

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

VENUE: Holiday Inn, Bloomsbury, London

DATE: 5 January 2009

Player: Roger WILSON

Club: Northampton Saints

Match: Northampton v Harlequins

Venue: Franklin's Gardens

Date of match: 20 December 2008

Panel: Jeremy Summers (Chairman) John Doubleday and Dr Julian Morris ("the Panel")

Secretary: Bruce Reece-Russel

In attendance:

Roger Wilson - The Player

James Bennett – Counsel for the Player

Jim Mallinder – Director of Rugby – Northampton Saints

PRELIMINARIES

1. The Panel convened to consider a citing complaint by GP Citing Officer John Byett against the Player, who admitted an offence of dangerous tackling contrary to Law 10. (4) (e). The incident occurred in the 7th minute of the 1st half.
2. The Player did not object to the composition of the Panel and no other preliminary issues were raised.
3. The Panel considered:-
 - a) The Citing Officers Report
 - b) The match recording
 - c) An e-mail from Dean Richards (Harlequins) to Dorian West (Northampton Saints) dated 2 January 2009
 - d) Evidence from the Player
 - e) Evidence from Mr Mallinder
 - f) Submissions from Mr Bennett

THE CITING

4. The Citing Officer's Report recorded as follows:

“From a Harlequins restart, the Harlequins No.11 followed up and caught the ball in the air just outside the Northampton 22 metre line. He drove on into the Northampton 22 metre with two Northampton players trying to stop him. It turned into a moving maul, the Harlequins No.7 Will Skinner joined this maul, driving in and then moving around to the side of the maul. The Northampton No.8 Roger Wilson joined the maul, which was still moving towards the Northampton line, and appeared at the back of it lifting up the Harlequins No.7 (Skinner) below the waistline around the thigh area. The Harlequins No.7’s legs went high into the air near the vertical, with his body upside down. The Northampton player then let Skinner go. The Harlequins player fell against the side of the maul on the way down and went head-first towards the ground, making contact in the area of the back of his head. The Harlequins No.7 got up and played on. At no time did the Northampton No.8 help the Harlequins player down.”

5. The Referee gave a penalty against Northampton for the tackle and warned the Player. The Citing Officer spoke with the Referee after the game in relation to the incident. The Referee indicated that he had seen the Player lift Harlequins 7 off the ground but had then looked back at the maul and therefore did not see Harlequins 7 land or how he fell.
6. The Panel considered the match recording in full sequence, short sequence and slow motion. This reflected the Citing Officer’s report as set out above. The incident occurred about 2 metres short of the Northampton 5 metre line in front of goal.

MITIGATION

7. In opening his case Mr Bennett accepted that there had been a dangerous tackle and that the incident would be viewed as very serious. However he submitted that the incident looked worse than it actually was, and that the Harlequins 7 had been lifted off the ground as a result of the forward momentum of the maul and the fact that Harlequins 7 had pivoted as a consequence of his having been bound onto the maul.
8. He also asked the Panel to note the position of the Referee and referred to the sound recording not played to the Panel. He advised that this recorded the Referee as saying to the Player “He came to you. Watch what you are doing. Be careful”.
9. The Player gave evidence and stated that his natural instinct would have been to pull the maul down, but that it’s proximity to the Northampton goal line still left open the risk that a try would be scored. He therefore tried to drive hard into the maul to halt its progress. Difficulty had arisen because Harlequins 7 had been binding onto another player and he had then pivoted off the ground. The incident was over very quickly but the Player was aware at the time that he had placed Harlequins 7 in a dangerous position. The incident had occurred early in the match when he was “pumped”. He had never been in such a position before and candidly indicated that he would take more care were a similar situation to arise again. He had telephoned Harlequins 7 to apologise on January 2nd.
10. The Player is 27 years old and in his 6th season of professional rugby, 5 of which were for Ulster. He has 1 full cap for Ireland in addition to having been selected on 3 Ireland A tours. He has played over 150 professional games and in 2006/2007 played more minutes than any other Ulster player. He won Player of the Year awards in 2005 and 2007.

11. The Player volunteered that he had received a 3 week suspension for a strike with the head whilst playing for Ireland A in 2006. He explained that his arms had been pinned in a ruck when an opponent had grabbed his testicles. His reaction had been instinctive, but he accepted ultimately wrong.
12. Mr Mallinder spoke extremely highly of the Player. He had been specifically recruited by Northampton upon their return to the Premiership because Mr Mallinder had been consistently impressed by his outstanding performances for Ireland A against England. He is a fully committed player both on the field and as a club man generally.
13. Mr Mallinder had been concerned by the incident at the time and had therefore spoken to Dean Richards after the match. Having reviewed the recording Harlequins had confirmed that no injury had been sustained and that they had no issue with the incident. Although it looked nasty Harlequins did not believe there had been any malice. This was confirmed in the e-mail referred to at paragraph 3 above.
14. Northampton had been made aware of the citing on Christmas Eve. It was accepted that the Player was guilty of not bringing an opponent to ground safely but there had been no intent to lift him and cause injury. Mr Mallinder also pointed to the fact that the incident had occurred because Harlequins 7 had been “latching” on to a team mate to drive the maul forward. The maul was too close to pull down and, in trying to drive it backwards, Harlequins 7 had been unintentionally lifted off the ground. He had asked the Player and others to demonstrate what had happened with him (Mr Mallinder) acting as Harlequins 7. His feet had been lifted off the ground in the exercise, and he accordingly believed that momentum had similarly lifted the Harlequins 7.
15. In closing submissions Mr Bennett sought to distinguish this incident from a similar tackle involving Harry Ellis of Leicester Tigers in a recent Heineken Cup fixture against Perpignan. He referred the Panel to the Decision dated 22 December 2008 which he made available. He noted that there had been a finding that Mr Ellis had intentionally lifted an opponent off the ground in what he said could be likened to a bench press movement. He submitted that such a finding could be distinguished from the present instance and that the Player’s intention here had been to stop the maul. He had only then acted recklessly once Harlequins 7 was in the air in failing to bring him down safely. He submitted that the Referee’s reaction was consistent with the Player’s actions having been reckless.
16. He accepted that the Panel might well consider a top end entry point but submitted that in all the circumstances a mid-range or low end entry point was appropriate. The Panel referred Mr Bennett to the judgment in *Abbott* (12 September 2006)¹ who made no further submissions in respect of those rulings.

