### **RUGBY FOOTBALL UNION**

### **DISCIPLINARY HEARING**

**At:** The Holiday Inn, Bloomsbury

On: Tuesday 18 May 2010

#### JUDGMENT.

In the case of: Dr Brendan Venter - Director of Rugby, Saracens.

**Match:** Leicester Tigers v Saracens

**Venue:** Welford Road **Date of match:** 8 May 2010

**Attending** 

Panel: HHJ Jeff Blackett (Chairman), Buster White, Jeremy Summers

Secretariat: Brenda Parkinson

Liam McTiernan

**Parties:** Dr Brendan Venter

Adam Lewis QC – Counsel for Dr Venter

Dominic Farnsworth - Instructing solicitor, Lewis Silkin LLP

Alex Milner-Smith – Lewis Silkin LLP Edward Griffiths – CEO Saracens

Andrew Green QC – Counsel for RFU

Karena Vleck - Secretary and Legal Officer RFU

### **Decision**

Brendan Venter was charged with two counts of conduct which was prejudicial to the interests of the game or the Union. He was found not guilty of the first charge of pushing a spectator but guilty of the second charge of making provocative and inappropriate gestures and comments to spectators. He was ordered to serve a match day suspension of 10 weeks, consecutive to the four weeks which was suspended on 19 January 2010. The total match day suspension of 14 weeks is from 18 May – 24 August 2010. He was also ordered to pay £250 costs.

#### Introduction

1. Venter was charged under RFU Rule 5.12 with conduct prejudicial to the interests of the Union in (1) pushing a lady supporter from Leicester and (2) making provocative and inappropriate gestures and comments to spectators, both during the match between Leicester and Saracens on 8 May 2010. He denied both charges.

### **Preliminary Matters**

2. On 13 May 2010 Saracens CEO, Mr Griffiths, telephone the RFU Disciplinary Manager to request an adjournment. Having consulted the RFU Disciplinary Officer the Disciplinary Manager refused the request. By letter dated 16 May, Mr Lewis submitted that Dr Venter had insufficient time to prepare his defence to the charges and that refusal of an adjournment was neither appropriate nor lawful. Mr Lewis stated that Venter's position was reserved in that respect. At the beginning of the hearing the Chairman asked Mr Lewis whether he wished to renew his application for an adjournment but he indicated that he did not. Mr Lewis's submission that refusal to adjourn was inappropriate and unlawful has no basis and is a mere assertion with which the panel disagrees. The panel is satisfied that Venter had adequate time to prepare his defence to a clear allegation based on uncomplicated facts and that speedy disposal was in both Venter's and the RFU's best interests. Nevertheless the panel is grateful for the work undertaken by both counsel to prepare their cases and provide comprehensive bundles so expeditiously.

## The RFU Case

- 3. The case concerned Venter's behaviour in a section of the Crumbie stand at Welford Road. That section of the stand is mainly populated with older spectators who have been Leicester supporters for many years. The opposition coaching staff have seats in that section not far from the press box. The seats for the coaching seats are slightly raised and when people stand up in them they can block those behind them. Part of the ground is obscured from the view of those sitting in some of the seats and Venter said it was necessary for him to stand up to see what was happening in the left hand corner of the pitch. Leicester supporters are not particularly happy with this arrangement and they have complained to the Leicester management who intend to move the seating for the visiting coaches elsewhere next season. Nevertheless, Leicester supporters have never had any problems with visiting coaches before and a number told the panel that they generally enjoy good natured banter with them.
- 4. Statements from two Leicester stewards were read to provide context to the case. Ian Morris said that during the first half a steward (Tiger 6) reported to Control that the Saracen's coach, technical team and non-playing players were causing a certain amount of unrest in the Crumbie stand. In the second half he noticed that the crowd were getting agitated again and he went to the Crumbie stand. He observed members of the Saracens technical team using offensive language and hand gestures. He had a "quiet word" with one of the team and they settled down, but it flared up again. He asked the fourth official to intervene but the fourth official said it was not his business to become involved in crowd control. He opined that the behaviour of

the Saracens coaching team was the worst that he had ever seen. A statement from Andrew Cook (Tiger 9) corroborated this account.

