

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

At: Filton Holiday Inn, Bristol.

On: Monday 19th January 2009

JUDGMENT

Player: Dan Seal

Club: Penzance & Newlyn RFC (Cornish Pirates)

Match: Cornish Pirates v Otley

Venue: Cornish Pirates

Date of Match: 3rd January 2009

Panel: Mike Curling (Chairman), John Doubleday and Nigel Gillingham.

Attending: Dan Seal (the Player)
Mark Hewitt (Club Representative)

Secretary: Liam McTiernan

To Consider: The sending off of Dan Seal, Penzance & Newlyn RFC, for an act of striking during the 25th minute of the first half of the match between Cornish Pirates and Otley, contrary to Law 10(4)(a).

Preliminary Matters

The Player raised no objections to the composition of the Panel.

Referee's Report

The Chairman read the referee's report to the Player and his representative, as follows: *"With Otley attacking the Pirates' line, the Pirates' No.9, having tackled an Otley player, rolled back into the tackle preventing the release of the ball and any subsequent quick possession. As this occurred, c.2 metres from the Pirates goal line, I considered this a professional foul and blew the whistle for a penalty to Otley and subsequent yellow card to the Pirates' player.*

"Following the whistle, a scuffle ensued after which, once the players had been separated, I received a report of foul play from Touch Judge Nick Williams. During the conversation with Nick, I was told that the Pirates No.3, who I had seen lying on top of an Otley player, had landed three punches to the head of an opponent whilst that opponent was lying on the floor. There

was a complaint from the Pirates player that Otley had landed the first blow but this, if true, was not detected by either me or my two touch judges; what was seen was three punches to the head of an opponent who was on the floor, leaving me with no option but to issue a red card.

“Events after the discussion with the Touch Judge were that the Pirates scrum-half was yellow carded for the original offence of a professional foul near his own try-line, followed by the red card to Pirates’ No.3 for foul play.”

Plea

On the basis of the referee’s report, the Player formally entered a plea of guilty, having intimated that he intended to do so in previous correspondence with Bruce Reece-Russel, RFU Disciplinary Manager.

DVD Evidence

The Chairman then directed that the DVD evidence be shown to the Panel. Mr. Hewitt was kind enough to comment on the footage as it played. The incident was viewed at a range of speeds, including full speed, slow-motion and frame-by-frame.

The incident in question occurs at the point in the DVD clip where the Otley forwards, on hearing the ball can be played (having been removed from the tackle area by the Cornish Pirates scrum-half) force a turnover. The Cornish Pirates No.9 is instructed by the referee to roll away. When he patently fails to do so, the referee awards the advantage to Otley. As the Otley No.9 attempts to remove the ball from the tackle area he is tackled by the Player who ends up on top of the Otley No.9, facing him.

Mr. Hewitt demonstrated to the Panel that the Otley No.9, while pinned to the ground, struck the Player once to the head. Mr. Hewitt then accepted that the Player had thrown approximately three punches in retaliation. Several players stepped in to separate the melee, and the referee intervened by forcing both teams to retreat to a safe distance while he consulted his assistant referee.

Mr. Hewitt sought to indicate that in his opinion the referee had been inconsistent but the Chairman explained that this was not a matter for consideration by the Panel and that on any given day a team had to play to the referee appointed. It was for other officials to judge a match official’s performance.

To clarify, Mr. Gillingham asked the Player and Mr. Hewitt if they agreed with the report of the referee and that it accurately reflected what could be witnessed on the DVD. Mr. Hewitt replied in the affirmative.

Decision

In light of the Player’s admission of guilt and acceptance of the facts as described, the Panel found the Player guilty of an offence of striking, contrary

to Law 10(4) (a). The Panel then retired to consider an entry point and sanction for the offence.

Entry Point

The Panel classified the offence as being at the Low End of the scale.

The Player's actions were visibly intentional; there were three strikes with a closed fist, although the strikes could not sensibly be described as 'clean' (nor had they been delivered with any real force) due to the proximity of the two players involved and the intervention of their respective teammates. The Player acted in retaliation, in so far as he was the target of a strike from the Otley No.9 and to the extent of which it landed with force. The Player's actions resulted only in a minor injury which did not prevent the subject from completing the match, and did not negatively affect the outcome of the match. There was some vulnerability to the extent that the Player was pinned to the ground, but having struck first he might reasonably have expected a response to be forthcoming, given the intemperate nature of the match. There was no premeditation. An entry point of two weeks was considered to be proportionate to the gravity of the offence.

Aggravating Features

The Panel then sought to identify any factors which may serve to aggravate the offence. The only factor which could sensibly have applied was DR 8.2.7 (a), an absence or lack of remorse and/or contrition on the part of the offending player. Given the obvious friction between the two teams due to developments external to the incident itself (and the fact that, to an extent, the Player had been provoked), the Panel were minded not to hold this against the Player.

Mitigation

The Panel then paused to consider the mitigation advanced by the Player and Mr. Edwards, under DR 8.2.8. The Panel determined that the Player was entitled to credit for his acknowledgment of guilt and the early timing of his admission; his good record and character; his age and experience; and his conduct at the hearing. He had already been fined £400 by the Club for his indiscretion, although he had not been suspended due to a shortage of playing staff at the Club over recent weeks. The Club felt that to suspend the Player at such a time would impose a disproportionate penalty against the Club and the team-mates of the Player.

Mr. Hewitt also advanced on behalf of the Player that since joining the Club in 2001 he had received only two yellow cards. Prior to that, the Player had been a Bath academy player. The Panel were particularly impressed by the Player's good record, given the confrontational position he occupies in the front row of the scrum. The Panel determined that the Player was entitled to the full 50% discount, namely one week.

Sanction

The Player is therefore suspended for one week, running from 19th January 2009 up to and including 25th January 2009. The Player is free to play again on 26th January 2009.

Costs

The Panel imposed an order of costs of £200 against the Player/Club, in compliance with DR 8.3.1 and Appendix 6 of the DR.

Right of Appeal

The Player is advised of his Right of Appeal and the procedure thereof under DR 12.1.1.

Signed: Mike Curling, Chairman.

Date: 20th January 2009.