

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

At: Filton Holiday Inn, Bristol
On: Wednesday 30 March 2011

JUDGMENT

Player: Paul Ford
Club: Whitehall RFC
Match: Whitehall RFC v Old Bristolians RFC
Venue: St Mary's Old Boys, Bristol

Match Date: 15 February 2011

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

Secretary: Bruce Reece-Russel

Attending: The Player
Iain Pring (Chairman, Whitehall RFC)

Gareth Graham & Charles van der Lande (presenting on behalf of Old Bristolians RFC)

Rhys Thomas, Mike Barton (by telephone link), Charles Caton, Matt Davies and Richard Berry from Old Bristolians RFC

Andy Millar – Referee (by telephone link)

Matt Stone, Dan Hawkins and Bill Davies from Whitehall RFC

Preliminary

1. The Player had no objection to the composition or constitution of the Panel. Mr Pring indicated that the notice given of the hearing had been short but he did not seek an adjournment.

Citing and Plea

2. The Player was cited with an act contrary to good sportsmanship, namely biting an opponent, contrary to Law 10(4)(m), in that on 15th February 2011

he bit an opponent during (5th minute of the first half) the match Whitehall v Old Bristolians. The Player denied the charge.

The Citing Report

3. The Panel read the Citing Club's report, dated 26 February 2011, signed by Charles van de Lander, Secretary of Old Bristolians. The report describes the allegation in the following terms.

a) *Date, venue and teams participating in the match*

Date: Tuesday 15th February 2011. Evening game under floodlights, kick off at approx.19.30.

Venue: St. Mary's Old Boys RFC, Northwood Park, Trench Lane, Nr. Winterbourne, Bristol, South Gloucestershire, BS36 1RY.

Participating teams: Old Bristolians RFC 1st XV vs Whitehall RFC 1st XV.

Match: Quarter Final of the Bristol & District Combination Cup Vase.

Referee: Andy Miller. Assistant referees (Touch Judges) Chris Brockett & Grev Leigh.

b) *Details of alleged act of foul play*

Act: biting of right hand side of cheek/face of Old Bristolians hooker, Rhys Thomas, in a scrum by the Whitehall hooker. We believe this was an act contrary good sportsmanship contrary to Law 10.4(m).

Point in time of the match: first scrum of the game, within 5 minutes of the kick off.

Score at the time: nil-nil.

Position on field of the incident: Around the 10 meter line in the Old Bristolians' half on the 15 meter line on the far side (away from clubhouse) of the pitch.

Identity of player cited: Whitehall hooker/number 2, we believe to be called Paul Ford.

Injury sustained: bruising, broken skin and swelling on right side of face. This is described in more detail in the witness statement of Rhys Thomas, attached as Annexure A.

Follow up to injury: Rhys had to take a day off work to visit the doctor and nurse. Subsequent to preparing the witness statement, the swelling on Rhys' face continued for a few days, it has now subsided and fortunately Rhys was not required to take antibiotics.

The Citing Club's Case

4. Rhys Thomas (RT) gave evidence consistent with his written statement, dated 20 February 2011. He was the Old Bristolians (OB) hooker. He described the front rows lining up for the first scrum after about 4-5 minutes of the game. The Referee was away from the scrum attending an injury. RT had eye contact with the Whitehall hooker who said "*I'm going to bite you, I'm going to bite your fucking ear off*" and something like "*I am going to take you off the pitch like that fat cunt who played before*". RT did not know what was

meant by the latter remark. The referee came back and the scrum engaged. It was a Whitehall put in. The ball came and was hooked back by Whitehall. The Whitehall hooker turned his head to his right and clamped his teeth on RT's right cheek near to the jaw line below his right ear. It was very painful. RT tried to pull away but this made it worse by pulling his skin even more. The Whitehall hooker let go after about 10 seconds. RT popped up from the scrum and leaned away from the Whitehall hooker who also stood up. Play continued. RT described how he was called over to the nearby touchline by Richard Berry, the OB Coach. RT went down on one knee and explained to Richard Berry that he had been bitten by the Whitehall hooker. Richard Berry looked at his face and called over Mike Barton, the OB Vice-Captain. They spoke to the referee. RT played on for the whole game. About 10 minutes after the game 2 photographs were taken of the right side of his face. RT was shown 2 photographs and confirmed that they showed the injuries he sustained. RT stated that the right side of his face was bruised and he was particularly concerned that his skin had been pierced by the biting in 2 places at the top of the marks. He therefore went to see Dr Paterson at the Nailsea Family Practice on 17 February 2011. She offered him a course of antibiotics. The bruising went down by the following day and he did not receive any treatment. He did not sustain any other injury during the game and was sure that the marks on the right side of his face as shown in the photographs were caused by the biting by the Whitehall hooker. In answer to Mr Pring and the Player, RT accepted that he was unaware of any bleeding at the time. He could not remember the scrum being reset by the referee. He did not report the incident himself to the referee. He recalled the referee speaking to the opposition front row. He was sure that the Whitehall hooker threatened him with biting and then did what he had threatened to do.

