

striking contrary to Law 10(4)(a) and denied the 2 charges alleging conduct prejudicial to the interests of the game or the Union or contrary to Rule 5.12 of the rules of the rugby football union.

Evidence Before the Panel

The Panel considered:

1. The documents number 3-12 in the bundle produced by the RFU Disciplinary Manager.
2. The oral evidence of Ms Sarah Bowers.
3. The oral evidence of the Player, Craig Ballinger and Tony Jones.
4. The written statements of Scott Hoare and Nicola Beddall.
5. Extracts from the DVD produced by Coney Hill RFC.

The Match

On 08 December 2007 Coney Hill RFC played an EDF Intermediate Level 5 match at home against Reading RFC. In the 38th minute of the second half Reading were in possession in mid field attacking on the right flank. The ball was chipped over the Coney Hill defence about 5 metres infield. The defending winger, Nevaro Codlin, raised one arm in an apparent attempt to charge down the kick. He only used 1 arm and did not jump above the ground. As the attacking Reading player pursued the ball that he had kicked ahead, Nevaro Codlin used his forearm to connect with the face of the player who fell to the ground. The referee immediately stopped play and issued a red card against Nevaro Codlin for foul play.

Evidence

Ms Sarah Bowers gave evidence and confirmed the content of her statement contained in the RFU bundle. She demonstrated how she had held the rolled up damp towel in front of her face and accepted that the towel had probably hit Nevaro Codlin in the face when she flicked it at him. She was not pushed by 2 hands to the chest. Nevaro Codlin hit her with his clenched fist to the left side of her face and jaw. He was behind her. She turned to face him after she heard the comment and he was the only person close enough. He said “shut the fuck up you stupid bitch” or something like that. She did not fall to the ground. Ms Bowers produced 2 photographs on her mobile phone dated with the day of the game. The photographs showed a clearly visible right mark on the left side of her face. She accepted that she had been appalled by what she regarded as cheating. The touch judge did not respond to her comment. She was not on the pitch. She only heard one comment directly over her shoulder turned round and saw one person behind her. It was Nevaro Codlin. He came towards her with a threatening look on his face and struck her with his right hand to the left side of her face. She did not move to flick the towel again. She described the player’s eyes as wide, like a wild dog and found them very frightening.

Nevaro Codlin read out and confirmed his statement contained in the RFU bundle. He added that after being sent off he was standing near the halfway line. He saw Ms Bowers about 10-

20 yards away and heard her abuse the touch judge. Ms Bowers went on to the pitch and he said to her “get off the pitch you mad bitch”. She was a couple of metres in front of him when he made the comment. She turned round holding a towel with both her hands. She held it tight and lashed it at him hitting him on the right side of the face. The towel was wet. It stung. He pushed her away using both hands flat to her upper chest. He did not punch her. He did not see her land on her backside. He was not angry at all. He called her a mad bitch because she had lost control and was shouting abuse. He saw the towel coming towards his face and felt threatened. She was shaping to hit him again so he pushed her away. He did what he thought was right.

Craig Ballinger read out and confirmed his statement in the RFU bundle. He was Coney Hill Club Captain. It was a tight game and he had been substituted. He was standing at the side of the pitch between the 22 and 5 metre lines at the Coney Hill end. He was nearer to the 5 metre line than the 22. Nev Codlin was standing with him. The Reading supporters were upset when the touch judge raised his flag. The Reading physio was also on the touchline when he raised his flag. She marched up to the touch judge shouting loudly “cheating bastards”. She was red in the face and obviously upset. I told her to fuck off. Towards the end of the exchange Nev called her a mad bitch. She turned towards him and hit him across the head with a towel. Nev pushed her away on the chest using 2 hands with palms open. He did not punch her. This altercation took place by the 5 metre line. It is quite possible that Nev said “shut up you fucking bitch”.

Tony Jones read and confirmed his statement contained in the RFU bundle. He added that he had been half way between the 5 metre line and the 22 about 5-8 metres from the touch judge. He saw Ms Bowers approach the touch judge and he heard some comments made from behind her. Ms Bowers turned round and attacked Mr Codlin. She was livid using foul language and calling the touch judge a cheat. Nev shouted something about her being a mad bitch. The young lady turned round and walked towards Nev and hit him across the face with a towel. He pushed her with both hands and she went backwards onto her rear end and got up, arms flailing and swung the towel again. She shaped to have another go. There was no punch.

Closing Submissions

Mr Segan submitted that the evidence of Ms Bowers was clear and should be preferred. He drew the Panel’s attention to the photographic evidence and submitted that it was consistent with Ms Bowers’ account that she had been hit on the left side of her face. Mr Codlin’s actions were not in self defence. He could have walked away but reacted to a school girl act of provocation. Mr Codlin covered some distance to make the remark to her. Mr Segan highlighted inconsistencies between the witnesses from Coney Hill RFC. Mr Segan submitted that if the Panel were not satisfied that on the balance of probabilities that Ms Bowers had been punched, a blow to the side of her face with an open hand amounted to striking. He also submitted that the admitted actions of Mr Codlin in pushing Ms Bowers also amounted to striking and prejudicial conduct.

