

Caster Semenya loses testosterone appeal at Swiss supreme court

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Caster Semenya is no longer permitted to race at distances from 400 metres to 1500 metres. (AP: Kamran Jebreili, file photo)

Two-time Olympic champion Caster Semenya has lost her long legal battle against track-and-field rules that limit female runners' naturally high testosterone levels.

Switzerland's supreme court on Tuesday said its judges dismissed [Semenya's appeal against a Court of Arbitration for Sport ruling](#) last year that upheld the rules drafted by track's governing body affecting female runners with differences of sex development (DSD).

The 71-page ruling means Semenya cannot defend her Olympic 800-metre title at the Tokyo Games next year — or compete at any top meets in distances from 400 metres to the mile — unless she agrees to lower her testosterone level through medication or surgery.

The 29-year-old South African [repeatedly said she will not do that and reiterated her stance in a statement through her lawyers on Tuesday.](#)

Key points:

- Caster Semenya will not be able to defend her 800m Olympic title in Tokyo after the ruling
- The Swiss Supreme Court said the discrimination against Semenya was "necessary" to maintain fairness in women's athletics
- Semenya said she would continue to "protect human rights for young girls everywhere"



Caster Semenya has two Olympic gold medals, three world championship golds and two Commonwealth Games titles. (AAP: Darren England)

"I am very disappointed by this ruling, but refuse to let World Athletics drug me or stop me from being who I am," she said.

"Excluding female athletes or endangering our health solely because of our natural abilities puts World Athletics on the wrong side of history."

The Swiss Federal Tribunal said Semenya's appeal "essentially alleges a violation of the prohibition of discrimination."

[In a May 2019 verdict](#), the sport court's three judges had said in a 2-to-1 ruling the discrimination against Semenya was "necessary, reasonable and proportionate" to maintain fairness in women's track.

Testosterone is a hormone that strengthens muscle tone and bone mass, and is a doping product if injected or ingested.

The panel of five federal judges said on Tuesday it was limited to examining "whether the CAS decision violates fundamental and widely recognised principles of public order. That is not the case."

Semenya's "guarantee of human dignity" was also not compromised by the CAS ruling, the judges decided.

"Implicated female athletes are free to refuse treatment to lower testosterone levels. The decision also does not aim to question in any way the female sex of implicated female athletes," the federal court said.

Reacting to the verdict, Semenya said: "I will continue to fight for the human rights of female athletes, both on the track and off the track, until we can all run free the way we were born."

"I know what is right and will do all I can to protect basic human rights, for young girls everywhere."

Although exact details of Semenya's condition have never been released since she won the first of her three world titles in 2009 as a teenager, she has testosterone levels that are higher than the typical female range.



Semenya has a personal best of 1:54.25 in the 800 metres. (Reuters: Ibraheem Al Omari)

The Swiss court statement on Tuesday referred to female runners with "the genetic variant '46 XY DSD'."

World Athletics argued that gave her and other female athletes like her with DSD conditions and high natural testosterone an unfair advantage.

The rules Semenya appealed against require her to lower her testosterone to a level specified by the international track body for at least six months before competing.

Athletes have three options to do that: Taking birth control pills, having testosterone-blocking injections, or undergoing surgery.

Semenya took birth control pills for around five years until the world track body, then known as the IAAF, [had to suspend its previous hyperandrogenism rules after a CAS appeal brought by sprinter Dutee Chand of India.](#)

Testifying at her five-day hearing at CAS in February 2019, Semenya said taking the medication had unwanted side effects including making her injury prone.

Tuesday's federal judgment came more than a year after the 2012 and 2016 Olympic champion lost a previous ruling from the same court.



Semenya may turn her attention to 200-metre races in the future. (Reuters: Ibraheem Al Omari)

That July 2019 verdict overturned a temporary ruling which had allowed Semenya briefly to compete in the 800 metres at international events — winning a top-tier race at Palo Alto, California — without taking testosterone-suppressing drugs.

It is unclear what Semenya will choose to do next. She could compete in the 100 or 200 metres or at distances longer than the mile but she has never had the success in those events that she has had over two laps.

However, [she had already switched her training this year to 200 metres](#), hinting that she was prepared to lose in court.

Greg Nott, Semenya's long-time lawyer in South Africa, said her international team of lawyers was "considering the judgment and the options to challenge the findings in European and domestic courts."

Any appeal to the European Court of Human Rights would likely not receive a judgment until after the Tokyo Olympics open next July.

Tuesday's judgment also came at a financial cost to Semenya and South Africa's track federation, which joined her appeal. Each was ordered to pay 7,000 Swiss francs (\$6,051) to the court and 8,000 Swiss francs (\$12,103) toward World Athletics' legal costs.

AP