

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

At: Holiday Inn, Filton, Bristol

On: Tuesday 4 December 2012

JUDGMENT

Players: Jason Hobson of Bristol RFC

Jack Andrew of Plymouth Albion RFC

Clubs: Bristol RFC

Plymouth Albion RFC

Match RFU Championship Plymouth Albion RFC v Bristol RFC

Venue: Brickfields Stadium, Plymouth

Date of Match: 24 November 2012

Panel: Rick Charles (Chairman), Mike Curling and Daniel White.

Discipline Administrators: Charlotte Mitchell-Dunn and Danny Rumble.

Attending: The Players.

Mr Tim Cobbleston, Solicitor and Mr John Mehrzad of Counsel representing Jason Hobson and Bristol RFC.

Mr Terry Brown of Plymouth RFC

Written Evidence

RFU Citing Report dated 28 November 2012

A bundle of documents in each case prepared by the RFU Discipline Case Officer

Preliminary

1. The Players and Clubs had no objection to the composition or constitution of the Panel.

Citing and Plea

2. Jason Hobson was cited as follows:-

STATEMENT OF OFFENCE

Acts contrary to good sportsmanship, contrary to law 10.4 (m)

PARTICULARS OF OFFENCE

In the match between Plymouth Albion RFC versus Bristol RFC on Saturday 24th November 2012 Jason Hobson of Plymouth Albion RFC bit his opponent. This incident took place during the second half at Elite Hub time 1.15.35.

Jason Hobson denied the charge.

3. Bristol RFC was charged as follows:-

STATEMENT OF OFFENCE

Conduct prejudicial to the interests of the Union or the game, contrary to Law 5.12

PARTICULARS OF OFFENCE

In the match between Plymouth Albion RFC versus Bristol RFC on Saturday 24th November 2012 there was a mass brawl which took place during the 15th minute of the second half of the match involving numerous players from Bristol RFC, such conduct being prejudicial to the interests of the Union or the Game.

Mr Mehrzad stated that Bristol RFC admitted the Charge.

4. Jack Andrew was charged as follows:-

STATEMENT OF OFFENCE

Punching or striking, contrary to law 10.4(a)

PARTICULARS OF OFFENCE

In the match between Plymouth Albion RFC versus Bristol RFC on Saturday 24th November 2012, Jack Andrew of Plymouth Albion RFU struck his opponent with his fist. This incident took place during the 53rd minute of the match.

Jack Andrew admitted the Charge.

5. Plymouth Albion RFC was charged as follows:-

STATEMENT OF OFFENCE

Conduct prejudicial to the interests of the Union or the game, contrary to Law 5.12

PARTICULARS OF OFFENCE

In the match between Plymouth Albion RFC versus Bristol RFC on Saturday 24th November 2012 there was a mass brawl which took place during the 15th minute of the second half of the match involving numerous players from Plymouth Albion RFC, such conduct being prejudicial to the interests of the Union or the Game.

Mr Brown stated that Plymouth Albion admitted the Charge.

6. With the agreement of the Players and Clubs that Panel decided to deal first with the contested case of Jason Hobson followed by the cases of Jack Andrew and the respective Clubs.

In the Case of the Citing of Jason Hobson

7. The Panel read the RFU Citing Report made by the Citing Officer, Alan Mansell on 28 November 2012. The detailed Report of the Incident is as follows:-

A mass brawl occurred in the 15th minute of the second half involving most of the players from both teams. The brawl lasted in excess of one minute from the time of the initial offence until the time the referee was able to restore order. An allegation of biting by Bristol No.3 (Jason Hobson) upon the lower right arm of Plymouth Albion No.12 (Bevon Armitage) during the brawl has been brought to my attention. The basis of my citing of Mr Hobson is the written statement provided by Mr Armitage, together with supporting medical evidence, and my review of the match video to establish the general behaviour of both players during the brawl and further, that they were in close proximity to each other at the time of the alleged biting incident.

A video review confirms Mr Hobson's involvement in the brawl. The primary confrontation involves other players in touch. A number of separate confrontations took place where players from both sides acted variously as aggressors or attempted peacemakers. Mr Hobson's role can be plotted throughout. He is part of the first secondary act of aggression with PA2 and he physically forces his opponent towards other players milling around the touch line.

