RUGBY FOOTBALL UNION DISCIPLINARY HEARING

At: Holiday Inn, Brighouse, West Yorkshire

On: Tuesday, 22nd September 2009

Judgment

Player: JUAN CROUS Club: Sedgley Park

Match: London Scottish v Sedgley Park

Venue: Richmond

Date of Match: 5th September 2009

Panel: Antony Davies (Chairman), Mike Hamlin and Peter Rhodes ("the

Panel")

Secretariat: Bruce Reece-Russel

In attendance: Juan Crous ("the Player")

Geoff Roberts (Chief Executive, Sedgley Park)

Nigel Carrick (Assistant Referee) (by telephone conference call)

Decision

1. The Panel found the Player guilty of the offence of striking an opponent with his head. The Panel determined that the Player should be suspended for a period of three weeks from 14th September 2009 to 4th October 2009, inclusive.

Preliminaries

- 2. There was no objection to the composition of the Panel, nor other preliminary matter.
- 3. The Panel convened to consider a charge alleging that the Player had been guilty of striking an opponent with his head during the 40th minute of the second half of the match London Scottish v Sedgley Park on 5th September 2009, contrary to Law 10(4)(a).
- 4. The Player pleaded not guilty.

- 5. The Panel considered:
- (a) The sending off report of the Match Referee, Terry Hall.
- (b) Oral evidence from the Assistant Referee, Nigel Carrick.
- (c) Two DVDs of the incident.
- (d) Oral evidence from the Player.
- (e) Oral evidence and submissions from Mr. Roberts.

The Facts

6. The sending off report recorded as follows:

"LS had the ball in a ruck 8m into the SP half, on the 5m line nearest the stand. The referee was in field on the LS back foot of the ruck. The Assistant Referee (AR) was on the touchline, towards the LS back foot of the ruck, 5m away. The AR observed LS 7 react to something LS 7 had seen in the ruck on the side nearest the touchline. LS 7, from a position level with the LS back foot of the ruck quickly stepped forwards, joining the side of the ruck and throwing a punch. SP 6 from the same side of the ruck immediately reacted to LS 7. Driving into LS 7, SP 6 grabbed LS 7 and forced him backwards 3 or 4 metres towards the LS try line. Both players went to ground, LS 7 beneath SP 6. Both players had grabbed each other. At least 4 players (2 from each team) either grabbed hold of the SP 6 to pull him off, or hold of the player trying to pull SP 6 away. No foul play by any of these additional players was observed at any time during the incident. Play continued, with the ball moving away from the situation, LS on the attack. The AR stepped onto the field of play to encourage the players away from each other. Both players on the floor continued to hold and act aggressively towards each other. Having failed to stop the incident the AR stepped back. The AR observed a second punch from LS 7, given the position LS 7 was in it appeared ineffectual and carried little weight. The AR then observed that the index and middle fingers of SP 6's left hand were in the mouth of LS 7, pulling on the inside cheek. Immediately after this the AR observed SP 6 drive the left hand side of his forehead, from a distance of approximately 10cm, into the forehead of LS 7. The AR observed blood appear on the forehead of LS 7. At this point the AR

requested the referee to stop the game. As the whistle blew and the referee ran over the incident came to an end. Both teams were separated and then the AR described what had occurred to the referee. Based on this information the referee suggested that a yellow card for the initial punch by LS 7 and a higher sanction for SP 6 would be appropriate. The AR agreed. The referee then sent both players from the field of play. The above is a description written by Nigel Carrick (Assistant Referee) and is an accurate description of events described to me (Terry Hall match referee) by Mr. Carrick. As a result of what was described to me, I issued Mr. Crous with a red card."

- 7. Nigel Carrick, the Assistant Referee, gave evidence by telephone conference call to confirm the accuracy of the Referee's written report and in response to questions from the Panel, the Player and his representative. He stated that the demeanour of the Player in the incident had been very aggressive. The first punch which connected with the Player in the ruck would have aggravated him and the second punch aggravated him more. The team mates could not pull the Player off LS 7 because neither was prepared to release the other. He tried to speak to the players to get them to disengage and, when this did not work, shouted at them to do so, but they did not separate until the Referee had blown his whistle.
- 8. Mr. Carrick went on to clarify that he was sure that he saw a cut on the forehead of LS 7 immediately after the incident whilst he was still on the field, though was less sure that he had observed a cut in the Club House later, as LS 7 walked past him. It was seeing the blood on LS 7 that moved him to put his flag in for foul play and use the comms equipment to signal to the Referee to stop the game. He did not see how the Player's fingers got into the mouth of LS 7, but he was certain he saw both the index finger and middle finger in LS 7's mouth. As to the strike with the head, the players' heads were respectively 10 cms. or so away and the Player had his left shoulder lower than his right. He used the top left hand side of his forehead and drove his head and upper body into contact with LS 7 in a purposeful motion. He was in no doubt that it was intentional contact. He was less than 2 metres away, looking directly at the heads of the two protagonists and his view was unobstructed.

