

RUGBY FOOTBALL UNION
DISCIPLINARY HEARING

At: Holiday Inn, Brighthouse
On: Monday, 14th January 2008
Player: Mike Marshall **Club:** West Park RFC
Match: Rugby Lions v West Park St. Helens
Venue: Rugby Lions
Date of Match: 5th January 2008

Panel: Antony Davies (Chairman), Clif Barker and John Loughton
Secretary: Liam McTiernan
Attending : Mike Marshall (the Player)
Martin Strett, West Park RFC

Preliminaries

1. The Player did not object to the composition of the Panel.
2. The Player raised no preliminary issue.
3. The procedure to be followed was explained to the Player and his representative.

Charge and Plea

4. The Player had been charged with striking contrary to Law 10(4)(a), the particulars being that on 5th January 2008 the Player struck an opponent during (25th minute of the second half) the match Rugby Lions v West Park St. Helens.
5. The Player denied the offence.

The Facts

6. The Referee's report described the second half of the game as one with increasing frustration levels, leading to a number of off the ball incidents. The Player had been dismissed from the field of play following the recommendation of the Touch Judge, Mark Elliott. The relevant part of the Touch Judge's written report read as follows :-

“During a stoppage in play, the Referee, Luke Pearce, was observing a group of players getting up from an unplayable ruck. Players from both sides were moving into position for the next phase of play. As the West Park number 18 walked past a Rugby Lions player (I believe it was the number 10), he punched the Lions player to the head, causing him to fall to the ground. The West Park player then moved away. I was approximately 40 metres from the incident, with a clear, unobstructed view. I informed the Referee of the foul play. The Lions player was not seriously injured and was able to carry on and finish the game”.

7. The Touch Judge, Mark Elliott, gave evidence by telephone link. He confirmed the contents of his report and that he had been on the far touchline, some 40 metres away when he observed the incident. He was in no doubt as to his interpretation of the actions of the player. When questioned by the Panel he could not say what had led up to the punch, nor the context in which the punch had been swung. He did however recall scanning back and seeing the Lions player standing still, with the Player walking back. Both were moving in opposite directions and in relative isolation from any other player. The punch he described started midway between the waist and shoulder and connected with the side of the victim player's head.

8. When pressed further by the Panel, the Touch Judge stated that he did not actually see the point of contact, but heard a “smacking sound”, followed by the victim player falling to ground. He had interpreted what he had see and heard as a punch to the head, but could not be certain which part of the head as his view was obscured, the victim player being on the far side of the Player from him.

9. The Panel viewed a DVD of the incident, which did not assist it in its deliberations as to whether there had been contact and, if so, what manner of contact. It was only of assistance with regard to peripheral matters.

The Player's Case

10. The Player's evidence was that as he was walking back facing his own posts but watching play, he became aware of an opponent in his peripheral vision running towards him in the direction of a fracas elsewhere on the field. There had been a number of "off the ball" incidents of contact and it was against this background that he had perceived an opposition player running towards him rather than around him in the considerable space available. His reaction was to raise his arms to cover his face and head and as he did so the opponent ran into him, making contact with his raised arm. The opponent then fell to the floor. He had attempted to draw the Referee's attention to what he perceived as foul play carried out against him. He had regarded his red card with some disbelief because he could not comprehend how the incident could have been mistaken for a punch.

11. Under questioning, the Player accepted that there had been a coming together, but it was not malicious on his part. He recalled the contact was around his arm/shoulder area and he felt it was probably with the side of the victim player's head. He denied trying to block the opponent. The opponent was 5ft. 8ins., playing at number 10. He was 6ft. 5ins. He had no idea why the opponent should have run into him.

12. The Panel was asked to consider a written statement from the Secretary of Rugby Lions, Mal Malik, and was asked to hear from Tommy Turner, the Rugby Lions number 10 who was the victim player. Mr. Turner gave evidence via telephone link.

13. Whilst Mr. Turner could agree with the majority of the Touch Judge's report, he was adamant that he had not been punched. He described in detail how he was jogging back. He said that he ran into the Player and caught his elbow. He didn't think the Player had looked at him prior to the point of contact. He had not been focusing on

the Player and had noticed him “too late”. He said the collision was entirely his fault and he caught the Player accidentally as he was jogging past. He knew he had made contact with a sharp bony part of the Player’s upper body and because of the position of the Player’s arms and the differential between their respective heights, he assumed that he had run into the point of the Player’s elbow. It was not an off the ball incident, but carelessness on his part. There was definitely no punch and no malice on the part of the Player towards him.

Decision

14. The Panel was somewhat perturbed by the totality of the evidence and the nature and extent of the inconsistencies within the Player’s own evidence. It was mindful of the provisions of Disciplinary Regulations 7.1.1 and 7.1.2 and had heard evidence from a Touch Judge who was certain that he had observed a punch being thrown. He had observed this with a clear, unobstructed view from 40 metres away and had had informed the Referee of foul play immediately.

15. The evidence of the Touch Judge did not sit easily with that of the Player and the victim player, both of whom had been adamant that no punch had been thrown and that contact had been accidental.

16. The Panel considered whether the Touch Judge could, from a distance of 40 metres from the incident have made an honest misinterpretation of the Player’s action. He had accepted that the punch was already being swung when he first saw the players in close proximity and that he had not seen the exact point of contact, although he thought it was to the head. His interpretation of a punch to the head may have been coloured by the sound he heard and the Panel felt it was feasible that there would be a similarity in sound between a fist and elbow making contact with the side of a head in the manner described.

17. Accordingly, and on the balance of probabilities, the Panel could not be satisfied that an act of foul play, as described by the Touch Judge, had been committed and

therefore rescinded the red card given to the Player. In doing so it implied no criticism of the Touch Judge.

Antony Davies

Antony Davies,

Chairman

15th January 2008