It can also be seen that Mr Armitage runs from distance towards the touch line and intervenes in this confrontation. Mr Hobson appears to strike out with his left hand towards Mr Armitage's face but it is not clear whether connection is made. Other players then become involved to separate them with PA2 pulling Mr Hobson back and B6 gripping Mr Armitage.

The confrontation escalates and the dispute continues between Mr Armitage and the Bristol No.6 who has his right forearm placed into the neck area of Mr Armitage. Other players impose themselves into this confrontation which culminates in a splinter group of Mr Armitage and two other players, PA7 and B6 breaking off and going to ground some yards away, Mr Armitage having been pulled there by the shirt by B6. Mr Armitage briefly gets back to his feet but PA7 and B6 continue their dispute on the ground.

In the meantime Mr Hobson can be seen to be standing close to the primary incident some metres away continuing his dispute with PA2. He becomes aware of the supplementary confrontation going on to his left and runs towards it. He passes the now standing Mr Armitage and goes to ground head first onto the two players, PA7 & B6. This causes yet another escalation of the brawl as Mr Armitage again and several other players become involved on the ground. It is during this episode of continuing ill discipline with both subject players on the ground that it is alleged that Mr Hobson bit the lower right arm of Mr Armitage.

The referee has advised me that he received a formal complaint from Plymouth Albion about the alleged biting incident immediately after the match.

8. The Panel then watched a clip from the match video referred to by the Citing Officer showing the incident described by the Citing Officer.

9. Bevon Armitage gave evidence in person. He was playing in the centre at No 13 for Plymouth Albion. A fight broke out near the touchline involving a number of Players from both sides. He was in the middle of the pitch and went across to help break it up. There was pushing, holding, shoving and grabbing going on involving Players from both sides. He recalled being held by the Bristol No 6 using his elbow around his neck and ending up on the floor. He could not remember how this happened. He found himself lying face down on the back of a Bristol Player that he knew to be Jason Hobson. He had never met him before but knew who he was. His face was within a few inches of the back of Jason Hobson's head and his right hand was under Jason Hobson's body. He then felt a bite to his right forearm above the wrist. Jason Hobson was biting him. He was not mistaken. He could not pull Jason Hobson off as his left arm was on the ground under Hobson's body. He felt

the bite to his right forearm straight after he fell to the ground and it continued until the referee got control and the incident was broken up. Mr Armitage explained that he had strapped his right forearm with elasticated strapping to cover his bands. The bite went through the strapping to the skin. He got up and said to the referee, at some point, something like "when did biting come into the game?". He did not notice whether Hobson was wearing a gum shield. At the end of the game he went to the changing room for the team debrief. He noticed that there was swelling and teeth marks on his right forearm above the wrist. His right forearm was looked at by the Physio, Paris Payne and by the team doctor, Katie Pannell, who took photographs of the injury. Mr Armitage stated that he still had a scar where the teeth marks were and showed the Panel.

10. In response to cross examination Mr Armitage accepted that he did not make a complaint to the referee immediately after he had been able to get up. His captain had been in the sin bin and he could not speak to him. As soon as things calmed down he had had his eyes cleaned by the trainee physio as he had been on the ground. He did not mention the incident then. He saw the bite mark at the end of the match and knew that it had been caused by Hobson. He did not guess who or when this had been committed. He did not act out of spite to name Mr. Hobson simply because his team had lost the game.

11. The Panel read the short injury report by Mr Payne and an email from Dr Parnell reproduced below:

Injury Report – Bristol.

Assessment of Bevan Armitage.

Immediately following the game Bevan presented in the physio room complaining of being bitten on the right arm.

On examination there were clear bite marks on the right lower forearm around the radius approx 2" proximal to the wrist joint.

There was clear swelling and definite teeth marks with slight puncturing of the epidermis in places.

A photograph was taken for records.

The Doctor, Kate Pannell (ne: Giddy) was in attendance at the time of the assessment and was in agreement that it was definitely a human bite. She was satisfied that there was no need for antibiotics following effective wound cleaning with hibiscrub.

Bevan was confident that the wound was inflicted by Jason Hobson.

I declare this statement to be a true representation of the facts.

Mr Paris Payne.

Head Physiotherapist.

