

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING - MONDAY, 5 November 2007

HOLIDAY INN, COVENTRY

JUDGMENT

Player: PHILIP REED

Club: CAMBRIDGE RFC

Match: WHARFEDALE v CAMBRIDGE

Venue: Wharfedale Avenue, Threshfield, Skipton.

Date of Match: 27 October 2007

Panel: John Brennan (Chairman)
John Loughton
Geoff Payne

Attending: Philip Reed
Paul Hughes (Director of Rugby)

Secretary Bruce Reece-Russel (RFU Disciplinary Manager)

The Allegation

Philip Reed was charged with striking, contrary to law 10(4)(a). In particular, it was alleged that he used his head to butt Simon Horsfall on the chin during the course of a National League Two league game between Wharfedale RUFC and Cambridge RUFC.

The Plea

Mr Reed denied the allegation. In particular, he denied that any part of his head came into contact with Mr Horsfall.

The Late Witness Statements

Simon Horsfall, the alleged victim and a Wharfedale player, provided an unsigned witness statement.

Andrew Baggett, the Wharfedale Captain and an alleged eye witness, provided an unsigned witness statement.

An issue arose as to whether the Panel ought to take into account the contents of Mr Horsfall and Mr Baggett's witness statements. Wharfedale had submitted the witness statements at the last minute. Mr Reed had not had sight of either statement until just before the hearing. When invited to explain if Mr Reed's case had been prejudiced by the late arrival of the statements in question, his representative Mr Hughes suggested that Mr Reed might have sought to obtain written evidence from his own teammates as to what they saw and heard. The Panel took the view that any prejudice was more apparent than real. Mr Reed had decided to contest the match official's account of events and deny the allegation some time before the hearing. Nonetheless, he had not sought to adduce any eye witness evidence, preferring to rely upon his own account of events and the match video. Accordingly, the Panel decided to take the witness statements into account, albeit on the terms that it would carry less weight than oral testimony pursuant to paragraph 7.1.8 of the RFU Disciplinary Regulations.

Mr Reed did not take issue with the fact that neither witness statements had been signed. He sensibly accepted Mr Reece Russel's explanation that each witness statement had been sent to the RFU Disciplinary Department by e-mail.

The Evidence

The only match official who saw the incident was Mr Sawyer, the touch-judge. His account was as follows. A ruck had formed in the Wharfedale 22 about 10 metres from his touch line. At this time, he was more or less level with the back foot of Wharfedale's hindmost player and was walking towards Cambridge's side of the ruck to get a better view of the action. He saw Mr Reed enter the ruck legitimately in order to secure the ball. Mr Sawyer kept his eye on the ruck as play progressed. When he was nearly level with the ball, he saw Mr Reed butt a Wharfedale player as that player sought to contest possession. In particular, he saw Mr Reed drive upwards from a classic low rucking position and butt the Wharfedale player's chin with his forehead at about the level of his hair line. At that point, after having reviewed the incident in his mind's eye, he raised his flag. He then heard one Wharfedale player remark to another that the touch judge had spotted it or words to that effect.

Mr Horsfall's account was that a Cambridge player had legitimately driven him out of the ruck and then used his forehead to head-butt him in the mouth as he sought to re-enter it a few moments later. He did not see it coming. He stated that he recalled a team-mate, Andy Baggett comment "He can't do that" and "It's OK the Touch Judge has got it." He suffered a minor injury. He did not need treatment and completed the match. He had "some minor bruising" and tenderness for a few days.

Mr Baggett's account was that at a time when he was within a metre of the incident, he saw a Cambridge centre use his head to knock Mr Horsfall backwards as he tried to contest possession at the ruck. He saw Mr Horsfall clutch his chin immediately after the incident. Mr Baggett stated that he remarked to Mr Horsfall immediately after the incident that the Cambridge centre should not have done that but he need not worry as the touch judge had seen it.

Mr Reed's account was that he had entered the ruck legitimately in order to secure possession. To that end, he stood over the ball guarding it in a classic low rucking position. Thereafter, he fended away a Wharfedale player using the heel of his right hand by straightening his right arm as he drove with his legs from a low rucking position into an upright position. As he sought to follow play after the ball had been passed by the Cambridge scrum-half to the fly-half, he recalls hearing a Wharfedale player clap whereupon he looked round and saw that the touch-judge had raised his flag.