Mr Burrows on behalf of the Player submitted that the only person to mention a punch was Ms Bowers. The statements of the 2 Reading players mentioned a push towards the face and the evidence of the Coney Hill players, including Mr Codlin, all described pushed to the upper body with both arms, palms open. Mr Burrows submitted that the evidence of Ms Bowers was not credible and should not be accepted. He further submitted that the actions of Mr Codlin in pushing Ms Bowers away were instinctive and amounted to self defence. Mr Burrows referred to the case of *R v Beckford* and submitted that the ingredients of self defence should be the same as in the criminal law, namely, where a defendant honestly believed that he was under attack, (when he is in fact not) the jury should consider whether the degree of force used was commensurate with the degree of risk created by the attack under which he believed himself to be.

Decision

The Panel considered all the evidence submitted by both parties. The Panel preferred and accepted the evidence of Ms Bowers but was not satisfied to the required standard that she had been struck with a clenched fist. The Panel were satisfied and found the facts that Mr Codlin approached Ms Bowers and used the words alleged in the 3rd charge. The Panel accepted that Mr Codlin had been struck in the face with the towel and was satisfied that he pushed out in retaliation and that his right hand came into contact with the left side of her face causing the mark. While the Panel accepted that there was a degree of provocation, it was not accepted that Mr Codlin probably acted in self defence. The Panel took the view that he was irritated when he approached Ms Bowers and that he acted in retaliation. He had a clear opportunity to disengage. The Panel found the 2nd and 3rd charges to be proved.

Mitigation

The Panel invited Mr Burrows to speak on behalf of the Player in relation to the 3 offences. In relation to the offence of striking an opponent Mr Burrows referred the Panel to the DVD and submitted that it was clearly a reckless act involving contacting between Mr Codlin's forearm. The Reading player was uninjured and there was little impact on the game. Mr Burrows submitted that the Player's conduct should be approached at the Lower Entry Point. In relation to the 2 offences involving Ms Bowers, Mr Burrows submitted that it was a tense game. Tempers had been frayed at the end and words exchanged. He submitted that the player's conduct was at the bottom end and that the sanction should reflect this. Mr Burrows drew the attention to the Player's long playing record and previous good character.

Sanction

The Panel considered the appropriate sanction for each offence in turn. Dealing first with the offence of striking an opponent the Panel having regarded all the features of the offending concluded that it merited a Low Entry Point. In determining the question of the appropriate penalty, the Panel had regard to the tariffs set out in Appendix 2 of the Regulations for a low

entry case namely 2 weeks with a maximum sanction of 52 weeks. The Panel had particular regard to the fact that they considered Mr Codlin's actions to have been reckless, not intentional. The Panel placed the entry point at 2 weeks and after taking into account the mitigating factors put forward by Mr Burrows, the Panel determined that a suspension of 1 week would be appropriate in all the circumstances.

The Panel then considered the appropriate sanction for the offence of striking Ms Bowers with his open hand and drew assistance from the Recommended Sanctions for the offence of striking another player with the hand. In determining the entry point the Panel took due note of the contents of paragraph 8.2.5 and considered the offence to be Mid Entry (5 weeks) They then considered aggravating features and the mitigating factors under paragraph 8.2.7 and 8.2.8 the Panel determined that a suspension of 5 weeks would be appropriate in all the circumstances.

The Panel then considered the offence of using offensive language towards Ms Bowers and again sought assistance from the Recommended Sanctions set out in Appendix 2 for verbal abuse. In determining the entry point the Panel took due note of the contents of paragraph 8.2.5 and considered the offence to be Mid Entry (8 weeks) They then considered aggravating features and the mitigating factors put forward on behalf of the player under paragraph 8.2.7 and 8.2.8 respectively. The Panel determined that a suspension of 5 weeks would be appropriate in all the circumstances.

The Panel noted that Mr Codlin should not have been near the field of play having been sent off and viewed his conduct towards Ms Bowers as totally unacceptable. The Panel concluded that the sanctions for the 3 offences should run concurrently. Mr Codlin is suspended for a period of 5 weeks and is eligible to play again on 25 February 2008.

Costs

Pursuant to Regulation 8.3.1 the Player and his Club is ordered to pay costs of the hearing of £150 in accordance with Appendix 6 of the Disciplinary Regulations, such cost to be paid within 21 days of receipt of this Judgement.

Right of Appeal

The right of, and procedure on, appeal is set out in RFU Disciplinary Regulations 12.1.1.

RICK CHARLES

Chairman

24th January 2008