

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

At: Holiday Inn Express, Epsom

On: Wednesday 27 April 2011

JUDGMENT

Player: Mark Sorenson

Club: Northampton Saints

Match: Newcastle Falcons v Northampton Saints

Venue: Newcastle

Match Date: 15 April 2011

Panel: Jeff Blackett (Chairman), Robert Horner & Jeremy Summers

Secretary: Rebecca Morgan

Attending: The Player
Paul Shields (Team Manager, Northampton)
Ian Dixey (Counsel)

The Citing Complaint

1. The Player was cited for dangerous tackling contrary to Law 10(4)(e). The citing report stated: *"From a ruck in the midfield on the Northampton 22 metre line, the ball was fed to the Newcastle No.4, Tim Swinson. He was met head-on by the Northampton No.19, Mark Sorenson. Sorenson tackled Tim Swinson around the knees with both arms and proceeded to lift the Newcastle player upwards. Swinson's right leg came off the floor followed by his left leg. Sorenson lifted the player up to the parallel with his head on the bottom of Sorenson. Swinson started to go head first to ground and landed on the side of his head/shoulder area. At no time did Sorenson let go or help Swinson to the ground. It appeared he drove the Newcastle player into the pitch and with the position of Sorenson's head on Swinson's body he had no idea where and what the Newcastle player would land on. The referee blew his whistle for the tackle and awarded a penalty to Newcastle. The Newcastle player played on. After reviewing the incident on numerous occasions, I believe the tackle to be dangerous play and have cited the player Mark Sorenson under Law 10(4)(j)"*

Preliminary Issues

2. Mr Dixey made two preliminary submissions
 - a. First, the citing officer specified that he cited the Player under law 10(4)(j), which reflected the alleged infringement, but the charge sheet was drawn under Law 10(4)(e). He asked that the charge sheet be amended to reflect the citing report. The Panel accepted the submission and amended the charge sheet.
 - b. Second, that the citing did not comply with the procedure laid down in the Regulations, or with the instructions on the citing form. Although the Chairman of the Panel could disregard the Regulations, the omissions were so fundamental that they undermined the validity of this citing.
3. On request from Mr Dixey, the Panel viewed the DVD footage of the incident with the sound on. Just after the incident which was cited, the referee indicated a penalty for a tip tackle. The captain of Newcastle asked (or suggested to) the referee whether the incident merited the award of a yellow card. The referee said "no card". He was asked the same question by the Newcastle physiotherapist but he ignored him and repeated that he had awarded a penalty.
4. The citing report form contains a page entitled: "Detailed Report of Incident (Including Action Taken by Match Officials and Outcome of Discussion With Them – **MANDATORY**)". Mr Dixey said that it is clear that the referee saw the incident and positively considered and rejected the award of a Yellow Card, let alone a Red Card. In those circumstances it was crucial that he was consulted by the Citing Officer before he decided to cite, but he had not been consulted. It was, therefore, impossible for the Panel to make any determination as to whether the referee was wrong, as it is required to do before upholding the citing. Mr Dixey submitted that the citing should be dismissed at this stage.

Decision

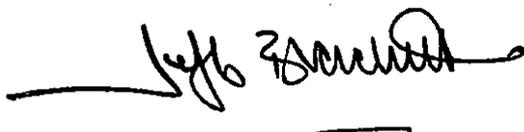
5. Paragraph 14 of the RFU Citing Procedures (Appendix 4 to RFU Regulation 19) states: "*Where the offence was detected by a match official, but the cited player was not awarded a red card, the Disciplinary Panel must dismiss the citing unless it is satisfied on the balance of probabilities that the referee was wrong in not sending the player off.*"
6. Citing Officers are required to contact referees before determining whether an offence passed the red card test and take account of what he says. Where a referee states that he did not see the incident the Citing Officer applies his rugby knowledge and experience to assess whether it passed the red card test. However, where the referee states that he saw the incident and took what he thought to be appropriate

action, the Citing Officer must take that fact and the referee's explanation into account before determining whether or not the incident passed the red card test. In this case the Citing Officer did not contact the referee even though it was clear from the soundtrack of the incident that he had positively decided that the offence did not merit any greater sanction than a penalty. The fact that the Citing Officer did not consult the referee on this occasion means that he may have decided to cite without taking into account all of the relevant considerations.

7. That is not the end of the matter. Regulation 19.6.4.4 states that the proceedings, findings of decisions of a disciplinary panel shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless such defect raises a material doubt as to the reliability of the panel's proceedings, findings or decisions. The Panel considered whether, despite the Citing Officer's omission, it should proceed to consider the merits of the case. However, we believe that the Citing Officer may not have cited had he taken the referee's observations and comments into account and this is so fundamental that we have a material doubt as to the reliability of the citing.
8. **In these circumstances we dismiss the citing. The player is free to play with immediate effect.**

Costs

9. There is no order for costs.



Signed: *Jeff Blackett*

Date: 28 April 2011