From: katie pannell <katiepannell@yahoo.co.uk>
Subject: Match 24/11/2012
To: james_creek@hotmail.co.uk
Date: Monday, 26 November, 2012, 10:24

Dear James

re PARFC vs Bristol 24/11/2012 at Brickfields

I reviewed Bevan Armitage (PARFC) immediately after the game as he had an injury to his right forearm. He had a clear bite on the dorsal aspect of his right forearm which had broken the skin, despite being sustained through the under armour body skin top he was wearing. I took two photos of this injury which I will send to you.

I also wanted to report that I was unfortunately caught up in the scrap that broke out during the second half. I was stood by the barrier and directly in front of me Sean-Michael Stephen had two players with their hands around his neck, he was trying to push the Bristol player in front of him away but the player behind him, Bristol's number 8, had him hold from behind and was trying to choke him. I tried to stop this player from doing this by shouting at him to "let him go" but when he did he struck me roughly on the left shoulder and told me to "fuck off."

Please don't hesitate to contact me if you require any further information,

Katie

12. The Panel also viewed the photographs in the RFU hearing bundle.

13. The Player gave evidence in person and referred to his written statement reproduced below.

- 1 I, Jason Hobson, make this statement in relation to the allegation that during the match on 24 November 2012 against Plymouth Albion I bit one of my opponents.
- 2 I can confirm that at no time did I bite the opponent in question – nor, for the sake of completeness, any other player.
- 3 I have seen the video footage of the alleged incident. Whilst unfortunately that footage is not clear enough to help prove my position, there are one or two things I believe are worthy of comment.
- 4 I would have expected a player who had been bitten by an opposing player to have made an immediate complaint to the referee. My understanding that at no time during the match did the player in question, or indeed his Club Captain, make such a complaint.
- 5 In addition, based upon the player's statement, I would have also expected him at the time to have sought medical attention from his Club's physio. I am aware, having studied the video, that Plymouth Albion's physio came on immediately after the alleged incident. However, I also note that at no time did the player appear to complain about any injury or concern on his arm. On the contrary, the only treatment that he required was a water spray for his eye.

- 6 In my experience as a professional rugby player I would have thought a player that had indeed been bitten would have at the very least complained to the referee at the time and, in addition, sought appropriate medical attention.
- 7 I can confirm that during the entirety of the match I wore my gum-shield. I should note, for the sake of completeness, that at no time did I remove my gum-shield.
- 8 I have a clean disciplinary record this season. I have not been given any yellow or red cards, or faced any previous disciplinary allegations before this incident. During the previous two seasons the only disciplinary action that I have received is a one week suspension.
- 9 I would also add that I take the team's discipline and our Club values very seriously. Indeed, as a senior player I am nominated by the players to enforce Bristol RFC's values within the squad. This could involve regulating minor discipline issues, such as a junior player coming to training in the wrong kit, up to more serious concerns I may have about a player's behaviour. I take this responsibility very seriously and try and lead by example on and off the pitch.

I can confirm that this statement is true and accurate.

14. Mr Hobson added that he had never bitten anyone in a game of rugby. He was on the floor during the incident, lying on his side with his face on the ground and had no knowledge of who was around him. He ran into the melee of players from both sides to separate them. He always wears a gum shield of the rounded variety and did not remove it before going to the melee.

15. The Panel read the evidence of Liam Middleton as reproduced below.

- 8 In relation to the charge against Jason Hobson, I can confirm that I have since spoken with him. Jason is very clear in that he tells me that he did not bite the Plymouth Albion player as alleged or at all.
- 9 It is relevant to point out that immediately following the alleged incident, there was no complaint from the Plymouth Albion player in relation to the alleged bite. In my experience in Rugby Union, I would have expected a player that had been bitten to have at least raised that with the referee and, in addition, seek appropriate medical attention. It is the case, and as can be seen from the video footage, that immediately following the alleged incident Plymouth Albion's physio attended the player. However, at no time was the physio's attention brought towards the alleged bite. On the contrary, the physio was asked to deal with what appears to be dirt in the player's eye by way of a water spray. It is also relevant to point out that at no time did the player, or indeed Plymouth Albion's Club Captain, approach the referee to make a complaint of biting.
- 10 Immediately following the match, I spoke briefly with Plymouth Albion's Head Coach. He did not tell me or point out in any way that there was a concern in relation to a bite. On the contrary, he congratulated me on our win. I also, after the match, spoke with the referee, as is my normal practice. This discussion happened approximately 15 minutes after the match had ended. Again, no mention of an alleged bite was made by the referee to me. Once again, I would find that surprising as my very clear experience is that at least by this stage the referee would have been made aware of such a serious incident as an alleged bite.