5. Richard Berry gave evidence and explained that he was the OB Club President and 1st XV coach. At the game he was standing on the far side of the pitch and about 10-15 metres away from the first scrum. He was standing beside the Assistant Referee, Grev Leigh. It was a stable engagement and the ball was hooked cleanly by Whitehall who pushed the OB scrum backwards. After about 5 seconds the OB Hooker, Rhys Thomas, popped up. He leaned back away from his opposite number who also popped up and was looking around. The scrum broke up and play moved away. RT dropped to one knee and Richard Berry called him over. Richard Berry explained that he had asked RT what the matter was and RT replied "*the bastard has bitten me*", indicating his face. Richard Berry described seeing a red mark on RT's right cheek. He called over Mike Barton and told him what RT had said and suggested that as the vice-captain he should tell the referee what had happened. He spoke to the referee as well. After the game he saw the bruise on the right side of RT's face and also saw what he described as puncture marks. He had not seen them before. Photographs were then taken after the mud had been wiped away. When he looked at RT's cheek on the pitch the light was bad. In answer to Mr Pring, Mr Berry stated that the scrum was not reset. The puncture wounds had not been visible when he first looked at the injury. He could not be sure, but he did not think they could have been caused subsequently in another incident.

6. Mike Barton gave evidence via a telephone link. He was the OB Vice-Captain playing in the second row. The first scrum took place within the first 5 minutes. He heard what he described as verbals from the Whitehall pack. The Whitehall hooker said to RT something like "I'm going to bite your fucking face, I'm going to bite you all day long". He also said "I'll fuck you up like I did that fat cunt" but this was directed at the OB loose head prop Matt Davies who had played in an earlier game against Whitehall. Whitehall won the scrum and he did not realise that anything had happened until Richard Berry called him over and told him that RT had been bitten by the Whitehall hooker. He wanted to speak privately to the referee and he did so at the next break in play. Although the lighting was not great he saw 2 clear red oval marks on RT's right cheek.
7. Matt Davies gave evidence. He was the OB loose head prop. The first scrum took place about 5 minutes into the game. As they formed up he heard the Whitehall hooker say to RT something like "I'm going to bite your fucking face, I'm going to fuck you up like I did in the last match – Shorty knows". Mr Davies understood that the reference to Shorty meant him as he had played in an earlier fixture against Whitehall the previous season. He described the ball being put in and the OB scrum flying back. He did not feel RT pop up during the scrum but later confirms seeing marks on the right side of RT's face. He did not believe that the Whitehall hooker was wearing a gum shield.
8. Charles Caton gave evidence. He was playing in the OB second row. He thought the first scrum was about 10-15 minutes into the first half. As they were waiting to engage he heard the Whitehall hooker say something like "I'm going to bite you all day long". He could not see who this was directed at. Later on, he could not remember exactly when, he saw bite marks on RT's face.
9. Mr Graham referred to the statements of the doctor and the Assistant Referee Grev Leigh as set out below.

Dr Paterson:-

To whom it may concern

Re Rhys Thomas 25/5/87

I saw this gentleman on 17/2/11 with a graze
 2cm x 1cm on his (R) cheek in the beard area.
 He stated it was caused by a bite from
 another rugby player during a match two
 days earlier. I feel this injury could have
 been caused by teeth, although there were
 no puncture marks

Mr Leigh:-

“The alleged incident happened at a scrum that was about 10mts in from my touchline and about 15mts in the Whitehall half. I believe it could have been the first scrum of the game, if not it was certainly early in the game. I am not sure now if the scrum was completed, and the Old Bristolian hooker went over to his coach and caused a stoppage at the next breakdown, or if he caused the scrum to stop. Either way the hooker was attended to by his physio and told his coach that he had been bitten on the face. Andy Miller (referee) was stood by me whilst we awaited the player to get attention. The head coach of Old Bristolians came over to us and said “Our player has been bitten”. The player, after he had been attended to by the physio, came over to me, Andy and the head coach and said “their hooker has bitten me on my face” and pointed to what were clearly a set of fresh red marks to the side of the mouth and in a position that probably only the opposition hooker could apply, if the marks were caused by a bite in a scrum, i.e. wrong side of face for a tight head and a second row would have to be a contortionist. Also, the scrum was solid, i.e. it did not collapse with other players falling on top of the hooker. I did not see the alleged bite happen.”