The match video was shown. It was evident that the camera had been positioned on the far side of the pitch towards the half-way line. Mr Reed entered the ruck and drove Mr Horsfall out of it. Unfortunately, the view of the incident thereafter is obscured by the presence of other players. That said, it is tolerably clear that Mr Horsfall bent down in order to re-enter the ruck thereafter and that, having done so, he straightened up and backed out of the ruck as Mr Reed drove towards him. It is impossible to determine from the match video which part of Mr Reed's body came into contact with which part of Mr Horsfall's body. After having emerged from the ruck for the second time, Mr Horsfall and two of his team-mates turned towards the touch judge who was already in the process of raising his flag. Mr Horsfall proceeded to rub his chin.

It was common ground that after the referee had spoken to Mr Sawyer, he singled out the Cambridge scrum-half by mistake who bears some resemblance to Mr Reed. Thereafter, at Mr Sawyer's instigation, Mr Reed was brought to the referee's attention. At the material time, Mr Reed was readily identifiable albeit only by elimination because he was the only Cambridge player not wearing a numbered shirt. Mr Reed was subsequently sent off.

The Finding

The Panel had no hesitation at all in finding the allegation was proved.

The unanimous view of the Panel was that Mr Sawyer was an exceptionally compelling witness. He was paying close attention to events in the ruck when the incident occurred. He had a good view. He was impartial. What is more, every member of the Panel was struck by the very close correspondence between his account and the DVD footage which he was not shown until he had provided his account. He gave his evidence in a clear, confident manner which brooked no contradiction. He described himself variously as being "sure" or "absolutely sure". That said, it was abundantly clear that he was seeking at all times to be fair and had no axe to grind. This was a witness whose evidence could be relied upon without hesitation.

Mr Reed proved to be a less impressive witness. His account was hesitant and lacked conviction. On the crucial issue as to how Mr Horsfall emerged from the ruck for the second time, his account lacked credibility.

In the result, the match video played a relatively small part in the Panel's deliberations in comparison with the assessment of the oral evidence. It merely served to reinforce the Panel's view of the oral evidence. The Panel treated the video with proper caution pursuant to paragraph 7.2.8 of the RFU Disciplinary Regulations. In so far as any conclusions could be drawn from it, it was entirely consistent with Mr Sawyer's account. It was also noteworthy that immediately after Mr Horsfall emerged from the ruck for the second time he put his hand to his chin and both he and his team-mates turned in unison towards Mr Sawyer who was in the process of raising his flag.

In the result, the admission of the late witness statements had no bearing upon the Panel's finding. That said, it was noted that the written evidence of Mr Horsfall and Mr Baggett was entirely consistent with Mr Sawyer's account of events.

The Entry Point

The Panel determined the entry point by reference to the criteria set out at 8.2.5 of the RFU Disciplinary Regulations.

The Panel came to the following conclusions: the offending was intentional; the offence was committed with Mr Reed's head driving upwards into Mr Horsfall's chin; there was no provocation or suggestion of retaliation; the effect of Mr Reed's actions on Mr Horsfall was very slight; the effect of Mr Reed's actions on the game were negligible save that he was sent off 30 minutes into the first half; Mr Horsfall had little opportunity to defend himself; nobody else was involved; there was no premeditation; the offending was completed; and no other feature of Mr Reed's conduct was relevant.

All in all, the Panel took the view that the offence was best categorized as a low-end entry point (4 weeks).

Aggravating Features

There were no aggravating features.

Mitigating Features

There were mitigating features. Mr Reed, although only 27, has a distinguished playing record. He had played in National Divisional 1 since he was 21, first for Rugby Lions and subsequently for Exeter Chiefs. He had represented England Counties XV. He had never been sent off before. The offence was described as being out of character. In that connection, Mr Shanahan, the Cambridge head coach, provided a very fair and balanced reference which spoke of his sterling qualities of his character. Mr Reed's demeanour reflected this. He regretted the incident and apologised for his involvement in it.

The Panel took the view that it was appropriate to reduce the entry point by one week on account of the mitigating features.

The Sanction

Mr Reed is suspended from playing for a period of 3 weeks with immediate effect (5 November 2007). He may not play again until Monday 26 November 2007.

Costs

Mr Reed was ordered to pay costs in the sum of £150.

Appeal

Mr Reed was told that should he wish to appeal this decision he must do so within 14 days of receipt of this judgment pursuant to paragraph 11.2.3 of the RFU Disciplinary Regulations.

John Brennan
Chairman

6th November 2007