#### **RUGBY FOOTBALL UNION**

# **DISCIPLINARY HEARING**

**At:** Holiday Inn, Bloomsbury

On: Monday 10 March 2008

JUDGMENT.

Player: Gareth LLEWELLYN Club: Bristol

**Match:** Bristol v Bath

**Venue:** Ashton Gate **Date of match:** 2 March 2008

**Panel:** Jeff Blackett (Chairman), Peter Budge and Jeremy Summers

**Attending:** The Player.

Corin Palmer – Bristol team manager

**Citing Officer:** (not in attendance) Budge Poutney

## **Charge and Plea**

The Player was cited for, and admitted, punching an opponent contrary to Law 10(4)(a).

# **The Citing Complaint**

The Citing complaint was based on footage from the official Sky DVD1, a clip from U-Tube which had been posted on the web by a spectator who had filmed the relevant part of the match on his mobile telephone, and a medical report. All of this evidence was unchallenged by the Player.

In the first minute of the match Bath No 1 (David Barnes) was injured. The Sky DVD showed the beginnings of a scuffle between the Player and Barnes but the footage moved away to follow the play while the two men were still upright. When it returned to the scene Barnes was lying on the ground receiving treatment. The citing officer's attention was drawn to a clip which had been posted on UTube which showed the Player strike Barnes. He undertook an analysis to satisfy himself that the two clips related to the same incident and it was upon the combination of these clips, together with the medical report that the citing officer brought the complaint. The Player did not object to this process.

The citing report stated that the relevant part of the Sky DVD showed the Player and Barnes opposite each other on the open side of a ruck which had formed after a lineout in the first minute of the match. He continued: "Bath No 1 counter rucks and a scuffle ensues". The citing report then relied on the UTube clip stating: "The

players involved in the scuffle continue and the Bristol player punches the Bath player with his left hand. The Bath player is floored. The Bristol player walks away and the Bath physio arrives on the field of play to attend to the Bath player". The panel watched both clips which effectively corroborated the citing report. The Player crouched at the side of the ruck acting as a guard. Barnes drove into the Player in an upward movement and appeared to make contact in the chest area. As the ball was passed away from the ruck Barnes continued to drive upwards and as the Player was moved backwards he punched Barnes in the face. The punch was in the form of a jab with the fist with little back swing.

Barnes was treated on the pitch. He complained of blurred vision and pain in his eye. He was examined, there were no signs of concussion, and he said that his vision began to clear. He then continued to play until replaced as a tactical substitution in about the twentieth minute of the game. He returned to play in about the 75<sup>th</sup> minute of the game when the replacement prop was injured and played to the end of the match.

A medical report from Dr Julian Widdowson, Head of Sports Medicine at Bath was produced. It stated that Barnes had sustained a fracture to the floor of his right orbit. He was reviewed the morning after the game and it was noted that he had bruising around the eye and some double vision. An x-ray showed a 14mm fragment depressed by 7mm into the maxillary sinus associated with soft tissue prolapse. He was prescribed prophylactic antibiotics and will not be able to play again for between four and six weeks.

# Mitigation

The Player stated that he had no complaint about the counter ruck by Barnes, but as the ball was moved away Barnes continued to push up and he felt aggrieved. As he fell back he punched him once – he thought that Barnes had gone down to try and gain a penalty. He was not aware that he had injured him and was very sorry that he may have done. He had played with Barnes for a number of years at Harlequins and he considered them to be friends. On his behalf Corin Palmer raised the issue of causation. He accepted that the Player may well have caused the injury, but commented that Barnes had played a significant part of the game after the incident and could have been injured at some other time. Nevertheless, he accepted that the Player had committed an act of foul play, for which he was genuinely contrite. The Player has 92 caps for Wales and has been a professional rugby player almost since the game went professional. He has never been sent off or cited before. The citing complaint was received on 6 March, and the Player has not played since – he was not selected to play in the Guinness Premiership match on 9 March.

## **Sanction**

The Panel undertook an assessment of the seriousness of the offending. It concluded that the offending was deliberate – the Player intended to punch Barnes, although it is accepted that he did not intend to cause any injury. It was grave in that the blow was delivered with a closed fist, but there was little backswing, and there was some, albeit

minor, provocation when Barnes continued to drive upwards after the ruck was effectively over. Barnes continued to play and was removed for tactical reasons and then returned to the game later, so any effect on him during the game was unquantifiable. However he did suffer injury which the panel concluded was caused by the punch. Whilst acknowledging that it was perfectly proper for Mr Palmer to raise the issue of causation, the panel were satisfied on the balance of probabilities that Barnes sustained his injury when the Player punched him. There was no reaction from other players and no other effect on the game, Barnes was not vulnerable and there was no premeditation. Any deliberate punch which causes injury that removes the victim player from participation for a significant period is more likely to be Mid Range or above than Low End which is more appropriate for reckless or minor conduct or where there was significant provocation. In the circumstances of this case the panel concluded that this offending was in the Mid Range.

The Mid Range entry point for striking an opponent with the fist is five weeks. There were no off field aggravation features in this case, but a number of mitigating factors. The Player admitted culpability immediately and did not seek to challenge any of the evidence or the manner in which it had been obtained. He has an exceptional record – he is one of the oldest and longest serving professional players in the Guinness Premiership and it is remarkable that he has never been sent of or cited before during that long and illustrious career. His conduct prior to and at the hearing was impeccable and he did not seek to diminish his culpability. In all the circumstances, therefore, he deserved full credit which in this case is a reduction from the entry point of two weeks.

The Player is, therefore, suspended for three weeks from 6 March (the date of the citing) to 27 March. He is free to play again on 28 March 2008.

#### **Costs**

Costs in the sum of £250 are awarded against the Player.

## **Right of Appeal**

Date: 10 March 2008

The Player is reminded of his right of appeal which must be submitted in writing to the RFU Disciplinary Manager by midday Thursday 13 March 2008.

Jeff Blackett Chairman