

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

At: Brighthouse Holiday Inn, Leeds

Date: 10th November 2008

JUDGMENT

Player: DARREN CLARK

Club: Fylde RFC

Match: Fylde v Kendal

Venue: Fylde

Date of Match: 1st November 2008

Panel: Mike Hamlin (Chairman), David Macinnes, Dr. Barry O'Driscoll.

Attending: The Player

Mark Nelson – Director of Rugby at Fylde RFC

John Greenwood – Solicitor and 1st XV Manager, Fylde RFC.

To Consider: The sending off of DARREN CLARK of Fylde RFC (“the Player”) for striking an opponent in the 20th minute of the 2nd half of the match contrary to Law 10(4)(a)

Charge and Plea

1. The Player attended and admitted the charge.

Evidence as to Fact

2. The Panel considered:
 - a) The Sending Off Report of the Referee David Edmonds.
 - b) The DVD of the incident.
 - c) Medical Report, dated 5th November 2008, from Dr. Steven Green.
 - d) The oral submissions of John Greenwood and Mark Nelson.
 - e) The oral evidence of the player.

The Evidence

3. The Sending Off Report recorded that: *“At a scrum midway inside the Fylde half I was positioned at the side of the loosehead prop of Fylde with Mr. Clark clearly in my direct line of vision. The scrum went down on the opposite*

side and I immediately blew the whistle to reset the scrum as I was unable to be certain why it had collapsed. In the first 60 mins of the game we had approximately 12 scrums and none had given me a serious concern, a few resets but generally they had been good set scrummages. Both front rows had just got to their feet still engaged with each other and were just about to break apart to reset. Mr. Clark, as a loosehead prop, had his right arm free from any binding. As the players were breaking apart he swung his free right arm, to land a heavy punch on an opposition player. He brought his arm back quite a distance before landing this punch. At the time, because the opposition players had their heads effectively still in the scrum I could not see who on the receiving end of this punch but I certainly heard it connect. Regardless of who this punch had connected with, it was a clear act of foul play and I was in no doubt that Mr. Clark was going to be issued with a red card. It is important and relevant that Mr. Clark put considerable force into this punch, his arm swung back sufficiently far enough for me to know the punch had either connected with the opposition hooker or the opposition loosehead prop on the other side of the scrum and almost certainly in the face. Both of these opposition players were in a defenceless situation being still bound into the scrum. They could not have deflected or had any opportunity to avoid this punch and almost no warning that it was about to be delivered. As the players broke up it became clear the punch had landed directly in the left eye socket of the opposition loosehead prop. The eye was beginning to swell and was clearly going to be a problem for the player concerned. He was subsequently replaced some 5/6 minutes later. I issued Mr. Clark with a red card for punching an opponent.

4. The report contained reference to one or two fractious moments during the course of the game which was played in a competitive manner.

Submissions on Behalf of the Player

The Player admitted to the punch in a momentary moment of frustration. There had been no direct niggles between himself and the Kendal tighthead. Indeed, he admitted he swung his punch not aiming at anyone in particular. The front row contest had been very competitive. The Kendal tighthead had been 'boring in' prior to the scrum and again bored in on this occasion. He admitted his punch could have hit the hooker. He also stated that there had been some slight off-the-ball incidents and some skull-duggery going on, which led to his frustration. He acknowledged remorse and regretted the incident but whilst there was no direct provocation immediately prior to this incident, he did admit to a feeling of frustration as a result of another collapsed scrum in what was a very physical and competitive game.

On behalf of the Player both by Mark Nelson and John Greenwood it was submitted:

a) The contest was a very physical and confrontational game. It was very much forward-orientated. It was particularly confrontational and physical in the front row, but then that is part of the game. It was submitted that taking into account the regulations, this was a low-entry offence on the basis that,

whilst it was intentional and there was an injury (a black eye), there were no further incidents or escalation and in all the circumstances it should be a low entry.

b) There were no aggravating factors.

c) The Player had played senior rugby for 11 years. He was 27 years of age. He had played three years for Preston Grasshoppers, three years for Waterloo and he was in his third year at Fylde. In the past 2 seasons he had received 2 yellow cards and 1 red card in 2003. He was the coach attached to the Fylde Under 13's and was perceived as a role model, he had been involved in raising funds for Air Ambulance and The Wooden Spoon Charity. He was also going to suffer financially as a result of any suspension imposed.

d) Fylde had not conducted an official disciplinary hearing but the Director of Rugby had considered the matter with the Player and provisionally come to the conclusion that given the circumstances and the competitive nature of the game and the frustration which the Player experienced, decided to leave the question of any suspension to the Disciplinary Panel.

The Panel conducted an assessment of the Player's conduct and found as follows:

a) The Player acted intentionally.

b) His actions were not reckless.

c) The offending consisted of a single punch to the eye socket of the opposition loosehead prop.

d) Injury was caused to the opposition loose head prop. The eye immediately began to swell and he was in fact replaced some 5/6 minutes after the incident. The letter from Dr. Green, who examined him as the duty doctor on 1st November, confirmed he sustained an injury to his left orbit (eye socket). His left eye was completely closed by swelling of the soft tissues around the eye which was compatible with this type of injury, namely a punch in the region of the left orbit. The doctor concluded he was medically unfit to continue the game and ice was applied in an attempt to reduce the swelling. The doctor subsequently reviewed his condition on the 4th November. The doctor concluded that he expected the victim player to make a full recovery and was anticipating that the victim player would be available for selection for the game on 8th November, subject to further medical review prior to 8th November.

e) There was no effect on the game as a result of this incident.

f) The victim was in a slightly vulnerable position as the Kendal front row was disengaging.

- g) There appeared to be no pre-meditation but it was certainly a spontaneous act carried out intentionally.
- h) The conduct was completed.

- i) There were no other relevant features.

Having conducted this assessment, the Panel were of the opinion, after lengthy discussion, that the offending was at the MID-RANGE of the scale of seriousness.

Sanction

The Mid range entry point is 5 weeks. The Panel did not find that there were any aggravating factors as set out in the Regulations. The Panel concluded that the appropriate entry point, taking into account the above was 5 weeks.

The Panel then considered the mitigating factors as set out in the Regulations as follows:-

1. Not an unblemished record.
2. He is 27 years of age and an experienced player.
3. He admitted guilt.
4. His conduct at the hearing was exemplary.
5. He expressed remorse at the hearing but had not expressed any apology or remorse on the day of the incident.
6. He is clearly a valuable member of the youth set up at Fylde and in addition has contributed to The Wooden Spoon and Air Ambulance Charities.
7. There were no findings of any exceptional circumstances

The Panel came to the decision that, in the circumstances, the Player was entitled to a discount of 1 week from the above entry point. The Player is therefore suspended for a period of 4 weeks and is prohibited from playing from 10th November 2008 until 8th December 2008. He is free to play again on 9th December 2008.

Costs

Pursuant to Regulation 8.3.1 the Player and/or his club shall pay the costs of the hearing of £150, in accordance with Appendix 6 of the Disciplinary Regulations, such costs to be paid within 21 days of receipt of this judgment.

Right of Appeal

The Player is hereby advised of his right of appeal. Such appeal must be lodged with the RFU Discipline Department by no later than 1000hrs on the 14th day following receipt of this judgment.

Signed: Mike Hamlin, Chairman.

Date: 12th November 2008.