Defence Submissions.

16. Mr Mehrzad submitted on behalf of Jason Hobson that as the alleged offence of biting an opponent is a serious matter and that in accordance with the case law contained within the RFU bundle the standard of proof was higher than the balance of probabilities. He suggested that the uncorroborated evidence of Bevon Armitage was not sufficient to discharge

that burden and referred to the decisions of Judicial Officers in the cases of Sisa Koyamaibole of Union Bordeaux Begles, Carl Driscoll and Mark Unsworth contained in the RFU bundle as supporting his contention

17. Mr Mehrzad pointed out that in this case there was no video evidence of the biting and no direct evidence from anyone else who saw the alleged incident. The incident was not seen by the referee or the assistant referee and Mr Armitage did not complain to anyone at the time. Mr Merzhad submitted that the evidence of Mr Armitage had been inconsistent; with specific reference to what he said to the referee and that his account was not credible or reliable. Mr Mehrzad suggested that unlike in the cases he had referred to, the absence of any evidence in this case to support the allegation that it was Mr Hobson who bit Mr Armitage, the citing had not been proved to the required heightened burden and the Charge should therefore be dismissed.

Finding

18. The Panel first considered the standard of proof and noted the content Regulation 19.5.7 of the RFU Discipline Regulation reproduced below.

"The standard of proof in all disciplinary cases (including before Appeal Panels) is the balance of probabilities.

19. The Panel considered the submission made on behalf of Jason Hobson and did not find the cases referred to by Mr Mehrzad to be of assistance. The Panel proceeded to consider whether it was more likely than not that Jason Hobson had bitten Bevon Armitage on his right forearm. It was not in dispute that there had been a bite. It was the identification of Jason Hobson as the player responsible that was the core issue.

20. The Panel reviewed the video evidence and noted that the bald head of Jason Hobson made him relatively easy to follow through the incident. The Panel noted that Mr Hobson was the last person to get up at the end of the incident and that Mr Armitage got up from approximately the same location immediately before. Mr Armitage looks at Jason Hobson, then walks away from the incident and briefly places his left hand under his right arm, glances down at his right arm and then continues to walk away with his hands on his hips. The Panel found Mr Armitage to be an honest and reliable witness and accepted his clear and compelling evidence that it had been Jason Hobson who had bitten his right forearm. Accordingly the Panel was satisfied to the required standard that Jason Hobson bit the right forearm of Bevon Armitage and upheld the Citing. Should it have been required, and for the reasons set out above it is not, the panel would have reached the same conclusion to a higher standard.

Mitigation

21. It was submitted on behalf of Jason Hobson that he is an experienced former international Player who is involved in the off field discipline of the Club. It was submitted that he had not received any sanction for foul play this season but on clarification it was accepted that he had been suspended for one week in March 2012 by an RFU Disciplinary Panel in relation to a Charge of Stamping contrary to Law 10(4)(b).

Sanction

22. The Panel considered the seriousness of the Player's conduct by reference to the factors set out in Regulation 19.11.9 of the RFU Disciplinary Regulations. The Panel found that that the bite was deliberate. The Victim Player was in a vulnerable position. Although the incident was unpleasant, the Victim Player did not sustain a significant injury and was able to play on. There are no long term medical issues arising from the injury beyond a small faded scar. This incident was part of a much larger outbreak of disorder on the field and did not of itself have an effect on the game. There was no provocation and the act of foul play was completed. The Panel also found that the act was premeditated. Taking all the relevant factors into account the Panel determined that the offending was at the Lower End.

23. As has been pointed out by Judicial Officers and Disciplinary Panels in the past, biting an opponent is a disgraceful act that has no place in the game of rugby. The Panel determined that the appropriate entry point was at the Lower End range of sanction, namely 12 week's suspension. The Panel went on to consider whether any aggravating or mitigating factors were present as described in Regulation 19.11.10 and 19.11.11 respectively. The Panel concluded that there were no aggravating features that justified an increase in the sanction. The Panel also found that there were no mitigating factors that justified a reduction in the sanction.