# <u>Allegation of pushing a spectator – Charge 1</u>

- 5. Mrs Sue Brooks is a 62-year old retired Head of department in a secondary school. She and her husband attended the match and she sat about 8 feet away from the Saracens coaching staff. She said that during the game she observed Venter moving out of his seat to speak to the referee assessor, Brian Campsall, who was sitting nearby. In her opinion Venter appeared to be haranguing and bullying Mr Campsall, although Mr Campsall, in a written statement, said that during these exchanges Venter was passionate but not discourteous or abusive. Mrs Brooks said that several people in the crowd started to shout that he should sit down, making comments that Venter should not be telling Mr Campsall what to write.
- 6. Mrs Brooks said that additionally Venter stood to watch other passages of play she said this was totally unnecessary because he could have moved to another seat lower down in the area reserved for the opposition coaches. She said he stood up very soon after the start of the match. An elderly gentleman got up from his seat to ask Venter to sit down, but he ignored that request and was up again, playing to the gallery, turning round, sniggering and smirking. She said he and some others of his coaching staff were acting like a load of schoolboys and the crowd behind were becoming increasingly annoyed and shouted that he should sit down. Mrs Brooks decided she would go and ask him to sit down she thought that he might calm down if he was asked to by, as she described herself, a little old lady.
- 7. Mrs Brooks said she walked over to him and spoke quietly and calmly, asking him to sit down. She was no more than 18 inches from him at which point he stood up and flung his arms backwards. She said that fortunately she realised what was happening and she ducked backwards. As a result the back of his hand came into contact with her mouth but contact was not hard because she ducked back. She said that others in the crowd who said she had been pushed probably drew that conclusion because she moved backwards so suddenly, but the contact was definitely a strike, albeit very light and not causing any pain or injury, with the back of his hand. She said contact could not have been accidental he wanted to get rid of her and she was dumbfounded. She concluded that this was deliberate because he must have felt the contact but he did not apologise and then when she challenged him she said he said to her: "You will die of a heart attack." She did not accept that Venter did apologise or that he said she should calm down otherwise she would have a heart attack.
- 8. Mr Brooks said that he saw his wife walk down to speak to Venter. He saw Venter throw his hands wide and his wife's movement backwards a jerk backwards but he did not see any contact and he did not know whether it was accidental. He said that when she returned to her seat she was taken up with whether or not Venter had deliberately hit her and she decided that it must have been deliberate because he must have seen her next to him and he did not apologise.

- 9. The panel heard three other witnesses who observed some of the interaction between Venter and Mrs Brooks. Colin Crane said that a lady asked him to sit down and Venter pushed her away. He said he invaded her personal space and she fell back he either pushed her with his arms or his physical presence made her move back. He accepted that this could have been accidental and there was no sign of remorse from Venter. Karen Brogden, a match day steward, said that she saw a lady move down towards Venter. He began waving his arms about and possible accidentally hit the lady in the face. She said she presumed that this contact was an accident. Colin Blackler did not see any contact between the two but he saw Venter move into the personal space of the lady. He said there was nothing in what he did which was aggressive or intentional although both people were fairly close.
- 10. Having heard the RFU evidence in relation to the first charge, and the answers of the witnesses to questions, the panel concluded that when Mrs Brooks approached Venter he was initially unaware of her presence. He was concentrating on the game and something occurred on the pitch which led to him jumping up and throwing his arms backwards. At that stage Mrs Brooks jerked backwards to avoid a blow and the back of Venter's hand lightly glanced across her mouth. Other witnesses thought he had pushed her because of her own backward movement. There was a short verbal exchange between Venter and Mrs Brooks but he was so focussed on the game that he paid her scant attention and any apology was brief. We accept that he did not tell her that she would die of a heart attack, but suggested she should calm down or she would have a heart attack. Mrs Brooks at the time was not sure whether she had been hit deliberately or not, but she later concluded that it was not an accident because of his subsequent actions. We do not criticise Mrs Brooks in this she was clearly upset by what had occurred but we believe she is mistaken when she alleged that Venter had deliberately hit her.
- 11. In those circumstances we decided that Venter did not push or deliberately hit Mrs Brooks, any contact between them being accidental, and we dismissed the first charge against him.