Mr Pring did not wish to ask any questions of Mr Leigh.

10. Mr Graham also referred to the statement of the Referee Andy Miller and his account is set out below:

“Following the first scrum (c 4 mins into the first half) the Old B’s Captain approached me and stated that their hooker was complaining of being bitten during the scrum. Thereupon I went to the Old B’s hooker and asked what had happened, to which he repeated that he thought he had been bitten by his opposing number in the scrum. Whilst talking to him I looked for signs of evident bite marks around the ears and beneath this on the neck but could not see any marks. I then stated that I would have a word with the (Whitehall) hooker and explain what he (the Old B’s hooker) had said. At the next scrum (approx 2 mins later) I approached the Whitehall pack before they had approached the mark (for the scrum) and said to their hooker that he had been cited, by his opposite number, for biting. He immediately protested his innocence and stated he had done nothing of the sort and that this (the accusation) was a direct result of the previous match when he was alleged to have been the culprit then. I then stated that if I saw anything whatsoever that suggested he was involved with foul play then he would suffer the appropriate consequences. I then asked if he understood what I was saying to which he replied in the affirmative. Thereupon, I had no problems or difficulties with the setting or safe scrumming from either side despite the unfavourable conditions. Whitehall subsequently won a fairly contested and competitive game. Following the full time whistle I and the ARs retired to the dressing room where we were in the process of changing and after c.5 mins the Old B’s coach, Richard Berry, asked if he could present his hooker and show the bite mark that was to form the subject of a citing that he intended to bring against the Whitehall hooker. The Old B’s hooker then presented himself to myself and the 2 ARs and I noted what appeared to be a very red and bruised

area around the player's lower jaw and neck. I could not ascertain, at that point, with any degree of certainty if the marks had been caused by a bite."

Mr Pring stated that he did not wish to ask any questions of the referee. The Panel contacted Mr Miller by telephone. He confirmed the content of his statement and in clarification stated that he had glanced at the OB hooker's right ear as that was where he expected to see any injury. He did not look at his whole face. He did not recall resetting the first scrum and he did not hear any verbals. He went to the opposing Whitehall hooker and told him of the allegation of biting. The Whitehall hooker protested his innocence. He described the mark on the face of the OB hooker that was drawn to his attention after the game as angry and red.

The Defence Case

11. Paul Ford gave evidence. He described the game against Old Bristolians as a very important game in the Cup competition. His side were het up and went at the game like a "bull at a gate". The first scrum was important, he wanted to obtain a psychological advantage over his opposite number and get him to look down towards the ground rather than at him. There was some banter before the scrum engaged. He may have said "*I hope you have a hard head because I do*" or something like that but he did not say anything about biting his opponent. He may also have sworn but regarded all this as acceptable banter and it only lasted a few seconds. He did not bite the OB hooker – had he done so he would have done a lot more damage to him. The scrum was reset because it was not stable. The ball was put in and they drove the OB pack back about 2-3 metres. He saw an OB player wearing a scrum cap talk to the Referee. The Player said he thought that this was about 15 minutes later when the ball went into touch. The referee came over and said to him "I'm watching you" but did not explain what he was supposed to have done. It was not until after the game that he was asked by his captain whether he had bitten the OB hooker and he said that he had not. In response to questions from Mr Graham the Player stated that he would not have been able to turn his head to bite his opponent in the position shown in the photographs. He accepted that the OB hooker's right cheek would have been on his right shoulder but was clear that he could not and did not bite him. He suggested that the marks on the OB hooker's face could be scrum pox and pointed out that there were no puncture wounds referred to by the doctor. He had a mouth guard, but took it out for periods during the game because he was the pack leader and needed to communicate with his pack. He was not wearing a gum shield during the scrum and it was in his sock.
12. Matt Stone gave evidence. He is the Whitehall Club Captain and was playing as tight head prop. He stated that there was a forceful engagement at the first scrum of the game and some jostling in the front row led to a reset. There was a clash of heads on re-engagement but they shoved OBs off the ball. It was a quick scrum and both packs stood up. He was not aware of any incident at the scrum but was made aware of the allegation later. In response to questions by Mr Graham, Mr Stone stated that he did not hear Paul Ford

say anything to his opposite number. Mr Stone explained that he was wearing a scrum cap and could not hear much. He did not recall the OB hooker popping out of the scrum. A short time later, perhaps 3 or 4 minutes, the referee spoke to Paul Ford. He did not hear an allegation of biting being referred to. He was not aware of the allegation until after the game.

