

RUGBY FOOTBALL UNION.

DISCIPLINARY HEARING.

At: The Hilton Hotel, Newbury North.

On: 12th December 2007.

JUDGMENT.

Player: James **MATTHEWS.** **Club:** Lydney RFC.

Match: Lydney v Ealing Trailfinders.

Venue: Lydney. **Date of match:** 24th November 2007.

Panel: Robert Horner (Chairman), David Hurst and Mike Rafter.

Secretary: Bruce Reece-Russel.

To consider: A citing of the Player by Ealing Trailfinders for stamping on an opponent, Ryan Gregory (RG) during the 35th minute of the Match.

Attending: The Player.

On behalf of the Player: Paul Williams (Head Coach, Lydney RFC) and Colin Henderson (1st XV Manager, Lydney RFC)

On behalf of Ealing Trailfinders: Rhidian Jones (RJ), RG, and Sonny Sungo-Kuwana (SS).

Evidence as to fact.

The Panel has considered:

1. The oral evidence of RG and SS on behalf of Ealing Trailfinders,
2. The oral evidence of the Player and PW.
3. The submissions of RJ and PW.
4. The DVD produced by Ealing Trailfinders
5. The DVD produced by Lydney RFC.
6. The documents (1 – 12) in the pack produced by the RFU Discipline Department.

Introduction.

In introducing the Panel, the Chairman indicated that 6 months earlier he and RJ had both been appointed as trustees of a new charitable trust, and had subsequently met at two trustees meetings. He also pointed out that Mr Rafter was Gloucestershire man and doubtless known to the Lydney officials. Neither of the parties raised any objection to the composition of

the Panel. The Player did not raise any preliminary issue. The procedure was explained to him; he understood and raised no objection. He pleaded not guilty to the charge.

Setting the Scene.

Together, the two DVDs taken by the two clubs, from different sides of the playing enclosure, gave a reasonably clear picture of the incident, which occurred immediately following a line-out, and were both viewed several times during the hearing, both at full speed and in slow motion. The Player, at No.2 in the lineout, and wearing jersey 18, jumps, supported by two players, and makes a clean catch of the ball. As he lands and brings the ball down, he turns with his back to the Ealing goal line so that he may hand the ball back to supporting players. Once the Player is on the ground, RG attempts to grasp the Player and pull him down. Lydney players immediately gather around the Player and a maul is formed as a result of RG's grasping of the Player; RG is the only Ealing player in the maul. The ball is handed back by the Player who has become the apex of a Lydney wedge, with his back to the opposition. By now, there are some five players on the Lydney side, pushing the Player backwards towards the Ealing line. RG loses his footing and falls beneath the accelerating Lydney wedge. The Player is unable to see precisely where he is being pushed as he is looking down onto the backs of his own players. The Lydney player nearest to the touchline (not the Player) is seen to touch RG with his foot, possibly vainly attempting to ruck him out. Effectively, three Lydney forwards, the Player, and numbers 16 and 17, go over RG, who, although moving on the ground, makes no attempt to cover his head. It seems that the boot of the Player, still being pushed backwards, makes contact with RG's head. The Lydney drive continues and once it has passed over him, RG is seen to clutch his head and the first aid man promptly comes to his attention. Ultimately, some Ealing players join the maul and the move comes to an end some ten or more metres closer to the Ealing goal line.

The Hearing

In opening, RJ stated that Ealing Trailfinders took no pleasure in citing. However, RG had sustained a horrific injury to the face, which required 35 stitches, and the Player's duty of care to the player had not been discharged. He contended that the Ealing video in slow motion indicated that the Player had stamped on RG on three occasions, on the leg, trunk and finally on the face.

The evidence of RG:

He had attempted to pull the Player to the floor, but had slipped off him and had ended up on the ground with his back to the opposition. The Lydney players moved over him; one of them was facing backwards towards his own goal-line. That player had stamped on him three times, first on his leg, then on his upper body and finally on his face (left cheek). The last blow caused great pain. He rolled away, and his wound was

attended by the physio. He was promptly taken to the local hospital, less than a mile away, whose staff promptly referred him to Frenchay hospital in Bristol where he was that night attended by a plastic surgeon. He received 33 stitches and was put on a course of pain killers and anti-inflammatories. The stitches were taken out a week later. He had been back to see the plastic surgeon at Frenchay the previous day, and would be going back in three months. He still had only limited feeling in his upper lip. In reply to a question from a member of the panel, he did not know why he had not taken any action to protect his head. He also accepted that one player might be pushed onto another. He also pointed out on a further showing of the DVD precisely when the injury occurred.

