

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

Judgment

At: Holiday Inn, Brighouse, West Yorkshire
On: Monday, 23rd February 2009
Player: **BEN PRESCOTT** **Club:** Rotherham RFC
Match: Rotherham v Cornish Pirates
Date of Match: 31st January 2009
Panel: Antony Davies (Chairman), Peter Rhodes and David MacInnes
Secretariat: Liam McTiernan
Attending: Ben Prescott (“the Player”)
Alan George (Rugby Manager, Rotherham Titans)

Preliminary Matters

1. The Player did not object to the composition of the Panel and raised no preliminary issue. The nature of the offence for which the Player had been ordered off was established and the procedure to be adopted for the hearing was outlined.

Charge and Plea

2. The Player admitted committing an act of foul play, namely striking an opponent contrary to Law 10(4)(a).

3. The charge followed the Player’s dismissal from the field of play by the Match Referee, Graham Knox.

The Facts

4. The Referee described himself as some 3 metres away from the incident, with an unobstructed view. The incident occurred 10 minutes into the first half. The narrative of the Referee’s report read as follows :

“Number 3 Prescott behind a ruck punched Pirates number 2 in the face. It was a full swing of the arm, starting from behind the shoulder. It connected at the

side of the cheek with real force. The fist was closed. It was deliberate and Pirates number 2 would not have seen it coming. I was 3 metres away with an unobstructed view. I had no hesitation in sending him off.”

5. The report also stated that there had been no incidents prior to this and that the Pirates number 2 was taken from the field of play and to hospital.

6. The Panel viewed a DVD of the incident, both in real time and in slow motion, which appeared to corroborate the description in the Referee’s report.

7. Mr. George spoke candidly about the injury to the victim player. He had followed the victim player to hospital after the game to check on the nature of the injury and pass on Rotherham’s concerns and best wishes. The victim player had a cut under the eye, for which he received four stitches. He had also sustained a broken nose and a fracture of the cheekbone. It was not thought that this was a major fracture, but there was concern about damage to the bone surrounding the orbit of the eye. Mr. George had kept in contact with Cornish Pirates during the week and understood that on the Wednesday following the game, the victim player had had an operation to realign the bones in his cheek. He understood that this had been carried out under local anaesthetic with forceps and that the player would be out for some three to four weeks, and possibly longer.

The Player’s Case

8. Mr. George and the Player explained the incident from the Player’s point of view by reference to the DVD of the incident. It was accepted that the Player was standing in an offside position on the wrong side of the ruck and Pirates number 2 came towards that ruck and took exception to his positioning. The Player stated that he received a forearm strike to his head from the victim player, followed by a punch to his chin with the victim player’s left hand. That punch was seen to connect, but with not much force. It was these two assaults which caused the Player to react, though he now accepted that he should not have done so. Unfortunately, the forearm strike and punch were not seen by the Referee because of another player obscuring the Referee’s view. However, when that view became unobscured, the Referee saw only the reaction of the Player in retaliation to provocation and the one strike connecting with the victim player. Whilst

the injury was regretted, the victim player was “the architect of his own downfall in thumping Ben rather than driving him out of the way with his shoulder”.

9. Some five days before this incident, the Player received a suspension of one week following a citing for dangerous tackling. He was not however a combative player and it was unfortunate that the Referee had not seen the entirety of the incident and the provocation which preceded it.

Entry Point

10. The Panel conducted an assessment of the seriousness of the Player’s conduct by reference to Disciplinary Regulation 8.2.5 and found the following features of relevance:

- (i) The offending was carried out intentionally, with a deliberate action.
- (ii) It was a closed fist punch to the head of the victim player. The Player drew back his right arm and fist to a starting point behind his body and shoulder and swung with considerable force into the head. The Player weighs some eighteen stones.
- (iii) There is some discernible provocation. The strike with the forearm is not depicted clearly – it is rather more a pushing action but the punch to the Player’s chin is seen clearly. It connects without much force and does not cause the Player’s head to move upwards or backwards. There is a short delay before the Player throws his punch when he is seen to be looking directly at the victim player. The Panel finds that the Player acted in retaliation.
- (iv) The Player’s actions caused a serious injury to the victim player, necessitating four stitches and an operation to realign the bones of the nose and cheekbone.
- (v) The victim player was vulnerable in that after disengaging from contact with the Player, he is seen to look down towards the base of the ruck and the likely position of the ball. He would not have seen the punch being thrown and been able to take any evasive action.
- (vi) The Player’s actions had no discernible effect upon the match, save that the victim player took no further part in it.

- (vii) The punch was an instantaneous reaction to being pushed and punched and was completed.
- (viii) The Player appeared to show a lack of interest in the extent of the victim player's injury whilst on the field of play.

11. Weighing up the issues above, the Panel considered that the seriousness of the injury caused warranted the appropriate entry point being top end and taking account of the provocation/retaliation and the other matters set out above, the Panel determined the appropriate entry point as being one of twelve weeks.

12. The Panel then considered whether or not there were any relevant aggravating factors pursuant to Disciplinary Regulation 8.2.7 and concluded that there were not.

Mitigation

13. On the Player's behalf, it was submitted that he had a good disciplinary record. He had been cited for a dangerous tackle and received a one week internal ban from the Club's Disciplinary Panel, which had been endorsed by the Disciplinary Panel which heard the case subsequently. The incident was out of character for him. He was described by Sean Lineen, his former Head Coach at Glasgow Warriors, as honest, hardworking, very disciplined and professional in his approach. He had been no trouble on or off the pitch, and that behaviour had been replicated during his playing career at Rotherham.

14. His Club had considered whether or not the victim player ought to be cited, but concluded in view of his injury there was little to be gained. Mr. George had spoken with the victim player in hospital and continued to convey the good wishes and concern of Rotherham to the victim player and his Club. It was hoped that he would suffer no lasting injury and they wished him a speedy recovery.

15. The Player was a popular and valued member of the squad and was involved heavily in the Club's literacy and numeracy projects within the local community.

16. The Panel then considered and identified the following relevant mitigating

factors pursuant to D.R. 8.2.8 :

- (i) Although the Player had acknowledged his culpability and pleaded guilty at the hearing, he could only be given limited credit for this as his actions were depicted clearly on the DVD and seen clearly by the Match Referee.
- (ii) The Player has a good, though not perfect, disciplinary record. He has played at a high level in the front row and only this season has he appeared before Disciplinary Panels. The previous one week ban for a dangerous tackle did not indicate a bad disciplinary record.
- (iii) The Player's conduct at the hearing has been exemplary and he expresses himself sorry for the injury sustained by his opponent.

17. Taking account of the above matters, the appropriate credit to be given on account of mitigation is one of four weeks, resulting in a period of suspension of eight weeks.

Sanction

18. The Player is suspended for a period of eight weeks from 23rd February 2009 to 20th April 2009 inclusive. He may play again on 21st April 2009.

Costs

19. The Player will pay the costs of £200.00.

Appeal

20. The Player was informed of his right of appeal as set out in the Disciplinary Regulations.

Antony Davies

Antony Davies,

Chairman

24th February 2009

