programs. The reports must also include documentation of the university's compliance with the penalties (adopted and) imposed by the committee.

- 6 At the conclusion of the probationary period, the institution's president shall affirm in a letter to the committee that all of the university's current athletics policies and practices conform to requirements of NCAA regulations.
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As required by NCAA legislation for any institution involved in a major infractions case, Buffalo shall be subject to the provisions of NCAA Bylaw 19.6.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, March 21, 2001.

Should Buffalo and/or the former head men's basketball coach appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals Committee, the Committee on Infractions will submit a response to the members of the appeals committee, with a copy to any party who may appeal. This response may include additional information in accordance with Bylaw 32.10.5.

The Committee on Infractions wishes to advise the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods, and any action contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period, as well as imposing more severe sanctions in this case.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

NCAA COMMITTEE ON INFRACTIONS

Jack H. Friedenthal, chair
Frederick B. Lacey
Gene A. Marsh
James Park Jr.
Josephine R. Potuto
Thomas E. Yeager

APPENDIX

CASE CHRONOLOGY.

1999

August 4 – The institution requested the assistance of the Mid-American Conference in investigating alleged violations in the institution's men's basketball program.

November 16 – The Mid-American Conference investigator submitted his report and summary of alleged violations in the men's basketball program at the institution.

2000

January 16 – The Mid-American Conference Committee on Infractions conducted a hearing regarding the alleged violations in the institution's men's basketball program.

January 18 – The Mid-American Conference Committee on Infractions issued its findings of violations in the institution's men's basketball program. The report was then forwarded to the NCAA enforcement staff for its review.

February 8 – A letter of preliminary inquiry was sent to the president of the institution.

August 2 – A "six-month letter" was sent to the president of the institution notifying him that the enforcement staff investigation was continuing.

November 20 – A letter of official inquiry was sent to the president of the institution and to the former head men's basketball coach at the institution.

2001

January 2 – The institution's response to the letter of official inquiry was received by the Committee on Infractions and the enforcement staff.

January 8 – A prehearing conference was conducted between the institution and the enforcement staff.

January 12 – The response from the former head men's basketball coach was received by the Committee on Infractions and the enforcement staff.

January 17 – A prehearing conference was conducted between the former head men's basketball coach and the enforcement staff.

February 9 – The institution and the former head men’s basketball coach (with counsel) appeared before the Division I Committee on Infractions.

March 21 – Infractions report No. 181 is released.