Accordingly the Panel determined that Jason Hobson should be suspended from playing rugby union for twelve weeks. Jason Hobson will be able to play again on 20 February 2013.

24. The Player's attention is drawn to his right to appeal against the finding and sanction awarded.

Costs

25. An order for costs of £250 is made against the Player/Bristol RFC

Rick Charles (Chairman)

In the case of Jack Andrew

26. The Panel read the RFU Discipline Report dated 25 November 2012 and the detailed report of the assistant referee is reproduced below.

Detailed Report of Incident:

<p>At a melee I observed the Plymouth 1, who was knelt on one knee, throw numerous punches to the head of the Bristol 3 who was laying on the floor. After the melee had stopped I reported my observations, to the referee, who had not seen this incident. He then asked me to recommend a sanction for the offence to which I said "red card". The referee subsequently dismissed the Plymouth 1 from the field for punching an opponent.</p>
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27. The Panel then watched the match video of the general disorder on the pitch but was unable to identify the incident.

Mitigation

28. Jack Andrew told the Panel that he regretted his loss of control. He explained that he had been punched to the face a number of times during the game and he produced a photograph taken afterwards showing swelling and bruising above and below his left eye and dried blood above his left eyelid. He stated that he had been wound up during the game but could not explain why he repeatedly punched the Bristol No 3. Mr Andrew stated that he has been playing rugby in the south west for 11 years and has not previously been awarded a red or yellow card and that he has not been cited for foul play. This was confirmed by the RFU Discipline Case Officer. He is a level 2 coach and conducts coaching sessions for local schools. Mr Brown stated the Jack Andrew is regarded as a good member of Plymouth Albion RFC and that there was a feeling that he had been singled out when his actions were effectively part of a larger incident. Mr Brown explained that Jack Andrew's conduct had been considered by the Club Disciplinary Hearing that took place on 25 November 2012. He was suspended from playing for 3 weeks.

Sanction

29. The Panel considered the seriousness of the Player's conduct by reference to the factors set out in Regulation 19.11.9 of the RFU Disciplinary Regulations. The Panel found that that the repeated punches to the head were deliberate. The Victim Player was in a vulnerable position. There was no evidence that the Bristol No.3, Jason Hobson had been injured in any way. This incident was part of a much larger outbreak of disorder on the field and did not of itself have an effect on the game. The Panel accepted that there had been a degree of provocation and the act of foul play was completed. The Panel also found that the act was premeditated.

30. The Panel determined that the appropriate entry point was at the Mid Range of sanction, namely 5 week's suspension. The Panel went on to consider whether any aggravating or mitigating factors were present as described in Regulation 19.11.10 and 19.11.11 respectively. The Panel concluded that there were no aggravating features that justified an increase in the sanction. The Panel also found that Jack Andrew's previous good record, his early acceptance of responsibility, his remorse and good conduct at the hearing were mitigating factors that justified a reduction in the sanction of 2 weeks. The Panel concluded that the period of suspension should be in line with the action taken by the Club

Accordingly, the Panel determined that Jack Andrew should be suspended from playing rugby union for three weeks from 25 November 2012. He will be able to play again on 17 December 2012.

31. The Player's attention is drawn to his right to appeal against the panels findings.

Costs

32. An Order for Costs of £250 is made against the Player/Plymouth Albion RFC

In the cases of Bristol RFC and Plymouth Albion RFC

33. The Panel invited submissions from both Clubs in relation to the separately admitted charges of conduct prejudicial to the interests of the Union or the game.

34. Mr Mehrzad for Bristol RFC referred to the statement made by Liam Middleton, Head Coach at Bristol Rugby reproduced below.