13. Danny Hawkins gave evidence. He is the Players' Representative at Whitehall RFC and Vice-Captain. He was playing in the second row. It was an intense and abrasive game. At the first scrum the referee asked for a reset. The ball came in and they pushed the OBs off it. Nothing else happened and the game carried on. He was not aware of the incident until the next lineout when the referee called Matt Stone over. In response to questions by Mr Graham, Mr Hawkins stated that he did not hear anything being said at the scrum. He recalled that the referee spoke to Matt Stone a couple of minutes after the scrum. In response to a question from a panel member he said that he didn't think Paul Ford was wearing a gum shield on the day.
14. Bill Davies gave evidence. He is the Vice-Chairman of Whitehall RFC and watched the game. He was not aware that anything had happened until he went to the Referee's room after the game to discharge his hosting role. The OB coach came in with a player to discuss an injury. He saw the player concerned and noticed that he had an abrasion high on his right cheek. He stated that he does not recall seeing the injury shown in the 2 photographs. He thought the injury was high on the right cheek.
15. In summary of his case, the Player stated that he did not bite his opponent. He suggested that the evidence was inconclusive. He describes rugby as a rough and tumble game but that biting was not part of it. To behave in such a way was not in his nature.

Finding

16. In the case of a citing it is the function of a Disciplinary Panel to review the case and determine on the balance of probabilities whether the Player concerned committed the act of foul play alleged by the Citing Club.
17. The Panel considered all the evidence put forward at the hearing. The Panel noted that there were two completely different accounts of events at the first scrum. The Panel noted that the location and nature of the injury (as shown in the photographs and taken within a few minutes of the end of the game) was consistent with the account of Rhys Thomas. The Panel also found that his evidence of the threats made before the engagement of the scrum was supported by Mike Barker and Matt Davies. His evidence of popping out of the scrum and leaning away from his opponent was supported by Mr Berry. The Panel found Rhys Thomas to be an honest and reliable witness and accepted his account. Accordingly, the Panel was satisfied to the required standard that the Player deliberately used his jaws to grip the face of Rhys Thomas causing the injury shown in the photographs and described by the

doctor. The Panel found that that act of foul play alleged had occurred and upheld the citing.

Mitigation

18. Mr Pring stated that the Club had held a disciplinary hearing but had concluded that there was insufficient evidence that an act of biting had occurred. However, at the time of that hearing the Club only had evidence from its own representatives to go on and did not have the photograph of the injury or the Doctor's statement. Paul Ford told the Panel that he had played rugby since 1991 and had played at a number of clubs before returning to Whitehall RFC in 2008. He had a good disciplinary record apart from one appearance before a disciplinary panel in 2007 when playing for St Marys RFC. Charges of punching, kneeling and stamping on an opponent had been found proven and he had been suspended from playing for a period of 34 weeks. The Player described himself as a reformed character both on and off the field since the 2007 incident. He tries to show good leadership and has taken responsibility at the Club. He asked the Panel to be as lenient as possible.

Sanction

19. The Panel considered the seriousness of the Player's conduct by reference to the factors set out in Regulation 19.8.2.5 of the RFU Disciplinary Regulations. The Panel found that that the offending was deliberate and involved biting an opponent on the face. The victim player was bound in the front row of the scrum and was in a vulnerable position. The victim player sustained an unpleasant but not serious injury with no long term consequences. The act of foul play was completed. The Panel found that the act was premeditated, but also concluded that the offence had no effect on the game. The Panel stated that biting an opponent is abhorrent conduct could not be tolerated in the game. Taking all the relevant factors into account the Panel determined that the offending was in the Mid Range.
20. The entry point for a Mid Range offence of biting an opponent is 18 weeks' suspension. The Panel considered whether there were any aggravating factors and any mitigating factors as described in Regulation 19.8.2.7 and 8 respectively. The Panel concluded that there had been no real expression of contrition or remorse by the Player and that his previous conviction for offences in 2007 should be taken into account. These were both aggravating factors meriting an additional period of suspension of 2 weeks. The Panel concluded that there were no mitigating factors. The Panel therefore determined that appropriate sanction was suspension from playing for 20 weeks. Mindful of Regulation 19.8.2.12(b) the Panel considered it appropriate to exclude the closed season from the period of suspension. **Accordingly, we determined that Paul Ford should be suspended from playing rugby union for 9 nine weeks from the date of the hearing until 2 June 2011 and for eleven weeks from Friday 19 August 2011 until 3**

November 2011. The Player will be able to play again on 4 November 2011.

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

Costs

22. An order for costs of £125 is made against the Player/Club.

Signed: Rick Charles (Chairman)

Date: 31st March 2011