RUGBY FOOTBALL UNION DISCIPLINARY HEARING

At: Holiday Inn, Brighouse, West Yorkshire

On: Monday, 26th October 2009

Judgment

Player: ANDREW MURRAY Club: Tynedale RFC

Match: Tynedale v Esher

Venue: Tynedale Park, Corbridge

Date of Match: 17th October 2009

Panel: Antony Davies (Chairman), David MacInnes and Clif Barker

("the Panel")

Secretariat: Bruce Reece-Russel and Brenda Parkinson (RFU Disciplinary

Department)

In attendance: Andrew Murray ("the Player")

Douglas Hamilton (Chief Executive, Tynedale RFC) Peter Simpson (First Team Manager, Tynedale RFC)

Mark Wilson (Match Referee) by telephone conference

Tony Simpson (RFU Communications Manager, North)

Decision

1. The Panel found the Player guilty of the offence of an act contrary to good sportsmanship in that he had refused to leave the pitch when awarded a yellow card, which was then followed by a red card. The Panel determined that the Player should be suspended for a period of three weeks from 27th October 2009 to 16th November 2009 inclusive.

Preliminaries

2. There was no objection to the composition of the Panel, nor any preliminary matter.

- 3. The Panel convened to consider a charge alleging that the Player had been guilty of an act contrary to good sportsmanship contrary to Law 10(4)(1), the particulars being that on the 17th October 2009 the Player refused to leave the pitch when awarded a yellow card during the match Tynedale v Esher. The Match Referee had proceeded to send the Player off the playing enclosure by way of red card.
- 4. The Player denied the charge. He accepted that he had received a yellow card but denied that he had refused to leave the pitch.
- 5. The Panel considered:
- (i) The RFU caution report and RFU discipline report (red card) completed by the Match Referee, Mark Wilson.
- (ii) Oral evidence from the Referee, Mark Wilson.
- (iii) Oral evidence from the Player.
- (iv) Oral evidence and submissions from Mr. Hamilton and Mr. Simpson on behalf of the Player.
- (v) A DVD of the yellow card incident.

The Facts

- 6. The caution report recorded as follows:
 - "... the Tynedale pack drove over the players on the ground, creating a ruck, the Tynedale number 19 who was attached to the rear of the ruck stood on the top of the Esher tackler and then forced his right boot down into the body of the Esher player. I blew my whistle to stop play and explained to the Tynedale player that this was not acceptable and gave him the yellow card. The player refused to accept the decision at this time, please see attached red card. No injuries were sustained".
- 7. The sending off report recorded as follows:
 - "Following a foul play incident, the player had received a yellow card which he refused to accept. I attempted to calm the player and repeatedly asked him to

leave the field. The player became very aggressive and shouted the words "You're fucking kidding me". I again asked the player to calm down and leave the field but he was reluctant to go anywhere. At no time did the player accept anything that was said to him or act in a reasonable manner. Finally, my patience was lost and the player was shown the red card and asked again to leave the field of play. The player was then moved away by his Captain. His Captain at this time was once again reluctant to listen to my advice, so I asked him to bring me his Vice Captain. After the third time of asking he brought forward another player, who finally listened to me and took his Captain away. This was possibly the most unruly Captain I have ever spoken to The Captain was the Tynedale number 19's brother. At no time in or after the match did I receive an apology from any Tynedale player or official. This is mentioned in the report as I believe it is beyond anything an official should accept.

- 8. Mark Wilson, the Referee, gave evidence by telephone conference call to confirm the accuracy of his written reports and in response to questions from the Panel, the Player and his representatives. He explained in detail the problems he had had managing the Tynedale Captain, Jamie Murray. These had started even before the game and throughout the game he had found the Captain very negative, dismissive, glaring at him on occasions and shaking his head often in apparent disbelief. He consistently refused to accept advice and argued the merits of nearly every penalty awarded against Tynedale, even where they were obvious and clear. He was dismissive of even the most blatantly justified penalties given against Tynedale.
- 9. As to the incident leading up to the yellow card, Tynedale had caught the ball at the rear of the line out and were driving forward towards the Esher line. A ruck was created when the ball carrier was legally tackled by an Esher player. The Tynedale pack drove over the tackler, who was on the ground. He saw the incident of foul play clearly and explained to the Player exactly why he was awarding a yellow card. He heard the words used in his report. He was standing a metre away, looking directly at the Player. He asked the Player to be quiet and leave the field. The Player turned to his side, but then turned back on two occasions. The Captain was only a metre or so away and, he believed, could clearly hear and see what was going on. He then had no option but to show the Player the red card and ask him again to leave the field. It was only after the red card had been shown that the Captain asked the Player to leave, which he did. He

had warned the Player before giving the red card that if he did not leave the field he would have no option but to award the red card. He felt the timescale from the awarding of the yellow card to the Player leaving the field was 30 seconds, or thereabouts, which he felt was quite a long time. The Player had had plenty of opportunity to avoid being given the red card.

