RUGBY FOOTBALL UNION

DISCIPLINARY APPEAL HEARING.

At: Mercure White Hart Hotel, Salisbury.

On: Wednesday, 10th March 2010.

JUDGMENT.

Player: Michael Amor. Match: Kingsclere v Verwood.

Venue: Basingstoke RFC. **Date of Match:** 7th November 2009.

Panel: Robert Horner (Chairman), Michael Curling and Jonathan Dance.

Secretary: Bruce Reece-Russel.

Attending:

On behalf of Kingsclere RFC: The Player, Tony Wyatt (TW) (Counsel) and Colin Harvey.

On behalf of Verwood RFC: Alan Rex (AR) and Darren Kendall.

On behalf of Hampshire RFU Disciplinary Committee: David Creal

Preliminary Matters.

- 1. The Panel was convened to consider an appeal by the Player, supported by Kingsclere RFC, under Disciplinary Regulation (DR) 11 against his conviction by Hampshire RFU's Disciplinary Committee, following a citing by Verwood RFC, for striking with the knee under Law 10(4)(a) for which his sanction was a period of eighteen weeks suspension from playing, against which sanction the Player also appealed.
- 2. There was not any objection to the composition of the Panel
- 3. The Chairman explained the process to be employed for the hearing of the appeal. In particular he explained why, with reference to DR 11.1.3, the Panel considered a de novo hearing was appropriate. There had been criticism

following the Hampshire hearing that members of that Committee were aware of possible police investigations into the alleged offence, but this information had been kept from the Player and members of Kingsclere RFC. The Chairman then stated that the RFU had made recent enquiry of the Hampshire police who were indeed investigating the incident, seemingly as a potential grievous bodily harm case. He understood that the detective concerned had now completed his enquiries of Verwood witnesses, including the injured player, Darren Kendall (DK), and that the investigation was on-going. What, if any, the next move by the police would be was unknown.

Application by Kingsclere RFC.

TW stated that he wished to make an application under DR 6.1.7. He accepted that statements had been taken by the police, doubtless consistent with those which had been supplied for this hearing, but no-one knew their precise The matter was clearly being investigated seriously and the police evidence was likely to contain statements which he was instructed to challenge. Further, the statements collected by the police could be helpful to the Player in making his appeal. He therefore sought an adjournment as he required the totality of the evidence which might be available. He was also concerned that the Player's comments at this hearing could be brought into play at another venue. This was important as there was the possibility of a GBH case, possibly The police investigation was clearly advanced, and to proceed under s.18. tonight could potentially prejudice the Player's position; the consequences could be far-reaching.

In reply, AR stated that Verwood would be disappointed if the appeal was not finally resolved at this hearing. In particular, DK and his family wanted closure. He had been very fit, yet now, four months later, he could not work a full day, could not drive and was suffering a serious dent in his confidence. He was a shadow of his former self. The Hampshire proceedings had produced a closure of sorts, but the outcome was less than satisfactory from Verwood's point of view and finality was sought. However, if it was considered to be best for all concerned for there to be an adjournment, Verwood would be disappointed but would understand.

The Chairman enquired of TW whether he wished to say anything else under DR 6.1.7, but he declined.

Determination.

Given the differences in the burdens of proof which apply between Rugby proceedings and in the criminal law, the Panel considered that it was in many

ways difficult to be satisfied that to proceed with the appeal hearing would prejudice any proceedings which might be instituted as a result of the police investigations. The Panel did accept, however, that if criminal proceedings were brought, the charge(s) might well be serious.

In those circumstances, the Panel had to accept that for the claim to be made that the RFU, by insisting with the hearing of the appeal that night, had prejudiced a fair determination of proceedings there or elsewhere, would of itself be damaging to the interests of the Game and the Union.

However, the Panel was dealing with an appeal, following a finding of guilt. Further, without in any way prejudging the appeal, there was in the statements provided clear prima facie evidence that a serious offence under the Laws of the Game took place and the Player had admitted at the Hampshire hearing that it was he who had fallen on DK at the time his serious injury was suffered.

In the particular circumstances of this case, the Panel was prepared to grant the adjournment requested, but at the same time would exercise its right under DR 6.1.7 to impose a temporary suspension on the Player. Accordingly, the hearing was adjourned to a date to be determined upon the conclusion of the potential criminal proceedings, or until a date to be determined upon the Player applying to have the appeal hearing restored or until a date to be determined upon the RFU Disciplinary Officer ordering the appeal to be heard, whichever shall be the sooner. The Player was suspended from playing until such time as the renewed appeal hearing takes place.

Costs.

The Panel made an order for costs against the Player/Kingsclere RFC in the sum of £150.

Robert Horner.

Robert Horner.
Chairman.

11th March 2010.