9. The Panel then viewed DVDs of the incident provided by both teams. The incident depicted by those DVDs was consistent with the evidence given by Mr. Carrick. The strike itself is not shown as the camera pans away to play which continues in another part of the field. Of particular interest to the Panel in the DVD was the corroboration it provided of the view of the Assistant Referee seen bending over, looking directly at the heads of the protagonists with an unobstructed view from, it appeared, about 1 metre away.

The Player's Case

10. The Player did not dispute that his reaction to being punched twice in the ruck by LS 7 was to drive through the ruck and grab hold of LS 7, driving him backwards. He lost his balance and they both went to ground, neither being prepared to release the other. LS 7 continued to attempt to throw punches at him. He denied putting his fingers in LS 7's mouth intentionally, but did accept they were there. LS 7 bit his fingers hard and then punched him again. This punch connected with the Player's right eyebrow, where he had earlier in the game had five stitches inserted. His reaction to this was to put his whole body down in a defensive manner. He was wearing a scrum cap under which was a bandage over his earlier cut. He would not have used his head to strike, given that he had sustained an injury to it requiring stitches. If there were blood on LS 7's forehead, it had come from him and he was not aware that LS 7 had sustained any injury at all in the incident. His reaction to being bitten was defensive rather than aggressive. He had not heard the Assistant Referee shouting at him and did not disengage because LS 7 had hold of him and was attempting to punch him.

Decision as to the Charge

11. The Panel found unanimously that the Player was guilty of the charge of striking with the head as alleged. The Assistant Referee was very clear in his description given to the Referee contained within the sending off report and in his evidence to the Panel which had been credible and reliable. His evidence was certainly to be preferred to the evidence put forward by the Player. The Assistant Referee had an excellent view. The Panel did not accept that the strike caused a cut or bleeding. Though requested from London Scottish, there is no evidence of injury and the panel proceeded on this basis.

Sanction

- 12. The Player and Mr. Roberts were asked for submissions as to entry point. They volunteered that the Club had already held an internal disciplinary hearing in which they had viewed the incident as a brawl between two players and both should have been treated in the same manner. They did however accept that foul play had been committed by the Player and imposed a period of suspension of two weeks commencing 14th September 2009. The Player had accepted at that disciplinary hearing that there had been "something for him to answer for".
- 13. As to mitigation, the Player stressed that he had retaliated to severe provocation. He had been punched twice in the ruck and once on the ground. He then had his fingers bitten and reacted to that. He had not had any previous disciplinary record. He is 25 and has not been sent off before. He is qualified as a Referee, helps on occasions with the Club Colts and is a County player. He played at Level 2 the previous season, and now plays at Level 3.

Entry Point

- 14. The Panel found that there was one strike only from a distance of about 10 cm. in a situation where there was aggression on both sides. The "victim player" was vulnerable to the extent that the Player was on top of him, but neither would release the other and punches were being thrown by the victim player. The Panel found the strike to be an instinctive and spontaneous reaction by the Player to having his fingers bitten. It caused no discernible injury. The victim player's Club was asked to provide details of the injury claimed, but has not done so. The Panel found the blood seen the by Assistant Referee to have come from the Player rather than the victim player.
- 15. Taking account of those circumstances, the Panel characterised the offending as at the lower end of the scale, giving an entry point of four weeks. No aggravating features were found.
- 16. Having regard to the mitigating factors put forward, the Panel reduced the four week entry point by one week.

Sanction

17. The Player was accordingly suspended for a period of three weeks from 14th September 2009 to 4th October 2009. He is free to play again on 5th October 2009.

Costs

18. Costs assessed at £250.00 are ordered to be paid by the Player's Club, Sedgley Park RUFC, such costs to be paid within twenty one days of receipt of this Judgment.

Right of Appeal

19. The Player was advised of his right of appeal as set out in Disciplinary Regulation 11.

Antony Davies

Antony Davies,
Chairman
25th September 2009

Note:

The normal administrative fee which would have been ordered in this case pursuant to DR 8.3.1 Appendix 6, would have been £150.00. The Panel does have the discretion to order the Player and/or his Club to pay the costs of the hearing, a part thereof or a fixed contribution towards those costs. We note that the Club in this case held its own internal disciplinary process. It found foul play characterised as having a low entry point, and, following consideration of mitigation, imposed a two week suspension upon its Player. This Panel finds it somewhat surprising in these circumstances that the Club should then support the Player in his not guilty plea, necessitating the attendance of representatives from the RFU Disciplinary Department and contributing towards a significantly elongated hearing. This approach has caused detriment to the Player (we could not give him any mitigation for a guilty plea) and increased the cost of the disciplinary process. It is upon this basis that the Club has been required to contribute to those additional costs.