Allegation of provocative and inappropriate gestures and comments – Charge 2

- 12. A number of witnesses described either in oral testimony or in written statements increasing antagonism between the spectators and Venter. All said he kept standing up and remaining on his feet for longer than was necessary to see what was happening. Some suggested he swore at them, although nobody could be sure that the swearing came from him rather than from other members of the coaching staff.
- 13. Colin Crane said that Venter gestured to the terrace crowd in a manner to achieve antagonism and upon leaving before the final whistle was again antagonistic to the crowd. Amanda Harris said that early on in the game Venter stood up obstructing the spectators view. They shouted for him and his group to sit down but he refused to do so. He continued to keep up abusive language, and laughed and taunted fans. Simon Cohen said that on a number of occasions Venter leant backwards to harangue Brian Campsall, and it looked as though Venter was very agitated and gesticulating. This was so pronounced that they moved Campsall at half time. He said that it was also clear that something was going on between Venter and

the Leicester fans with one or two fans going up to him to speak to him. Karen Brogden said that Mrs Brooks approached her asking for Venter's removal from the stand. She observed members of Saracens coaching staff constantly standing up, with the crowd shouting at them to sit down. Karen Brodgen approached the Saracens staff and asked them to sit and one unidentified member of the Saracens coaching staff said to her: "We are professional coaches. This is what we do, now go away." Shortly after, Venter responded to further shouts from the crowd by turning around with his hands to his lips in a kissing gesture saying: "I love you all." This further incensed the crowd.

- 14. Claire Whitehead-Wall, a member of the Fire and Rescue Services who said that she was trained to recognise and understand aggressive behaviour, said that Venter and other Saracens coaches kept standing up and were abusive when asked to sit down. She said she could lip read Venter who "used the f-word" and she described his behaviour as arrogant and boorish. She said she saw a lady speaking to Venter and he was obviously irate there was quite a bit of arm movement and he was not terribly polite. When asked whether she could have been mistaken she said: "I may be mistaken about when in sequence of events that was used but not mistaken about the use of that word. This whole thing went on over a period of time he was very animated and agitated at that point, the word I would use was rant. She did not accept the suggestion that there was no inappropriate behaviour.
- 15. Colin Blackler told the panel that Venter's actions were idiotic and it was not normal for a coach to continually aggravate spectators of an opposing team. His behaviour was unprofessional and one would not expect it of a person of his standing.
- 16. Finally, Brian Campsall said that several Leicester supporters took exception to the fact that Venter was constantly standing up obstructing their view and he decided that it would be better in relation to the spectator situation with Venter if he, Campsall, moved seats. He said that he observed Venter in the second half and he was still animated on occasion which again got the crowd going.

### **The Defence Case**

17. Venter gave evidence on his on behalf by presenting a written statement and then answering questions. He said that there was no aspect of conduct during game on 8 May which fell below appropriate standard of conduct, although in retrospect he said he should not have waved kisses and bowed as he left his seat before half time and at the end. Apart from that he said his conduct was above reproach. He said that from the position he was placed in the stand he could not see the whole of the pitch and he needed to stand to be able to see what was happening. He said that he never lost his temper and dealt with a hostile crowd in a good natured way. He said that the reason the Leicester crowd had not been reacted adversely to other coaches in the same way as the acted towards him was because Saracens beat them and took away their 30-match home winning record. He said that the witnesses who accused him of provocative behaviour were not necessarily lying: it was just their perception was wrong. He said he does wave his arms when watching rugby, and when his side scored a try he was on his feet with both arms in the air, fists clenched, celebrating and saying well done. This was not provocative. He said he does not swear and did

not do so on this occasion and his interaction with the crowd was always calm and relaxed.