FINDING

17. The Panel carefully considered all the evidence and submissions. It could not agree that Harlequins 7 had been lifted in consequence of the momentum of the maul. Whilst the start of the movement could not be determined from the video the Player could clearly be seen to come from underneath Harlequins 7 and push him upwards

¹ Followed in *Hodgson*(2006) and *Rasmussen* (2007)

with his arms and/or shoulder. That movement was not consistent with the case advanced that the Player had been trying to drive into the maul and halt its progress. Whilst accepting that the Player had not intended to cause injury, at the conclusion of the movement he appeared to push Harlequins 7 off to his left. By that stage Harlequins 7 had already been taken through the horizontal plain and was falling head first. At this point the Player was clearly reckless as to the risk of serious injury being sustained and, as was accepted, made no attempt to bring Harlequins 7 down safely.

18. As required the Panel then undertook an assessment of the seriousness of the offending having regard to the criteria prescribed in regulation 8.2.5 of the RFU Disciplinary Regulations (DR). In this regard the Panel found as follows:

- a) The Panel found that the lifting of Harlequins 7 had been intentional although there had been no intent to cause injury.
- b) The Player had however thereafter been reckless as to the risk of injury once Harlequins 7 was in the air.
- c) The Player's actions were as set out in above. There was no provocation.
- d) There was, fortuitously, no injury to Harlequins 7.
- e) When a Player is lifted through the horizontal plain and allowed to fall head first there is an inherent vulnerability and accordingly a patent risk that significant injury will result.
- f) There was no premeditation.
- g) The conduct was broadly complete.
- h) There were no other relevant factors constituting the Player's offending.

19. In light of these findings, the Panel categorised the offence as being at the top end of the scale of seriousness. In this regard the Panel had regard to decision of the RFU Disciplinary Officer His Honour Judge Blackett in *Abbott* referred to above. It is helpful to reiterate the policy with respect to offences of this nature set out in that judgment:

“Medical advice from the IRB² suggests that the risk of significant injury clearly exists where a player is driven head first into the ground (the classic spear tackle) but it also exists where a player is simply dropped head first onto the ground and, as Dr O’Driscoll states, “gravity will do the rest”. As the risk of catastrophic injury flowing from such action is high, a Player who turns an opponent upside down has an obligation to ensure that he lands safely by controlling his descent.The policy of the IRB is to deter this sort of tackling and the RFU supports that policy.”³

“It is important that this sort of tackling is dealt with severely and, although there was no injury, a tackle which allows a victim to drop head first into the ground from some height is inherently a more serious form of dangerous tackling. The IRB ranges for dangerous tackling includes all forms of such activity including high, late and spear tackling. Any dangerous tackle which puts the victim head first into the ground is, therefore, either Mid Range or Top End on the scale of seriousness because of the real risk of catastrophic injury”⁴

² Practice Note from Dr Barry O’Driscoll, Medical Advisor to the IRB

³ Paragraph 8

⁴ Paragraph 11

20. The Panel also noted the top end categorisation in *Ellis* referred to above.
21. The top end entry point for a dangerous tackle contrary to Law 10.4 (e) is between 10 and 52 weeks. The Panel was then required to assess the appropriate entry point between those specified periods of suspension⁵. The Panel had regard to RFU Guidance Note 3 to Appendix 9 of the Disciplinary Regulations. The offending was intentional but no injury (fortuitously) had been sustained and there had been no reaction from any other player or spectator. In those circumstances the Panel determined that the appropriate entry point was one of 10 weeks.
22. The Panel considered the aggravating factors set out in DR 8.2.6 and found none to be present.
23. The Panel then considered the mitigating factors set out in DR 8.2.7, and carefully considered the Player's record. However, having regard to all matters advanced in mitigation as set out above, the Panel concluded that a discount of 5 weeks was appropriate in all the circumstances.

SANCTION

24. The Player is accordingly suspended for a period of 5 weeks. The suspension will run from 6 January 2009 and the Player is accordingly free to play again on 10 February 2008.

COSTS

25. Pursuant to Regulation 8.3.1 the Player and/or his club shall pay the costs of the hearing of £250 in accordance with Appendix 6 DR, to be paid within 21 days of receipt of this judgment.⁶

RIGHT OF APPEAL

26. The Player is advised of the right of appeal. This should be lodged with the RFU Discipline Department by 1600hrs on Thursday 8 January 2009.

Jeremy Summers
Chairman
6 January 2009

⁵ Regulation 8.2.6

⁶ DR 8.3.2