- 3 I am Head Coach at Bristol Rugby and have held that position since 1 June 2011. In relation to the charge against Bristol Rugby, I would want to make it very clear that we, as a Club, take our responsibilities in relation to good sportsmanship very seriously. As a Club, we have a long and very proud history and fully understand and accept the responsibilities that we owe to the game of Rugby Union. We do not take those responsibilities therefore in any way lightly.
- 4 At Bristol Rugby, we have four core values, namely humility, honesty, work ethic and discipline. I attach to this statement a copy of the Club's core values dealing with discipline. I should make it clear that these core values are ones that have been formulated by the players themselves. It can therefore be seen that one of the Club's core values is discipline and we believe that we do all we reasonably can to ensure that our players in all aspects conduct themselves in an appropriate manner.
- 5 For minor breaches of our disciplinary code, players are dealt with by their peers. For more significant breaches, they are dealt with pursuant to the Club's disciplinary procedures.
- 6 In fact Bristol Rugby's strong discipline is reflected in the Club's past disciplinary record. In the last 5 years a Bristol RFC first team player has only ever been given a red card once during a match. The Club have faced no other disciplinary charges this season and therefore have a clean disciplinary record to date.
- 7 In relation to the match against Plymouth Albion, we have studied the video very carefully to see if we can isolate incidents of unacceptable conduct. To date, we have not been able to do that. If we had, I can assure you we would have taken our own internal disciplinary action against any player seen to be acting in breach of our own codes of conduct. Having studied the video footage I cannot see any incidents of punches being thrown or anything beyond clashes between the players holding and pushing each other. I should also add that I have also spoken with all of our players reminding them of their ongoing responsibilities under the code of conduct, not only to Bristol Rugby, but to the game of Rugby Union. I firmly believe that our players understand and accept those responsibilities. No injuries resulted from this

incident and I believe that the referee dealt with the incident fully at the time, issuing two yellow cards and one red card.

Mr Mehrzad pointed out that the match had not been abandoned as a result of the relatively short incident of pushing and shoving and that there had been no injuries. He suggested that in the circumstances a reprimand or warning would be an adequate punishment and that a deduction of Championship points or a financial penalty, immediate or suspended would be disproportionate.

35. Mr Brown for Plymouth Albion RFC stated that the Club had received one red card and 30 yellow cards in 145 games and he submitted that this was a good disciplinary record. He produced a copy of a letter that had been sent to the playing squad after the incident pointing out that it was unacceptable and reminding players of the core values of the game and the Club. Mr Brown adopted the points made by Mr Merhzad and also indicated that the Club is in difficult financial circumstances.

Sanction

36. Rule 5.12 of the Rules of the RFU provides that the Union shall have power to discipline any member for any conduct which is prejudicial to the interests of the Union or the Game and that the Union may in addition to termination or suspension of membership of the Union impose any other appropriate punishment. Regulation 19.11.7 of the RFU Discipline Regulation provides that an "appropriate punishment" shall for a Club include, but not be limited to a reprimand, a financial penalty, deduction of league points or relegation, exclusion or disqualification from any competition.

37. The Panel reviewed the video clip of the incident. There is no clear cause of the outbreak of disorder, but the Panel concluded that the majority of Players from both sides became involved to varying degrees and did not respond for far too long to the referee's clear and repeated whistling and verbal instructions to break it up. Other than the 2 individuals dealt with separately for specific offences, no other players had been identified as committing acts of foul play, although the video clip shows widespread posturing and pushing and shoving. Although it did not deteriorate into wider and more serious violence, the incident was a profoundly unattractive spectacle showing a lack of discipline and self control by professional players who should have known better and there was a clear risk of further deterioration. The incident was a very poor advertisement for the Game and the Panel concluded that each team was equally responsible and, accordingly, each Club merited an equal sanction.

38. The Panel noted that both Clubs had taken some remedial action to reinforce discipline as a core value of the Club and the Game but considered an immediate financial penalty against both Clubs. However, the Panel concluded that although the overall sanction should show clear disapproval of the lack of discipline and control by players from both Clubs, a reprimand was an appropriate immediate sanction. However, the Panel concluded that both Clubs should be in no doubt of the gravity of the incident and the absolute imperative to address ill discipline, reinforce the core values of the Game and prevent further incidents. The Panel determined that each Club should be subject to a deduction of 5 Championship points suspended for 12 months from 4 December 2012, to be activated in the event that the Club, an adult player of the Club or an official of the Club is found to have committed an offence under Rule 5.12 during the period of suspension.

39. Each Club is reminded of its right of appeal against sanction.

Costs

40. An Order for costs of £250 is made against each Club.

Rick Charles

Chairman