## <u>RFU – AVIVA PREMIERSHIP</u>

# **DISCIPLINARY HEARING**

**At:** Rugby House Twickenham

On: Tuesday 21 September 2010

JUDGMENT.

Player: Elvis Seviali'i Club: London Irish

**Match:** Bath v London Irish

**Venue:** Bath **Date of match:** 11<sup>th</sup> September 2010

**Disciplinary Panel:** Jeff Blackett (Chairman), Peter Budge, Jeremy Summers

**Secretariat:** Bruce Reece-Russel

Liam McTiernan

**Attending:** The Player.

Neil Hatley – London Irish

Kieran McCarthy – London Irish

### **Preliminary Issue**

1. The Player was cited for a dangerous tackle, contrary to Law 10.4(e) for a tackle in which he caused an opponent to end up landing on his neck or shoulders. Having read the citing report and watched the DVD footage of the incident the Panel considered, having listened to submissions by the Disciplinary Manager on behalf of the RFU and the Player's representatives, whether to change the Law reference to 10.4(j) (as it was entitled to do under RFU Regulation 19.5.6.2<sup>1</sup>.

# 2. Law 10.4(j) states:

"Lifting a player from the ground and dropping or driving that player into the ground whilst that player's feet are still off the ground such that the player's head and/or upper body come into contact with the ground first is dangerous play."

In this case the Player was in contact with the opponent until the opponent made contact with the ground and the opponent's first point of contact was his hand as he tried to break the fall. The Player did not drive the opponent downwards and it was suggested that if he was in contact with the opponent he did not drop him either

<sup>&</sup>lt;sup>1</sup> Which states: "A Disciplinary Panel may change any reference to any law of the Game contained in a report....before or during a hearing. If the Disciplinary Panel reasonably considers that a change ...... would be prejudicial to the player it should hear submissions before deciding whether or not to change."

because "drop" connoted "letting go". Secondly, as the tackled player put his hands down to soften the contact, the first point of contact was neither the head nor the upper body.

3. The Panel reminded itself of the SANZAR decision in the case of <u>Quade</u> <u>Cooper</u> (25 July 2010). In the first instance decision the Judicial Officer, Mr Bruce Squire  $QC^2$  said:

"The purpose of Law 10.4.(j) is obvious enough. It is designed to prevent what are commonly known as "spear tackles" and tackles in which players are lifted and dropped to the ground with resultant contact with the head/upper body of the tackled player. Tackles of this kind have rightly been made illegal because of the high potential they carry for serious injury to players subjected to such tackles. Given that purpose it seems to me to be self-defeating to allow some prior, even fleeting contact with some other part of the tackled player's body with the ground, but where there is still nonetheless subsequent contact with the head/upper body area of the tackled player and the ground, to excuse what is otherwise in all respects precisely the kind of tackle Law 10.4(j) is designed to capture and make illegal.

"The tension lies in whether the Law should be interpreted literally or according to its purpose and intent. For my part, and because to give the Law and the word "first" within it a wholly literal meaning would be self defeating and result in an emasculation of the purpose of the Law, I prefer an interpretation which give effect to its purpose and intent."

4. Notwithstanding dissenting views expressed in the subsequent SANZAR appeal, we agree and adopt the approach taken by Mr Squire in relation to the hand being used to break the fall. Further, it would defeat the intent of the Law to interpret the language too restrictively. If a tackled player is turned upside down and falls to the ground (rather than being driven into the ground) then for the purposes of Law 10.4(j) he is dropped whether or not the tackling player remains in contact (unless the tackled player holds him in such a way as to ensure his safe landing, in which case no offence would have been committed). As an aside we note that even if this approach were wrong and the language were to be interpreted literally, then the action would still be foul play under Law 10.4(e) because it remains dangerous. In those circumstances we amended the Law reference to 10.4(j).

#### The Citing

5. The Player did not contest the citing officer's report and admitted an act of foul play contrary to Law 10.4(j). The report stated:

"In the 52<sup>nd</sup> minute, Bath emerge from a ruck in possession of the ball, 15m infield and 12m into the London Irish half. Bath No 9 (Michael Claasens) passes the ball from the base to Bath No 10 (Sam Vesty), who takes the ball cleanly and begins a run into Irish territory, making approximately 5m before being confronted by London Irish 13 (Elvis Seveali'i). London Irish No 13 stoops as

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<sup>&</sup>lt;sup>2</sup> At paragraph 2.4 et seg

if to make a legitimate tackle, driving the shoulder into the abdomen of Bath No 10 and grasping the Bath No 10 just above the backs of the knees.

