

**RUGBY FOOTBALL UNION**

**DISCIPLINARY HEARING**

**VENUE: Holiday Inn, Coventry**

**DATE: 18 February 2010**

**IN THE MATTER OF**

**Matthew Clark of Pinley RFC**

**Match:** Pinley RFC v Rushden & Higham RFC

**Venue:** Pinley

**Date of match:** 6 February 2010

**Panel:** Jeremy Summers (Chairman), John Brennan and Bob Taylor ("the Panel")

**Secretary:** Bruce Reece-Russel assisted by Brenda Parkinson

**In Attendance:** Matthew Clarke – Player; Gary Marks – Chairman of Pinley RFC

**DECISION**

1. **Matthew Clark was found guilty of striking contrary to Law 10(4)(a) and has been suspended for 6 weeks from Friday, 12 February 2010 with the result that he will not be available for selection until Saturday, 27 March 2010.**

**PRELIMINARIES**

2. The Panel convened to hear the following matter:

**STATEMENT OF OFFENCE**

Striking contrary to Law 10(4)(a).

**PARTICULARS OF OFFENCE**

On the 6th February 2010, Matthew Clarke, Pinley RFC struck an opponent during (17<sup>th</sup> minute of the second half) the match Pinley v Rushden & Higham.

3. Mr Clarke pleaded not guilty.
4. There was no objection to the composition of the Panel.
5. The Chairman explained the procedure and order of evidence to be followed which was agreed and no other preliminary matter arose.

6. The Panel considered:-

- a. A written report and oral evidence from the Referee.
- b. Oral evidence from Mr Clarke.
- c. Oral submissions from Mr Marks, Chairman of Pinley RFC on Mr Clarke's behalf.
- d. As to sanction only, a letter dated 14 February 2010 from Mr Moore, the Secretary of Pinley RFC to Mr Clarke to inform him of the result of the club's internal disciplinary process.

**EVIDENCE**

7. On 6 February 2010 PRFC hosted R&H in the Quarter Final of the Midlands Junior Vase. The events in question occurred towards the end of the third quarter of the tie and were recorded by the Referee in his written report as follows:

*“Rushden had a scrumage 20m from their goal line and 10 meters in from the left touchline. Rushden won the ball which was passed down the back line. After a few seconds my attention was drawn back to the place of scrumage. I saw one Rushden forward and two Pinley forwards wrestling on the ground; they were a metre or two further towards the touchline. I also saw a third Pinley standing over the Rushden player, striking him 3-4 times with a clenched fist. I was able to identify him as Matthew Clarke.*

*As I blew my whistle, players from both sides ran towards the four players. There then ensued fighting between at least 25 players, comprising 4-5 groups. The fighting continued for at least twenty seconds, during which I blew my whistle repeatedly. I did observe the Rushden captain running around trying to get his players to stop brawling. I realised that I had no alternative but to abandon the game – at this point 57 minutes of playing time had elapsed.*

*Once the fighting subsided and the two teams had separated, I called over the two captains and Matthew Clarke. I issued a red card to Matthew for striking a player – he said that I had got the wrong player - and I then informed the two captains that I had no alternative but to abandon the game. As Matthew Clarke left the field of play he turned to me and said “fucking disgrace”.*

*A short time later while I was still on the pitch, he walked toward me to say that he apologized and he repeated his assertion that I had got the wrong man. While I had not expected him to return, I did not feel threatened in any way  
No player required medical attention”.*

8. The Referee stated that he had a clear, unobstructed view of Mr Clarke punching his opposite number. He estimated that he was only a few yards away.
9. The Referee said that after he had ordered Mr Clarke off the field of play, he heard him say "fucking disgrace". The Referee interpreted the comment to have been directed towards him. He said that Mr Clarke was walking away from him when he said it.

10. The Referee said that Mr Clarke apologized to him after the game had been abandoned but asserted that he had got the wrong man. The manner in which Mr Clarke had done so was perfectly civilized and was not regarded by the Referee as threatening in any way.
11. The Referee said that he did not believe that Mr Clarke had been the victim of mistaken identity and confirmed that Mr Clarke was the player that he had seen punching a Rushden player.
12. Mr Clarke stated that he lashed out after he had been struck in the back of the head twice. He described the manner in which he did so. He said that he did not think that he made contact with anybody else.
13. Mr Clarke was bald and built like a Toby jug. There was only one other player in the Pinley team who might conceivably have been mistaken for him. Mr Clarke was, however, considerably older than him.
14. Mr Clarke had made the Referee's acquaintance before the match began. He was a steward at Pinley and it fell to him to welcome the Referee to the club and show him to his changing room on his arrival.
15. Mr Clarke admitted that he had said "fucking disgrace" within the Referee's earshot. He said that it was directed towards himself.

