

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

At: Holiday Inn, Junction2, M6

On: 19 April 2011

JUDGMENT

Player: Alex DAVIDSON

Club: Luctonians RFC

Match: FYLDE RFC v LUCTONIANS RFC

Venue: Fylde

Match Date: 26th March 2011

Panel: John Brennan (Chairman), Geoff Payne & Dan White

Secretariat: Liam McTiernan & Rebecca Morgan

Attending: Alex Davidson ("the Player")
Simon Green-Price (Administrator, Luctonians – Representing the Player)
Simon Halliday (Assistant Referee) (via telephone link).

Regarding: The Player's dismissal for kicking an opponent, contrary to Law 10(4)(c).

Preliminary Matters

1. The Player had no objection to the composition of the Panel.

Charge and Plea

2. Alex Davidson ("the Player") was charged with kicking an opponent, contrary to Law 10(4)(c) during the course of the match Fylde v Luctonians on 26 March 2011. The Player denied the charge.

Evidence

3. The Panel watched DVD footage of the incident and heard oral evidence by telephone from the Assistant Referee, Mr Steven Halliday.

4. The Panel heard oral evidence from the Player. In addition, the Player relied on a letter from Fylde's head coach.

Finding

5. The following was common ground. Paul Arnold of Fylde took the ball into contact; he was tackled by Luctonians' hooker; the Player assisted his teammate to bring Arnold to the ground; Arnold ended up on the ground but in a good position to set up a ruck; Arnold presented the ball with his right hand immediately after he hit the ground; the Player was on his feet, behind Arnold when this occurred (his left leg was in line with the back of Arnold's head); the Player kicked out with his right leg immediately after Arnold had presented the ball; that the Player was off balance and looking down when he did so; and that another Fylde player drove into him when or immediately after he kicked.
6. The issues in this case were as follows: (1) Did the Player kick Arnold; (2) If so, was it an accident?
7. Mr Halliday, the Assistant Referee, saw the incident from about 25 yards away. He was level with play on the touchline. He lost sight of the ball when Arnold hit the ground. He saw the Player use his right leg to direct what he described as a full-blooded kick towards the back of Arnold's head or neck. He did not actually see any contact. He could not say, therefore, that he saw the Player kick Arnold, the ball, somebody or something else or nothing at all. However, he was quite sure that the Player kicked Arnold. The volume and nature of the noise he heard led him to conclude that the Player must have kicked Arnold in the head. In his opinion, the noise was what one would expect to hear if a man wearing a scrum cap was kicked in the head.
8. The Panel watched the footage on DVD. It was taken from a camera behind Luctonians' try-line more or less in line with the ruck. It was evident that the Player kicked out with his right leg towards the ball. The kicking motion was more akin to a grubber kick than a penalty kick. When viewed frame by frame, the better view of the footage was that the toe of the Player's right boot did, in fact, make contact with the ball. At any rate, immediately after the Player's boot came in from the right, it moved to the left. It would have been kicked away but for the fact that Arnold had his hand on it throughout.
9. The Player gave evidence on his own behalf. He said that he 'toe-poked' the ball, made contact with it but was unable to dislodge it. He denied that he had made contact with Arnold.
10. The Player produced a letter from Fylde's head coach. The contents of the letter were not, of themselves, of any evidential value. It was an amalgam of recollection, hearsay and opinion evidence which could not be untangled. However, the patent inconsistencies between the contents of the letter and the Player's case provoked further questions to be put to the Player which were of evidential significance. The Player accepted that a Fylde player who took part in the ruck accused him of having kicked Arnold immediately after

the kick. The Player said that his immediate response was to protest that it was an accident if he had done so. When asked why he had not denied it, the Player explained that he heard a noise that was quite unlike that which he would have expected to have heard if he had kicked a ball. He described it as a very loud thud. It said it was a "freak noise." The Player's failure to volunteer this evidence undermined his credibility to the extent that the Panel was not minded to accept his account save in so far as it was consistent with other evidence.

11. The Panel found as a fact that the Player kicked the ball. The Panel's assessment of the DVD footage was decisive in that regard. It was not contradicted by Mr Halliday or any of the other evidence before the Panel.
12. The Panel found as a fact that the Player kicked Arnold in so doing. That conclusion best explains the strange noise that Mr Halliday and the Player both heard and Arnold's team-mate's accusation. It was impossible to say whether the Player kicked Arnold before or after he kicked the ball. It was impossible to say whether the Player kicked Arnold in the head or some other place such as, for example, his shoulder. If Arnold had been wearing shoulder pads (and there was no evidence as to whether he did or not), it might be possible to explain the odd noise.
13. The Panel found as a fact that any contact between the Player's boot and Arnold was accidental. It was more likely than not that the Player's objective had been to kick the ball away from Arnold's grasp. The kick was completed in the blink of an eye. It occurred during the midst of a ruck. The adverse inference that may properly be drawn from the Player's failure to volunteer what he heard and what had been said to him immediately after the kick did not alter the Panel's assessment.
14. Although Law 10(4)(c) is an offence of strict liability, in accordance with the convention in this jurisdiction, the Panel dismissed the charge.

Signed: John Brennan, Chairman

Date: 20th April 2011