

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

VENUE: Holiday Inn, Bloomsbury, London

DATE: 18 May 2010

Player: Schalk BRITS

Club: Saracens RFC

Match: Leicester Tigers v Saracens

Venue: Welford Road

Date of match: 8 May 2010

Panel: Jeff Blackett (Chairman), Jeremy Summers and Michael White ("the Panel")

Secretariat: Brenda Parkinson and Liam McTiernan

In attendance:

Saracens RFC

Schalk Brits ("the Player")

Adam Lewis QC - Counsel for the Player

Brendan Venter – Director of Rugby

Edward Griffiths – CEO Saracens

DECISION

1. **The Panel found the Player guilty, on his own admission, of acts contrary to good sportsmanship. As set out below, the Panel determined that the Player should be reprimanded and warned as to his future conduct.**

PRELIMINARIES

2. The Panel convened to consider a charge alleging that the Player had been guilty of acts contrary to good sportsmanship, contrary to Law 10.4(m) of the Laws of the Game 2010 in that in the act of being substituted he made a foul and abusive gesture to the crowd.
3. The offence was admitted.

4. There was no challenge to the composition of the Panel and no other preliminary issue arose.
5. The Panel indicated at the outset, that it considered that a suspension was not appropriate on the facts of the case, and invited submissions in relation to any potential financial penalty in addition to the issue of a reprimand and a warning.
6. The Panel considered:-
 - a. The Citing Report
 - b. The match recording.
 - c. Evidence from the Player.
 - d. Written submissions from Mr Lewis QC.
 - e. Written statements from the Player, Andrew Walker and Mike Hynard.
 - f. Submissions from Mr Lewis QC.
 - g. A letter from Peter Wheeler, Leicester Tigers CEO dated 18 May 2010.

THE FACTS

7. The Citing Report recorded as follows:

“On being replaced Saracens no.2 is being helped off the pitch by the Saracens staff. When he gets closer to the crowd and whilst still on the field of play, Brits raised the middle finger of his right hand towards the crowd. There is an audible cheer from the crowd.”

8. The match recording was then viewed with the sound track being audible. This showed the Player being led from the pitch by a member of the Saracens medical staff. From the soundtrack it was possible to hear crowd reaction but not with any clarity. The written statements tendered in evidence all referred to offensive remarks having been directed from the crowd towards the Player.
9. On reaching the 5 metre broken line adjacent to the touchline the Player was seen momentarily to lift the middle finger to his right hand in the direction of the crowd. It did not appear that he was looking directly at the crowd and, if

anything was also said at that time by the Player, this was not audible from the sound track.

10. The Panel noted, and was grateful for, the letter received from Mr Wheeler. This referred to the immediate apology made by the Player to the crowd which had diffused the situation. In light of that, and despite the fact that Saracens were due to play Tigers in the forthcoming Guinness Premiership Final, his view was that it would not be appropriate for the Player to be prevented by suspension from playing in that match.

MITIGATION

11. The Player gave evidence and confirmed his unreserved apology for his actions which he accepted he had immediately known were wrong. At the final whistle he had therefore located the gentleman in the crowd concerned, and had apologised to him directly. This was some 20 minutes after the incident had taken place.
12. He had received a head injury during the game and, although he had not wanted to come off, he had been substituted as a precaution by medical staff. He was still feeling groggy when walking off the pitch and it was at this point that the incident happened. He had reacted to comments from the crowd but accepted he should not have done.
13. He had also apologised to his Chief Executive Officer and a journalist shortly after the game's conclusion. He had never previously appeared before a disciplinary panel.
14. Mr Lewis QC similarly placed reliance on the medical evidence from Mr Walker confirming the Player's suspected concussion. He submitted that the offending was at the very lowest end of seriousness, and contrasted the case of *Lemi*¹ which he considered had involved more aggressive behavior and yet had only resulted in a warning and reprimand.

¹ Decision of the RFU Disciplinary Officer on 15 September 2009.

15. There were no aggravating features present and very substantial mitigating factors. In those circumstances a financial penalty was not appropriate. The Player had not received a match fee or a winning bonus payment.

SANCTION

16. The Panel found that the offending had been momentary, there had been no evidence of aggression or swearing on the part of the Player and he had issued an immediate apology.

17. Although the Panel considered that *Lemi* could be distinguished in that it had involved a gesture toward other players as opposed to the crowd, it nevertheless similarly considered that the Player's offending did not warrant a period of suspension.

18. The appropriate sanction in all the circumstances was to issue the Player with a reprimand and a warning as to his future conduct.

19. It should be noted that the Player, as distinct from *Lemi*, had been required to attend a hearing and will accordingly be required to pay the costs referred to below. As such the decision reflects the fact that, if incidents of this nature continue, increasingly severe sanctions should be expected.

COSTS

20. Pursuant to 8.3.1 DR the Player and/or his club shall pay the costs of the hearing of £250 in accordance Appendix 6 DR, such costs to be paid within 21 days of receipt of this judgment².

RIGHT OF APPEAL

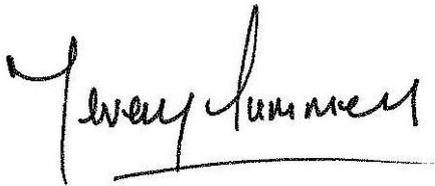
21. The Player was advised of his right of appeal. Such appeal must be lodged with the RFU Discipline Department within 24 hours of this decision.³

COMMENT

² 8.3.2 DR

22. The offending was disappointing given the Rugby Football Union's Core Values programme and the issues it has set out to address. In his written submissions Mr Lewis QC asserted that the public expects and requires the best players to be available for important fixtures. With respect the Panel does not wholly agree with that proposition. Players with the ability to reach the upper levels of any sport have a responsibility both to promote their sport and to refrain from conduct that risks tarnishing its reputation.

23. There is an unhappily long list of exceptional players across many sports who have been prevented from participating at major events because of disciplinary issues. Rugby disciplinary panels will not hesitate to suspend players where their conduct merits such action notwithstanding that to do so will result in their missing significant fixtures.

A handwritten signature in black ink, reading "Jeremy Summers". The signature is written in a cursive style with a long horizontal line underneath the name.

Jeremy Summers
For the Chairman
19 May 2009

³ 11.2.3 DR