The evidence of SS:

SS was warming up on the touchline on the Ealing side of the line-out prior to coming on to the field as a replacement. He saw the line-out and saw Lydney set up their drive. RG ended up on the ground and he saw the Lydney players drive over him. He noticed RG being stamped upon on the leg, thigh and face. He could not positively identify who had done it, but the Lydney player was facing in the same direction as he was, i.e. towards the Lydney goal-line.

That was the case for Ealing Trailfinders.

The evidence of PW on behalf of the Player:

Throughout the match, the tactics of Ealing had been "to sack the lineout", i.e. to pull down the jumper when he had landed, and, in the process, the Ealing player would crash through the Lydney line in an attempt to slow their ball. In this incident, with the exception of RG, who was attempting to sack the player, all the Ealing players were standing off. When the wedge formed in textbook fashion, there was no-one for Lydney to push against so the Lydney players went forward very quickly, finding it difficult to know quite where their feet would come down. If one is being pushed backwards, the problem is greater, and such a player cannot be sure of his footing. In the Player's case, there were three of his own side in his sight line so he could not see his feet. In such circumstances, it was difficult for him to walk backwards with balance; he was being pushed from both left and right and had no control over the onward movement.

The evidence of the Player:

RG had tried to sack him. As Lydney went forward, pushing him backwards, their No1 gave RG treatment with his foot. He accepted that his foot caught RG once as he was pushed by his own team, but, with the momentum, he had no control where his feet were actually landing. He had concentrated on being a good target for his team to drive on to. In reply to cross examination, the Player stated that he had no idea at the time that he had struck RG, and added that, in RG's situation, he would have covered up his head. He also stated that the DVD showed that just after his foot had struck RG, he himself nearly fell over; his position was unstable.

Summing up by RJ:

The Panel should bear in mind that the voice over on the DVD, which the Panel had not heard, clearly has the referee shouting "Mind the stamp" as Lydney drive over RG. He also pointed out that the referee, after consulting his touch judge, had reversed the penalty which he had originally awarded to Lydney. He believed that the Player had stamped recklessly as he was pushed backwards. At that time the Player had no need to worry about the ball, which he had offloaded, and there could be no justification for his stamping actions. In his submission, the case was made.

Summing up by PW:

Yes, the referee reversed the penalty after discussion with his Touch Judge, but no yellow card was shown, and there was no evidence that the officials had considered that there had been a stamp; if they had, there would surely have been a card. The reality was that the Player had no control over what was going on. The movement by the Lydney players in the wedge was fast and dynamic; this was clearly shown by both DVDs when played at normal speed. The Player was being pushed by his team-mates, and had no control over quite where he was going or where his feet were coming down. In his submission, there had been neither a deliberate or reckless stamp to RG's face, and his injury had been a most unfortunate accident.

Decision

The Panel found the Player not guilty. The reasons for this decision are that, on the evidence which the Panel had seen, heard and read, it was satisfied, on the high level of balance of probabilities required for a case such as this, that the Player had not deliberately stamped on RG. It was accordingly necessary to consider whether the Player's conduct and actions which had caused the injury to RG were reckless. The Panel carefully considered the guidance issued by the RFU Disciplinary Officer as set out in Appendix 9 to the RFU Disciplinary Regulations (page 394 RFU Handbook 2007/8) and in particular the expanded guidance: "A player is acting recklessly if, before doing something, he either fails to give any thought to the possibility that there is a risk that he might commit an act of foul play, or having recognised that there was such a risk, he nevertheless went on to do it." Applying this to the instant case, it was the opinion of the Panel that at the time the Player caught the ball and then turned to deliver it, he had no reason to consider that there was a possibility that he might commit an act of foul play; he had done as he had been coached and as he had done frequently in the past. Further at the time he began to be pushed backwards, there was no reason for him to anticipate a player on the ground behind him. Even if he had anticipated it or should have anticipated it, his position was such that he could not ascertain precisely where that player might be. Further, given the dynamics of the forward surge, and the way his own players were

binding on to him, he was in no position to stop the movement or to be careful as to the placing of his feet; he was not in control of his own momentum or destiny. In these circumstances, the Panel was unable to determine a moment when he should have realised that there was a risk that he might commit an act of foul play, or, if he had, how he could have avoided it.

Clearly, the Panel has great sympathy with RG and is saddened by the serious injury which he suffered. The Panel of course accepts that the incidence of material injury may well be indicative of foul play and should properly lead to investigation of the circumstances in which it occurred. However, such injury is not of itself evidence of foul play, and in this case the Panel has concluded that, on the balance of probabilities, the injury was occasioned by accident rather than by deliberate or reckless foul play. Accordingly, the citing is dismissed and the Player found Not Guilty.

Signature: *Robert Horner.*

R. W. Horner, Chairman.

Date: 13th December 2007.