### **FINDING**

16. The Panel was satisfied on the balance of probabilities that Mr Clarke had punched a Rushden player in the manner described by the Referee.
17. The Referee was an independent witness. He had the benefit of a clear, unobstructed view and was only a short distance away.
18. Although it is undoubtedly correct to say that the Referee would have been distracted as events unfolded around him, the Panel was not of the view that those distractions rendered his identification unreliable. The Panel's confidence in the reliability of the Referee's identification was bolstered by the fact that he met Mr Clarke before the game. This was, therefore, a case of recognition as opposed to mere identification.
19. The Panel was of the view that Mr Clarke's version of events tended to corroborate the Referee's account. It was not in dispute that he was present at the scene and took part in the violence.
20. Although Mr Clarke was not charged with verbal abuse of a match official, the Panel was satisfied that Mr Clarke had intended his remark to be understood by the Referee as a comment upon his decision to order him off the field. There was no other basis upon which Mr Clarke's statement to the Referee after the match could not be sensibly understood on any other basis. His apology must have referred to the comment he made immediately after he was ordered off the field. Given that he contended that the wrong man had been sent off, what else could the apology have been for?

### **SANCTION**

21. Mr Clarke had been suspended by Pinley RFC on 12 February 2010 for 6 weeks following an internal disciplinary hearing.
22. It was evident from the letter dated 14 February 2010 that Mr Moore sent to Mr Clarke on behalf of Pinley RFC that the club had imposed a 2 week suspension for verbal abuse of a match official and a consecutive 4 week suspension for punching.
23. The Panel was of the opinion that it ought to be slow to interfere with the result of an internal disciplinary process that had resulted in a sentence that was within neither manifestly excessive nor unduly lenient.
24. Although Mr Clarke had not been charged with verbal abuse of a match official contrary to Laws 6.A.5 and 10.4(l), the Panel dealt with this matter as an aggravating feature of the offence of striking. As a matter of principle, in circumstances in which two separate offences had been admitted or found to have occurred as a fact, the structure of the charge sheet ought not to make any difference to the eventual sanction. The entry point for striking with the hand, arm or fist following a not guilty plea was 2 weeks. The entry point for verbal abuse of a match official following a not guilty plea was 6 weeks. On any view, a sanction of six weeks for striking that involved verbal abuse of a match official was neither manifestly excessive nor unduly lenient.
25. In the result, the Panel endorsed the sanction imposed following the internal disciplinary hearing of 6 weeks on a summary basis.
26. The Panel noted that Pinley RFC's calculation of the effect of a 6 week suspension had gone awry. Mr Clarke committed the offence on Saturday, 6 February 2010. The club's internal disciplinary hearing took place on Friday, 12 February 2010. The suspension was expressed to begin with effect from Saturday, 13 February 2010 (inclusive) and end on Saturday, 27 March 2010 (inclusive) with the result that Mr Clarke would not be available from Saturday, 13 February 2010 to Saturday, 27 March 2010 and would not be available for selection until Sunday, 28 March 2010. In practice, this meant that he would not play again until Saturday, 3 April 2010. In point of fact, a six week suspension that commenced at 0000 hours on Saturday, 13 February 2010 would expire at 2400 hours on Friday 26, March 2010 with the result that the Player would be available for selection on Saturday, 27 March 2010. The Panel felt entitled to adjust the effect of the club's internal disciplinary process to that extent because (a) it was clearly an error and (b) the club would have been perfectly entitled to take the view that the period of suspension ought to have started on the date the offence was committed; and (c) in practice the 6 week period of suspension imposed by Pinley RFC was the equivalent of a suspension of 7 weeks and 6 days from the date when the offence was committed.
27. It follows that Mr Clarke will be available for selection on Saturday, 27 March 2010.
28. The Panel would wish to commend Pinley for the appropriateness and speed of the action taken against Mr Clarke.

#### **COSTS**

29. In all the circumstances the Panel made no order for costs.

## **RIGHT OF APPEAL**

30. Mr Clarke was advised of his right of appeal. Such appeal must be lodged with the RFU Discipline Department by not later than 10.00 hours on the 14<sup>th</sup> day following receipt of this judgment.

John Brennan  
For the Chairman  
23 February 2010