

**RUGBY FOOTBALL UNION**  
**RFU DISCIPLINARY HEARING**

**At** Holiday Inn, Bristol

**Date** 7 April 2008

**JUDGMENT**

**Player:** Tim Wilkinson

**Club:** Tewkesbury RFC

**Match:** Tewkesbury RFC v Old Cryptians RFC

**Venue:** Tewkesbury

**Date** 8<sup>th</sup> December 2007

**Panel:** Christopher Quinlan (Chairman), Michael Curling & John Doubleday (“the Panel”)

**Secretary** Bruce Reece-Russel

**In attendance** Tim Wilkinson

Brian Parsons, Director of Tewkesbury RFC Ltd.

Geoff Sallis, Club Member

**Introduction**

The player did not object to the composition of the Panel.

**Appeal**

The appeal was brought by way of letter dated 10<sup>th</sup> March 2008 from the Player, supported by a letter from his club dated 11<sup>th</sup> March. In his detailed letter of appeal, the Player set out essentially five grounds of appeal. Thereby he appealed against the decision of the Disciplinary Committee, Gloucestershire RFU (“GRFU”) on 27<sup>th</sup> February 2008 to find him guilty of striking contrary to Law 10(4)(a). The Committee suspended him from playing for a total of 12 weeks. He appealed against the finding of guilt and sanction.

## **Hearing before GRFU**

In light of the events before the Panel, it is unnecessary to set out the evidence before the GRFU. Suffice to say we had the benefit of reading the written decisions of that disciplinary committee. We pay tribute to it: it appeared to us to be a clear, concise yet comprehensive record of the material evidence. Still further, it records in lucid terms the committee's approach to the sanctioning process. In short a model of its kind.

## **Events before Appeal**

The papers prepared for this appeal revealed it (potentially) to be a case and therefore hearing of substance. The Player's notice of appeal was a reasoned closely typed, two-and-a-half page document in which he analysed carefully the evidence heard by the GRFU and complained that it was riddled with inconsistencies. He inferred he had further evidence to call. In effect he sought a hearing *de novo*.

A letter from his club supported his notice. That document was also closely typed, and contains an analysis of the meaning of 'balance of probabilities'. It asserts that the evidence before the GRFU was 'circumstantial, speculative and inconsistent' and therefore the appeal should be allowed. The letter ends, 'it is also our understanding that once this Appeal'.

By email on 11 March 2008, Mr Bruce Reece-Russel, RFU Disciplinary Manager informed the Club that the Player was free to play. He did play. He played in the EDF Junior Vase semi final game on 15<sup>th</sup> March and another game on 29<sup>th</sup> March.

A number of witnesses gave evidence before the GRFU. We, the Panel, were provided with a deal of paper work relating to that hearing, including the written decision, the notice of appeal the Club's letter in support, witness statements and correspondence. Each of us read it in advance of the hearing. The request for a hearing *de novo* involved the RFU Disciplinary Manager making arrangements for those witnesses to attend before the Panel. The work involved in arranging such an appeal is not to be underestimated.

By email dated 7<sup>th</sup> April 2008 and timed 08.02 (that is to say the morning of the appeal hearing) the RFU Disciplinary Manager was informed by Mr John Williams, Secretary of the Club that the Player had ‘very much at the eleventh hour...decided not to pursue his Appeal’. Therein he (Mr Williams, not the Player) apologised ‘for the inconvenience that this must cause and can assure you that we will be carrying out our own Disciplinary Hearing’. The Chairman of the Panel received this email at 09.16 the same day.

### **Regulatory Scheme**

*RFU Regulation 11.2.7* provides

‘An appeal once validly lodged cannot be withdrawn but must be adjudicated upon by an Appeal Panel, unless the RFU Disciplinary Officer grants permission for the appeal to be withdrawn.’

The Player did not make an application to the RFU Disciplinary Officer and so he and his Club were required to attend before the Panel so that we could hear and determine the appeal.

### **Appeal Proceedings**

The Player wished to withdraw his appeal. The Panel asked him more than once and he each time he was clear in his response: I want to ‘withdraw’ my appeal. Mr Parsons explained why. In short, the Player received what was described as ‘legal advice’ from a solicitor. It was this advice, we were told, which led to the request to ‘withdraw’ the appeal. Although we were not told precisely what that advice was, it was obvious. The Player accepted it. As for the timing, we were told the solicitor only received the papers on the Friday before the appeal. This is regrettable to say the least.

However, Mr Parsons went further. In direct terms, he invited the Panel Chairman to express a view as to what he said were the inconsistencies in the evidence before the GRFU. In, if we may say, a delicate, polite and not unattractive way, Mr Parsons asked the Chairman to give him (really the Player) advice as to the merits of the appeal. Firmly, and for obvious reasons, that invitation was declined.

## **Decision**

By virtue of *Regulation 11.2.7* a Panel such as this is not empowered to permit a Player to withdraw an appeal. The Panel must adjudicate upon it. We did. In light of his determination not to pursue his appeal, we dismissed it, subject to the following. He was suspended by the GRFU for twelve weeks, expressed to be from 28<sup>th</sup> February to 30<sup>th</sup> April and from 1<sup>st</sup> September to 21<sup>st</sup> September 2008. The Player was (through his own request) eligible to and did play during the period 11<sup>th</sup> March to 7<sup>th</sup> April (inclusive). That period will not count towards his period of suspension. For the avoidance of doubt (if there be any) we varied the sentence such that it runs as follows 28<sup>th</sup> February to 11<sup>th</sup> March 2008 (inclusive), 8<sup>th</sup> April to 30<sup>th</sup> April (inclusive) and then 1<sup>st</sup> September 19<sup>th</sup> October (inclusive). The Player is free to play on 20<sup>th</sup> October 2008.

Mr Parsons was very anxious for us to accept that the Club had not ‘played the system’ as he put it. In other words, lodged a spurious appeal in order to ensure the Player was eligible to play in for example the semi final game. On the basis of what was put before us, we accepted the explanation advanced by the Player. However, we record our displeasure at the timing of the request to withdraw. It is not good enough to leave thing to the ‘eleventh hour’, as the Tewkesbury Secretary put it.

## **Costs**

The Player will forfeit the sum lodged with the notice of appeal.

*Christopher Quinlan*

Christopher Quinlan (Chairman)

Michael Curling

John Doubleday

