RUGBY FOOTBALL UNION DISCIPLINARY HEARING

At: Office of the Judge Advocate General, Royal Courts of Justice

On: Monday 4 April 2011

JUDGMENT.

Players: Joe Marler **Club:** Harlequins

Marcos Ayerza Leicester Tigers

Match: Harlequins v Leicester Tigers

Venue: The Stoop **Date of match:** 2nd April 2011

Panel: Jeff Blackett (Chairman), Jeremy Summers, Philip Evans

Secretariat: Bruce Reece-Russel

Liam McTiernan

Attending: The Players.

Conor O'Shea (Director of Rugby, Harlequins)

Simon Cohen (Operations Manager, Leicester)

Peter Wheeler (Chairman, Leicester)

Introduction

1. Both Players were ordered off the field of play in the 24^h minute of the second half: Ayerza for striking an opponent with his head and Marler for striking an opponent, both contrary to Law 10(4)(a). Neither contested the award of the Red Cards nor did they disagree with any of the contents of the referee's report.

The Facts

2. The Referee's report stated:

"In the 64th minute of the game, Harlequins were attacking and were approximately on the 22 metre line. I then saw two players grabbing hold of each other and so I asked them to put their hands down. I then saw the Leicester number one (Ayerza) lead with his head and his head made contact with the face of the Harlequins number 1 (Marler). I then saw the Harlequins number one throw at least two punches, including an uppercut, which connected with the head of the Leicester number one. I separated the players, asked my assistant referee whether he could add anything to what I had witnessed (which he could not) and then sent both players off."

- 3. The DVD of the incident corroborated the referee's report. The two Players grabbed each other as they emerged from the breakdown. Marler held Ayerza on the right hand side of his scrum cap as their heads came together, Ayerza's scrum cap was pulled so that it was pulled down half across his eyes. Ayerza moved his head backwards and then deliberately pushed it forward so that his forehead struck Marler just above the right eye. Marler looked towards the referee and then punched Ayerza with his right fist striking him on the side of the head. There was further grappling and Marler delivered a further uppercut punch towards Ayerza's head. It was not possible to determine from the DVD whether the second punch connected with Ayerza.
- 4. Marler said that he saw Ayerza counter ruck so he joined the ruck to clear him out. He drove his head under his chest and they began to wrestle. He had hold of his scrum cap and they came together in a grapple, very quickly facing each other head to head. He felt Ayerza's head contact his, he looked at the referee, their heads came into contact again and he "just saw red". He then punched Ayerza to protect himself. He said he had his eyes shut and was not aware where his punch landed. He punched again with the uppercut but was not aware of making contact. They were then separated and after a short time he was shown a red card.
- 5. Ayerza said that the game was a very hard contest. At the breakdown he ended up grabbing Marler and they ended up with their heads pressed against each other. Marler tried to punch him but he was not sure whether any of the punches landed. He said he could barely see because his scrum cap had been pulled across his eyes.

Mitigation

- 6. Conor O'Shea spoke on behalf of Marler. He said this was a game changing incident which occurred during a particularly physical and competitive match. Two Harlequins players had just been sent to the sin bin and there was a very heated atmosphere. He believed that the referee had no option but to send off Marler having decided to send off Ayerza. However, Marler reacted to being struck on the head with one blow which was very light and another which did not make contact. He said that Marler is 20 years old and is still learning his trade in the front row. He is making a mark both on and off the pitch, including visiting schools and coaching youngsters. Although he was sent off once before in the U20 World Cup two years ago when he received a 3 week suspension for punching, is not a dirty player he. Marler accepted that the incident did not look good in the media, but there was no premeditation in what he did. Mr O'Shea suggested that the appropriate sanction would be Sending Off Sufficient.
- 7. Peter Wheeler and Simon Cohen both spoke on behalf of Ayerza. Mr Wheeler suggested that Ayerza's vision was obscured because his scrum cap was over his eyes. He got himself into a strong position by facing up to his opposite number. There was no movement of his head backwards before their heads made contact. He said that Ayerza has an exceptional disciplinary record for a prop forward with 32 caps for Argentina and 125 appearances for Leicester Tigers. He has never received a red or yellow card, although he was cited for striking over five years ago. He is 28

years old and has played professional rugby for five years at Leicester, before which he played amateur rugby in Argentina. Mr Cohen said that there was no intent to offend, only to defend himself and his actions had no effect on either the victim of the game. He said that Ayerza was a man of excellent character and his offending was not very serious which could be marked with a sanction of Sending Off Sufficient. He said that next week will be the biggest game of his season and to suspend him would also prejudice England's chance of having an English club in the latter stages of the Heineken Cup.

Sanction

- 10. The panel undertook an assessment of the seriousness of the players' conduct. In relation to Marler we noted that he grabbed Averza by the scrum cap – an action which seems to be increasing and which provokes opponents. To a certain extent this started the violence in the incident. He punched Ayerza twice – the first clearly made contact with the side of his head and the second may have made contact although neither player suggested it did. Nevertheless, the throwing of a punch still constitutes and offence even if it did not make contact. These were deliberate punches, but they caused no injury and there was no other effect on the victim. However, they contributed to an ugly confrontation between the teams and a certain amount of antagonism in the crowd. In our view these punches can be classified as the least serious for this type of offending, the entry point for which is 2 weeks suspension. The only aggravating features is that Marler was sent off for a similar offence in the U20 World Cup, but the sanction is not increased from the entry point because Marler did not contest the Red Card, expressed remorse, understood the damage this sort of conduct may have on the image of the Game, and was perfectly behaved at the hearing.
- 11. In relation to Ayerza we noted that his head came together with Marler as they began to grapple, but he then moved his head backwards and deliberately struck Marler with the front of his head. Contact was not very hard and there was no injury. We accept that he was provoked by Marler pulling his scrum cap. Nevertheless his action contributed to the subsequent violent confrontation between players and to the antagonism within the crowd. In our view this strike can be classified as the least serious for this type of offending, the entry point for which is 4 weeks. We discount his previous citing as it occurred over 5 years ago and accordingly apply the maximum discount permissible (50%) to reflect his admission of guilt, excellent character and conduct at the hearing. We specifically reject Mr Cohen's submission that preventing him from playing in an important match may be treated as an off field mitigating factor.
- 12. Both Players are, therefore, suspended for 2 weeks from 5-18 April 2011. They may play again on 19 April.

Costs

13. Costs of £500.00 are awarded against each Player/club.

Right of Appeal

14. The Players are reminded of their right of appeal against this decision in accordance with the RFU Disciplinary Regulations. Any appeal must be lodged with the RFU Disciplinary Manager by 1200 on Wednesday 6 April.

Signed: Jeff Blackett Date: 4 April 2011

Chairman

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