

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

At: Filton Holiday Inn, Bristol.

On: Monday 6th April 2009

JUDGMENT

Player: Jed Hooper

Club: Cinderford RFC

Match: Hartpury College RFC v UWIC RFC

Venue: Hartpury College RFC

Date of Match: 18th March 2009

Panel: Mike Curling (Chairman), John Doubleday and David Martin.

Attending: Jed Hooper (the Player)
Sean Lynn (Coach, Hartpury College)

Secretary: Liam McTiernan

To Consider: Charge 1: The sending off of Jed Hooper, Cinderford RFC, for an act of dissent during the 30th minute of the second half of the match between Hartpury College RFC and UWIC RFC, contrary to Law 10(4)(k)/6A.6.

Charge 2: The charging of Jed Hooper, Cinderford RFC, under RFU Rule 5.12, for making a rude gesture to the match referee in the car park after the match between Hartpury College RFC and UWIC RFC.

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: "*Throughout the match, Hartpury No.6 Jed Hooper was involved in several off-the-ball incidents. A skilled player, he regrettably seemed to want to indulge in over-aggressive bullying. The UWIC captain twice cited him to me for eye-gouging his players. I mentioned this to Hooper but took no action as I had not seen any gouging. In minute 70 as a ruck was ending with UWIC attacking in Hartpury's half, I looked back and saw Hartpury No.6 holding a UWIC player on the ground with his arms whilst kneeling him in the head. I*

blew the whistle to stop play and called the No.6 and his captain to me, intending to penalise this foul play. As this was to be the third penalty against the No.6, I issued a yellow card for repeated infringement. He refused to leave the park. At the third time of asking him to do so without compliance, I issued a red card for this blatant dissent.

*As I left the pitch at the end of the match this player said “F***ing w***er” as I walked past him. I could not be absolutely certain that he was talking to me as there were other players in front of me.*

In the car park after the match as I was standing by my car making a phone call, Jed Hooper walked past about 20 metres away. He looked at me and mouthed something which I did not hear and made a two-fingered gesture at me. I could see no-one else in the vicinity. I reported this to the Hartpury coach who apologised for Hooper’s behaviour, explaining that he was a bit hot-headed. I asked the coach to ensure that Hooper did not approach me in the bar later. I had no further approach from Hooper.

Plea

On the basis of the referee’s report, the Player formally entered a plea of guilty to each of the two charges.

DVD Evidence

There was no DVD made of the match in question. The Panel proceeded on the basis of the referee’s report.

The Player’s Evidence

The Player accepted the referee’s report. The Player recalled wrestling on the ground with an opponent, but did not recall striking him to the head with a knee, although he admitted under questioning from the Panel that accidental contact may have occurred. The Player had not requested the referee attend or otherwise be available to question his report, and accepted that the Referee’s special status as an independent eye-witness, under Discipline Regulation (DR) 7.1.2., meant the Panel could proceed on the basis of that report.

The Player explained that, as he didn’t feel he had committed an act of foul play, he was surprised to be summoned to the referee and shown a yellow card. He did not feel he refused to leave the pitch he was merely seeking clarification from the referee about why he had been asked to leave. He did not feel he was given any explanation. When he eventually left the pitch he did so under the misapprehension that he had only been shown a yellow card. He claimed he had not seen the red card issued as he had already turned away.

The Player explained the growing sense of frustration he felt during the game. It was, as he described in his own words, “niggly, not a very enjoyable game

to play in". There had been off-the-ball incidents committed by both sides, and to add to this, the game was slipping away from Hartpury. As he put it, his "blood was up".

Mr. Lynn also witnessed the incident and saw the Player repeatedly question the referee. He did not see the strike with the knee alleged by the referee. Mr. Lynn confirmed he had seen the red card issued.

Commendably, the Player did not attempt to defend the actions which gave rise to the second charge. He expressed remorse, saying he immediately regretted his actions and wished to apologise to the referee. He was on his way to do so when he was intercepted by Mr. Lynn, whom informed him that the Referee had expressly requested not to be approached by the Player in the bar afterwards. As he sat before the panel, the Player was plainly embarrassed.

Decision

The Panel did not accept that the Player did not know why he had been shown a yellow card, nor that he did not realise he had been issued a red card following his refusal to leave the pitch. The Player had not exercised his right to have the referee available, and by his own admission had questioned the referee repeatedly. The Panel felt that the Referee had interpreted the Player's actions reasonably.

In light of the Player's admission of guilt and acceptance of the facts as described, the Panel found the Player guilty of both charges. The Panel then retired to consider the questions of entry points and sanctions.

Entry Points

These exercised the Panel since neither of the offences have a "Recommended Sanction" in DR Appendix 2. (It was noted that there are such "Recommendations" in DR Appendix 3) Consequently the Panel proceeded on the basis of considering offences that were most comparable.