- 18. Venter accepted that he was asked to sit down on a number of occasions although he said he only stood up four times for a total time of less than a minute to see the play in the obscure part of the pitch. He said: "my focus was the rugby match. I was planning, organising I was entirely unapologetic because I did not think I had done anything wrong."
- 19. He said that when he blew kisses it did not occur to him that it would affect the crowd. He said he did this first just before half time as a way to calm himself down because he was being affected by the crowd. However, when questioned by Mr Green he said: "I accept that I was deliberately antagonistic to crowd by standing up but I did not shout obscenities to crowd. I do not speak like that I did not swear at them. He qualified this when questioned by Mr Lewis saying: "The reason I stood up was not to pick a fight with them. I took a bit longer to sit down than I should, but I sat down after I had turned and gestured for the crowd to calm down". He also accepted that when asked to sit down by the stewards he said he would try to but would have to stand up again to see the obscured part of the pitch.
- Mr Lewis read statements, which were not contested, by Mark McCall (1st 20. team coach at Saracens) and Dr David Priestley (performance director at Saracens). Mr McCall said that the coaching staff had to stand up when Saracens attacked down the left hand side of the pitch because they could not see. He was taken aback by the reaction of a number of Leicester fans who very aggressively told them to sit down. Some of those fans left their seats to confront them to make their point. He said they faced a barrage of abuse from fans who failed to appreciate that they were doing their jobs. He confirmed that Venter did not swear at the crowd but he "may have taken a bow and blown a kiss". However, he opined that Venter behaved with great restraint and that he should never have been placed in a position where "it was nigh on impossible for him to do his job properly". Dr Priestley said that Venter got up to speak with Brian Campsall two or three times and said the crowd shouted to him to sit down. He said that some shouted: "Get him out of the f\*\*\*ing ground and you're a f\*\*\*ing disgrace." Dr Priestley said that a steward appeared to tell Venter to sit down - Venter stood to speak with him for a period of two or three minutes trying to explain his point of view before eventually sitting down. He also said that throughout the game the spectators were aggressive and provocative towards the coaching staff.

#### **Decision**

21. There was clearly significant trouble in the Crumbie stand on 8 May such that stewards had to be called and Brian Campsall felt he had to move away from Venter. It is also clear that members of Saracens coaching staff did something that provoked that reaction in the crowd – a reaction that had never occurred before. Venter was part of that coaching team and on own admission stood, signalled to crowd and took longer to sit down than was necessary. It is also clear that even after he was spoken to by a steward who highlighted the problems he was causing by standing up, he still did not modify behaviour. Indeed, knowing that the crowd were upset by his actions, he made kissing and waving gestures and bowed, and later, knowing the crowd were

upset, he pumped fists into air. Venter said he stood for no more than a minute, but Dr Priestley's evidence is that he stood for much longer than that — and particularly when he stood discussing for two to three minutes with a steward about whether he should sit down.