At this point, rather than drive through the player to execute a textbook tackle, London Irish No 13, with his left arm, picks up the right leg of Bath No 10, gripping him just behind the right knee with his left hand. He continues to lift Bath No 10 in this way until Bath No 10 breaks the horizontal plane, eventually releasing his grip once Bath No 10 has begun his descent. Bath No 10 goes to ground upper body first at an angle of approximately 45 degrees with London Irish No 13 falling directly on top of him without, it appears, dropping all of his weight on top of Bath No 10. Bath No 10 remains in possession of the ball throughout and ends up lat on his back. The referee, Dave Pearson, immediately indicates that a penalty is being awarded to Bath against London Irish No 13 and ultimately sends London Irish No 13 to the sin bin for 10 mins by showing him a yellow card.

Although Dave Pearson issued a yellow card to the player, I believe if he had access to the same video footage which I have reviewed in great detail and at a number of speeds, he would have issued a red card for this tackle. He confirmed this fact to me when I spoke to him, once he had a chance to review the DVD."

- 6. The DVD footage reflected the citing report, however it was also clear that as Vesty dropped to the ground the Player's right hand was diagonally across his back and appeared to remain in contact until Vesty hit the ground. As soon as Vesty was on the ground the Player moved into an on-side position, straddled him and moved to take the ball from Vesty. As he did so he was driven off the ball by another Bath player. Shortly afterwards Vesty got to his feet. He was not injured and he continued to play.
- 7. The Player said that as he lifted Vesty he realised that he was executing a tackle poorly and he kept his hand across his back in an attempt to minimise any potential damage or injury. As he got up he started to speak to Vesty under him to apologise for dumping him, but he was driven off the ball.

# **Decision on the Citing**

- 8. RFU Disciplinary Regulations, Appendix 4 paragraph 14 states:
  - "Where the offence was detected by a match official, but the cited player was not awarded a red card, the Disciplinary Panel must dismiss the citing unless it is satisfied on the balance of probabilities that the referee was wrong in not sending the player off."
- 9. We are satisfied that the referee's view of the incident was not completely clear and that he took instinctive action in awarding a yellow card for this act of foul play. He subsequently agreed with the citing officer that had he seen the incident from a different angle, and noted the full force of the tackle and impact, he would have awarded a red card. There are a number of well known cases throughout the rugby world which stress that tackles which result in the tackled player being turned

upside down so that his head of upper body makes contact with the ground merit a red card and that temporary suspension is inconsistent with this sort of offence. We therefore determine that the referee was wrong in not sending the player off and uphold the citing.

#### **Decision on Entry Point**

10. This offence was not deliberate. The player intended to drive the opponent back and onto his back but the dynamics were such that as he lifted Vesty's leg his body was forced upwards and through the horizontal. As he executed the tackle the Player realised that Vesty was in a vulnerable position and made some, albeit insufficient, effort to minimise the impact. This was reckless. There was no impact on the game of the player. Nevertheless Vesty was in a vulnerable position and he was fortunate not to have suffered any injury. In our view this was at the lower end of the scale of seriousness for a tip tackle. We note, as an aside, that 10.4(j) enables a disciplinary panel to determine that a particular tip tackle is at the lower end of the scale. Had we dealt with this offence under Law 10.4(e), which encompasses all types of dangerous tackling, it would have been mid range on that scale of offending because the lower end would be reserved for less serious types of dangerous tackling.

## **Mitigation**

11. Mr Hatley informed the Panel that London Irish had held an internal disciplinary hearing and suspended the Player for one week on 16 September 2010. As a result he had already missed one Aviva Premiership match. He said that the Player is 32 years old and had played in the English Premiership for seven seasons, including three with London Irish. He has 30 international caps for Samoa. Nevertheless he has never been sent off or cited. He is highly regarded throughout the game and assists with coaching local youth teams. He was genuinely contrite and apologised.

#### **Sanction**

- 12. The LOWER END entry point for dangerous tackling under Law 10.4(j) is three weeks suspension. There are no aggravating features in this case and the player is entitled to 50% reduction (rounded down to one week) to reflect the presence and timing of culpability, his conduct prior to and at the hearing, his excellent record and his remorse. This is not, however, an exceptional case and it is important that disciplinary panels continue to send out a strong message that there is no place in the Game for tip tackles.
- 13. The Player is, therefore, suspended for two weeks from 16 September (the date he was suspended by London Irish) to 29 September 2010. He is free to play again on 30 September 2010.

#### **Costs**

14. Costs of £500.00 are awarded against the Player/club.

# **Right of Appeal**

15. The Player is reminded of his right of appeal against this decision.

Signed: Jeff Blackett

Chairman

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Date: 22 September 2010