- 10. As to the Captain, the Referee stated that he had considered awarding a yellow card against the Captain for dissent arising from his attitude, but instead called the Captain over to produce for him the Vice Captain, which occurred after some small delay. He thereafter informed the Vice Captain that he would deal with him in place of the Captain. The Referee clarified that he has been ten years on the Panel. He is the longest serving Referee at National 1.
- 11. When questioned by the Player and his representatives, he was certain that 30 seconds' delay was a minimum. He confirmed that he had not felt abused or threatened. It was rather a case of him dealing with a player who was angry and refusing to acknowledge that he had been yellow carded. He had given the reason for dismissal on the red card form as dissent/abuse match official.
- 12. The Panel viewed a DVD which showed only the yellow card incident. No timings could be discerned and the red card incident was not shown.

The Player's Case

13. The Player acknowledged that he had received a yellow card, followed by a red card. He did not feel the time delay was as long as the Referee had said. When the Referee blew his whistle he thought it was for a penalty try to his team for the opposition collapsing the maul short of the line. He was extremely surprised that the Referee was calling him over and admonishing him for the use of his feet. He denied being aggressive or swearing, but did acknowledge that he had said sarcastically words to the effect "that's a really good decision Ref". He maintained that the Referee had gone from yellow card to red card without warning him that the red card would be given if he did not leave the pitch. He told the Referee he was not a dirty player and before he could leave, the Referee had given him the unexpected red card. At the end of the game, as he went through the tunnel he had tried to speak to the Referee to clear the air and

apologise, but the Referee had simply said to him "I think you've said enough" an he thought he had better leave it alone.

- 14. Under questioning from the Panel, the Player agreed that with hindsight he was out of order and in the heat of the moment he should have acted differently and gone sooner than he did. He maintained that the only thing that happened in the gap between the yellow card and the red card was his sarcastic comment to the Referee. He had not left the field immediately he received the yellow card because of his disbelief that he was getting the card at all. He conceded that the Referee probably thought that he was not going to go because of his disappointment and that the Referee would have heard him disputing the yellow card with his Captain. On reflection, he felt that the delay was more in the range 20 to 25 seconds rather than the 30 seconds suggested by the Referee.
- 15. When asked why he had felt there was any need to apologise to the Referee, he concluded that perhaps he had something to apologise for as the Ref was the Ref after all. He also conceded that his behaviour between the yellow card and red card was perhaps not the best sportsmanship. He denied being aggressive and denied using the words alleged or that he swore at all. He had not threatened or intimidated the Referee at all. He never heard words to the effect that if he did not go it would be a red card. He only saw the red card after he was leaving the field and had looked back. He could offer no explanation as to why an experienced Referee should have made up the allegations contained in his report and maintained in his oral evidence.

Decision as to the Charge

16. The Panel found unanimously that the charge was proved on the following basis:

The Player had been correctly yellow carded for foul play (stamping). The Player had been aware that he had been awarded the yellow card and the reason therefor.

The Player had used the words and displayed the demeanour described by the Referee, though the Panel did not find that the Player was abusive or threatening to the Referee.

The Referee was very clear in his description of the incident contained within the match reports and his evidence to the Panel, which had been credible and reliable. He had written his reports on Saturday evening, within hours of the conclusion of the game, and when matters were still fresh in his mind. He had given evidence and been cross-

examined in a manner consistent with his written report. His evidence was certainly to be preferred to the evidence put forward by the Player and regard had to be had to disciplinary regulation 7.1 in this respect.

- 17. On behalf of the Player, it was submitted that he had been prejudiced by the attitude and behaviour of Tynedale Captain on the day. The Player had expected Esher either to be penalised for illegally pulling down a maul or Tynedale to be awarded a penalty try. He was extremely frustrated that the Tynedale attack on the line came to an end by a penalty being awarded (unjustly in his view) against him. Thereafter, he had been confused and upset.
- 18. As to mitigation, the Player has played for Tynedale for twenty years from age six. He is a County player, coaches the Junior Colts and coaches in local schools. He has never been in trouble previously. He has not been sent off in eleven years at Tynedale. He has been an active supporter and fundraiser for the Ali Johnson appeal. He knows now with the benefit of hindsight that he should not have reacted in the way he did.
- 19. Minutes of a disciplinary meeting held on 22nd October were submitted and considered. It was normally Tynedale's policy to suspend players until the RFU disciplinary hearing had been held, but in this case it had been felt that the sending off was sufficient penalty.

Entry Point

20. The Panel found that as there was an absence of abusive or threatening behaviour towards the Match Referee, and the Player's motivation came from frustration and disappointment, it could correctly characterise the entry point as LOW END giving an entry point of four weeks. The Panel found no aggravating features and, on account of the mitigation factors outlined above, reduced the four week period by one week.

Sanction

21. The Player was accordingly suspended for a period of three weeks from 27th October 2009 to 16th November 2009. He is free to play again on 17th November 2009.

Costs

22. Costs assessed at £150.00 are ordered to be paid by the Player/Tynedale RFC, such costs to be paid within twenty one days of receipt of this Judgment.

Right of Appeal

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

Antony Davies

Antony Davies,

Chairman

3rd November 2009