- 22. As far as the kissing and waving was concerned he said that he was affected by crowd and this was his way of calming himself down before seeing his team, but he had no concern for the effect that might have on the crowd. He certainly made comments to the crowd which even on his own admission had an element of sarcasm, but there is strong evidence that the Saracens coaches swore at the crowd. We accept that he may not have sworn, but he did nothing to reprimand those of his staff within his hearing for doing so, and he certainly made comments which would provoke the crowd.
- 23. In those circumstances we are satisfied that Venter's conduct contributed to animosity among Leicester supporters. That conduct included standing up for longer than necessary to watch the game, deliberately remaining standing and spreading his arms to annoy the crowd, making comments to the crowd about being calm when standing in their way, bowing, waving and blowing kisses to the crowd and celebrating in a triumphant manner designed to provoke the crowd. On his and the other Saracens' witnesses own accounts they realised that the crowd were provoked and angry and yet they did not modify their behaviour, thereby provoking further reaction.
- 24. Mr Lewis has submitted that we should take context of what occurred into account and be slow to find that this conduct was prejudicial to the interests of the game or the union. We have done so: the Saracens coaching team was treated no differently from any other visiting coaches throughout the season and there had been no problems before. Rugby is not a game where people are segregated because opponents respect each other. Rugby prides itself in its core values one of which is respect. On this occasion Venter showed no respect to the home supporters.
- 25. There is no doubt that Venter is a passionate and dedicated coach, but on May 8 he showed a lack of restraint in his behaviour which provoked the crowd. His conduct was prejudicial to the interests of the game and the union because it conflicted with a core value, it caused distress in the crowd which merited intervention by officials and it reflected badly on the reputation of the game. We therefore find the second charge proved.

#### Mitigation

26. Mr Lewis submitted that the sanctioning table in Appendix 2 of the Disciplinary Regulations does not refer to this type of conduct so the sanction is "at large" and the panel has a wide discretion. He submitted that Venter's actions were not threatening or aggressive and the panel's finding suggests that Dr Venter has done no more than show a degree of disrespect which spoilt some of the crowd's enjoyment of the game. This was misconduct at the very lowest level with the absence of any aggravating factor. Dr Venter apologises to anyone who takes a different view

- 27. Mr Lewis said that Dr Venter had conducted himself in an exemplary manner and this was out of character. His offending was no more serious than that of David Lemi who gestured to the crowd at Bath (a picture appeared in the national press) and he was only warned as to his future conduct. A similar sanction would be appropriate in this case. He also suggested that newspaper reports on the conduct of the Leicester coach in the stand at Welford Road a week after this incident was more reprehensible yet no disciplinary action had been taken against him.
- 28. He said that it would be wrong to deny Saracens his skills at the Guinness Premiership final. To do so would be unfair on Dr Venter, on his players and on the sport itself. It is a fundamental principle of sport that spectators are entitled to see "best play best" and each team should have the benefit of their backroom staff. He said even if the panel did think a touch line ban was appropriate, it should be suspended until after the GP final.
- 29. As far as the suspended sanction was concerned, that was of an entirely different nature and it should not be activated automatically.

#### **Sanction**

- 30. We are disappointed that Dr Venter does not seem to understand the seriousness of this case. He must have known that he was provoking the crowd and he should have taken positive steps to defray the tension. He could have moved within the block allocated to his coaching team, he could have asked Leicester to move him at half time, he should have exercised more control over the other members of his staff, some of whose behaviour also contributed to the general aggravation, he could have remained seated throughout the game and controlled his emotions. Finally, knowing how the crowd was reacting he should not have waved, bowed and blown kisses just before half time and again at the end of the match. He showed no sensitivity or awareness of the ethos of rugby but instead continued knowingly to provoke the crowd by standing up for longer than necessary, by spreading his arms to create a bigger barrier and by gesticulating and shouting at the spectators. On his own admissions he remained standing too long on one occasion, although we found that he did so more than once, and he acknowledged that he should not have blown kisses and waved to the crowd.
- 31. Witnesses spoke of his arrogant behaviour, and the panel witnessed a certain disdain from Venter when he appeared at the hearing (for example by coming back to hear his sanction eating a biscuit and throwing sweet papers across the table) and it is important that any sanction has a salutary effect so that he modifies his behaviour in future. If he cannot control his emotional outbursts then he is likely to come before a disciplinary panel again.
- 32. We do not share Mr Lewis's view that this was at the bottom of the scale of seriousness or that it is ludicrous (his word) to sanction a coach who was just standing up in the stand to see what was happening on the pitch. That understates what Venter was actually doing in knowingly provoking the crowd and his behaviour was in stark contrast to that of any other visiting coach throughout the season. That provocation

could well have led to much more ugly scenes in the stand, something which is an anathema to the game. This behaviour was simply unacceptable.