The first listed in Appendix 2 is "Threatening words or actions towards/at match officials". The Low-End, Mid-Range and Top-End entry points in this category are 12, 24 and 48+ weeks respectively, with a maximum sanction of 260 weeks. The second category listed in Appendix 2 is "Verbal abuse of match officials", which has entry points of 6, 12 and 18+ weeks respectively, with a maximum sanction of 52 weeks. It weighed heavily on the Panel that making a subjective decision could have a serious impact on the Player.

Charge 1

The Panel debated whether the Player's refusal to leave the pitch could constitute "threatening words or actions towards/at a match official". Refusing to leave the pitch imputes the authority of a match official. It invites others to test the resolve of that official by engaging in intimidatory behaviour. Carried

to its logical conclusion, dissent may result in the effect of a referee feeling threatened.

The Panel then reflected on the latter type of offence. The Panel agreed that by refusing to leave the pitch, the Player committed an act of dissent. It then questioned whether refusing to leave the pitch could constitute an act of “verbal abuse of a match official.” It cannot; but the Panel were of the mind that an act of refusal is the most comparable to verbal abuse for the purposes of sanction. Neither act is necessarily a direct personal attack on the referee as an official or a person, merely an act of disagreement with a decision, expressed non-verbally. This sat easier with the Panel than the arguments for considering the Player’s actions as threatening. They were fortified in that approach by the inclusion of ‘dissent’ and ‘abuse official’ in the same box on the sending off report form.

Charge 2

The Panel were similarly minded with regard to Charge 2. The physical gesturing was deemed by the Panel to be representative of a verbal expression, which was most comparable to verbal abuse of a match official, as opposed to a threatening action. The main features of a threatening action, as in the first case, were not present, i.e. there was no invasion of personal space, no looming or imposing upon the referee, indeed no approach of the referee by the Player whatsoever. His gesture was made at distance, as the Player occasioned the referee by co-incidence. The Player’s actions could not sensibly be labelled threatening, whereas elements of abuse were more apparent. The Panel so finds that to be the case.

Having settled on the appropriate comparables the Panel then took account of the features of the offending to determine the seriousness of the offences, referring to DR 8.2.5.

Charge 1

The Player’s actions were visibly intentional and repeated; they did not result in psychological harm to the referee, and did not negatively affect the outcome of the match, except to the detriment of his own team. The question of vulnerability does not arise here. There was no premeditation as such; the player was in the first instance summoned to the referee, and did not approach him of his own volition.

Charge 2

The Player seized upon the opportunity to “include the referee in his thoughts” but had he not stumbled upon him by accident, it is unlikely that the Player would have sought him out.

A Mid-Range entry point of 12 weeks was considered to be proportionate to each of the offences.

Aggravating Features

The Panel attempted to identify any factors which may serve to aggravate either offence under DR 8.2.7. There were none. The Player had been sent off for striking while playing for Old Redcliffians two seasons ago and suspended for 6 weeks, but the Panel did not feel that this was indicative of a particular propensity to commit foul play.

Mitigation

The Panel then paused to consider the mitigation advanced by the Player under DR 8.2.8. The Panel determined that the Player was entitled to credit for his acknowledgment of guilt and his remorse. He is a promising young player with Gloucester Academy, currently on loan to Cinderford RFC. He can also play for Hartpury College RFC in some cup competitions under the terms of his arrangement with Gloucester RFC and Cinderford RFC. Any suspension is likely to have a serious impact on his selection prospects.

In wishing to give the Player credit for his guilty plea, the Panel were disinclined to deduct weeks from the period of suspension, feeling that such credit as the Player was entitled to would be better expressed in the form of a concurrent ban for the two offences as opposed to consecutive suspensions.

Sanction

This case also proved taxing to the Panel due to the established wisdom of interrupting a ban to take into account the fact that no rugby is officially played in the months that fall outside the official season in England. The Player asserted that he is not due to cease playing until the end of May, as he is a committed 7's player, and is being considered for County honours with both Somerset and Gloucestershire. Because of his commitments with Gloucester Academy and Cinderford, he is also likely to be required to play pre-season warm-ups at the start of next season. The Panel accepted the Player's submissions in this regard, although was concerned that this issue remains to be settled within the game. The Panel is conscious of the fact that, as a result of splitting a ban, the Player could, in theory, play rugby in the southern hemisphere or in any region which does not share the English rugby season.

The Player is nevertheless suspended for twelve weeks, running from 6th April 2009 up to and including 25th May 2009 and then again from 29th August 2009 up to and including 3rd October 2009. The Player is free to play again on 4th October 2009.

Costs

The Panel imposed an order of costs of £150 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: 14th April 2009.

Recommendation

The Panel would respectfully request that urgent consideration is given to the inclusion of "Recommended Sanctions" for dissent and abusive behaviour to match officials in DR Appendix 2 at the next publication of the Disciplinary Regulations.