

THE CITING

The citing letter alleged that on two occasions the Player had referred to Mr. Caven as "nigger".

Mr. Caven said that he was playing in the centre for Dings (No.13) and that at about 25minutes into the first half of the match he had "run into" the Player when chasing a kick downfield from his fly-half. (Upon questioning he explained that the Player had come across his running line and turned his back obstructing him.) Immediately after the contact the Player said to him "watch out nigger". Dings had been penalised and he had had to retire as required.

In the second half the ball had gone out of play and a lineout was to be formed. Mr Caven found himself facing the Player and had said "I can't believe you said that to me" to which the Player replied "I can call you nigger all day and nothing will happen". Mr Caven said that he had suffered racial abuse in other circumstances but never before on a rugby field and he was extremely upset by the remarks.

Mr. Haupt said that he was playing on the wing (no.14) for Dings in the match and he confirmed that he overheard the Player say to Mr. Caven "watch out nigger" in the circumstances previously described by Mr. Caven.

DEFENCE CASE

The Player said he was playing in the back row (No.6) for Lydney and that Mr. Caven had run into his back when chasing the kick referred to. He denied any obstruction and said that he said to Mr. Caven "cheap shot wanker". He said he realised he should not have used these words. As to the alleged second offence he claimed that it did not happen; indeed it could not have as he would not have joined any lineout and estimated that he was anywhere between 20/30 metres away from Mr. Caven when he (Mr.Caven) alleged the words were uttered.

Mr. Henderson asked Mr. Caven whether there were any witnesses to the alleged second offence and Mr. Caven replied that there were not, to his knowledge.

Mr. Henderson claimed that the match DVD showed the match referee and other players close to the alleged first incident and he would have thought that the referee would have heard the alleged words.

The Chairman asked why the match DVD had not been produced and Mr. Henderson said that the club felt it would not help as there was no soundtrack.

Mr. Bartlett said that he had served in the Royal Navy with the Player and that he (the Player) would have played rugby football with men of different

ethnic backgrounds and he didn't consider that the Player would ever use racially abusive words. He also pointed out that the Player was now a full-time fireman and he considered this to be further evidence in favour of the Player for if the charges were proved it could have serious repercussions in relation to his employment.

FINDINGS

The Panel were persuaded by Mr. Caven's evidence and that of Mr. Haupt preferring it to that of the Player and his witness and determined to uphold the citing.

The Panel assumed (though were entitled to infer under the provisions of Disciplinary Regulation 7.2.1) that the non-production of the match DVD was unfavourable to the Player regarding the second incident.

As required the Panel conducted an assessment of the Player's conduct and found:-

- (a) the Player had acted intentionally
- (b) consequently he had not acted recklessly
- (c) there had been no provocation
- (d) Mr. Caven had been extremely distressed by the remarks at the time and as had been apparent when giving evidence
- (e) there had been no affect on the game
- (f) Mr. Caven had been vulnerable
- (g) there was no premeditation
- (h) the conduct was completed and
- (i) the use of racially abusive language breaches both IRB Regulation 20.1.12 and the Principles of the Game as published by the RFU.

The Panel considered the use of racially abusive language in any circumstances to be repugnant and especially so in the game of rugby football. In consequence they categorised the offending to be at the TOP END of the scale of seriousness.

The top end entry point for verbal abuse based on religion, race, colour or national or ethnic origin or otherwise is between 13+ and 52 weeks. The Panel was then required to assess the appropriate entry point between those specified periods of suspension. The Panel considered the provisions of RFU Guidance Note 3. The offending was intentional and had caused considerable distress to Mr. Caven. It could not be said to have been a "torrent of abuse" but the second incident suggested an arrogance and intolerance on the part of the Player in matters of race and/or ethnicity.

SANCTION

In light of the re-assessment the Panel determined that the appropriate entry point was a suspension of 18 weeks.

The Panel then considered aggravating features and found there were two namely;

“a lack of remorse”

and “the Player’s status as an offender of the laws of the game.”

The Panel then considered mitigating features and found there to be one namely;

“the Players conduct at the hearing”

The Panel considered that the aggravating features merited an addition of three weeks and the sole mitigating feature a deduction of one week so that the Player is suspended from playing for 20 weeks from 3rd November 2008 and can play again on 23rd March 2009.

COSTS

In accordance with Regulation 8.3.1. the Player and/or his club shall pay the costs of the hearing i.e. £150 such costs to be paid within 21days of receipt of this judgment.

RIGHT OF APPEAL

The Player was advised of his right of appeal. Any such appeal must be lodged with the RFU Discipline Department not later than 10.00hours on the 14th day following receipt of this judgment.

Mike Curling
Chairman.

Dated: 6th November 2008