- 33. Had he been found guilty of pushing (or striking) a spectator he would have been suspended from all rugby activity for a significant period. However, given the circumstances of this offending, we have decided that the sanction should comprise only one which involves match-day suspension so that he is prevented with any interaction with players, match officials or members of the public during the pressure of competition. The Regulations do not set entry points for this type of misconduct and our powers are extensive. However, in our judgement, it would be appropriate to ban Venter from the touch line on match days until the beginning of the next Premiership season. This will prevent him from attending this year's Guinness Premiership final at Twickenham, the GP Sevens series in July and August, the Middlesex Sevens and the pre season warm up matches in August.
- 34. Exclusion from the GP final at Twickenham is necessary to make the sanction meaningful, to mark the seriousness of his misconduct in his mind and to signal to the game that this sort of behaviour is not acceptable. This sanction is effectively a shot across the bows it is sufficient to make the point, it will be inconvenient but it will not prevent him from continuing his employment. We do not accept Mr Lewis's comments about this sanction being unfair to the game of rugby, or that the crowd is entitled to see "best v best" in all circumstances. Those who are guilty of misconduct forego the right and are not entitled to be part of "best v best."
- 35. Brendan Venter is, therefore, suspended from any participation with his club on match days for 10 weeks. This will be consecutive to the sanction of four weeks which was awarded in January when he was warned that any further rugby offence committed by him would lead to that sanction being activated. That means the total suspension is 14 weeks from 18 May to 24 August 2010. The terms of the suspension are that he must have:
  - No direct or indirect contact with his team on match days; and
  - No direct or indirect contact with any match official on match days.

For the avoidance of doubt, this suspension also prevents him from attending the Twickenham stadium, or its environs, in any capacity on 29 May 2010, the day of the Guinness Premiership final.

#### **Costs**

36. Mr Lewis submitted that as the first and more serious charge against Dr Venter had been dismissed, he should only pay half of the standard costs for disciplinary hearing. That submission has no merit - standard costs relate solely to the administrative fees necessary for the administration of disciplinary hearings in the RFU and apply in all cases where there is a plea or finding of guilt on any charge. Standard costs of £250.00 are, therefore, awarded against Dr Venter.

## Right of Appeal

37. Dr Venter is reminded of his right of appeal against this decision.

# **Comment**

- 38. Although we dismissed the first, and much more serious, charge we have no doubt that the RFU brought it properly. Any criticism that they should first have interviewed Saracens staff before deciding to lay the charge is unfounded. There was sufficient evidence from the complainant and others to provide a strong prima facie case and gathering contrary statements would not have prevented a hearing. In fact, by listing an early hearing, Saracens was galvanized into action to gather other statements. It was much more important to the image of the sport, and it was in both Dr Venter and the RFU's best interests, that this case was brought expeditiously. We are satisfied that there has been no procedural unfairness.
- 39. This incident has highlighted a very worrying trend in rugby whereby some participants and spectators seem to have lost sight of the core values of the sport. It is those core values which help to make the sport attractive to current and future participants and to sponsors and we neglect them at our peril. The response of the Saracens management to these proceedings has been very disappointing and statements on their website criticising these proceedings do the club no credit. Their staff were clearly involved in some unpleasant events on 8 May which could have led to significant crowd trouble, but they have sought to lay blame elsewhere. All clubs have a responsibility to maintain the core values of the game and to ensure their staffs' conduct is exemplary. On this occasion Saracens should have done more to ensure better behaviour amongst their own staff and to reprimand them for their poor behaviour afterwards.

Signed: Jeff Blackett

Chairman

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Date: 20 May 2010