

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

On: Holiday Inn, Leeds Brighthouse.

At: 1st February 2011

JUDGMENT

Player: Simon Frewin

Club: Stourbridge R F C

Match: Stourbridge v Wharfedale

Venue: Stourbridge

Match Date: 15th January 2011

Panel: Clif Barker (Chairman) and Austin Newman.

Secretary: Liam McTiernan, RFU Disciplinary Department.

Charge and Plea

The Player pleaded guilty to an offence of stamping or trampling, contrary to Law 10(4)(b), namely that, on 15th January 2011, Simon Frewin, Stourbridge RFC, stamped on an opponent during (16th minute of the second half) the match Stourbridge v Wharfedale.

The Player indicated in advance that he was happy to have the case heard in his absence.

Evidence as to Fact

The Panel has considered:

- (i) Sending off report of the referee, John Meredith and the assistant referee, S. Halliday;
- (ii) E-mail dated 25th January 2011 from Neil Mitchell, Director of Rugby at Stourbridge RFC;
- (iii) E-mail dated 25th January 2011 from Carl Wythes, Disciplinary Officer at Stourbridge RFC; and
- (iv) A DVD of the incident.

1. In their sending off report, the referee and his assistant describe the incident as follows: *"There was a breakdown roughly on the*

intersection of the two 5 metre lines near the Stourbridge try line. I had just penalised a Wharfedale player for a penalty offence and the players were starting to get up and prepare for the penalty. Wharfedale number 8 was lying on the floor with his arms around the Stourbridge number 9's upper body. Before Wharfedale 8 got up he decided to pull the Stourbridge 9 towards him to prevent him from getting up moving his hands to around the number 9's neck. This was unnecessary and I was about to penalise the Wharfedale player further with a 10m penalty for this act. At this point, some Stourbridge players took exception to Wharfedale 8's action and started to engage in some pushing and shoving with Wharfedale players. At this point I saw the Stourbridge 11, who was in the melee, stamp on Wharfedale 8's face. His foot moved down and to the side to make contact rather than straight down which confirmed in my view that it was a deliberate act. The Wharfedale 8 on the floor immediately put his hands to his face and shouted with pain. I separated the players and consulted with AR2 who had flagged the incident immediately and was standing no more than 3 metres away. I confirmed what I had seen with AR2 and checked the Stourbridge's number to be 11 and we both agreed that it was a straight red card. As I approached the Stourbridge captain to administer the red card he said, "He's off is he, ref?" and made no complaint. The Wharfedale 8 had a cut to the face and required some treatment before continuing to play in the game. At the final whistle, the Stourbridge 11 approached me and apologised saying that it had been an accident and he approached me again in the clubhouse to again apologise and state that it was not deliberate."

2. In his e-mail, Neil Mitchell, Stourbridge Director of Rugby, states as follows: *"In respect of Simon, this incident was totally out of character. It was in his own words, 'a moment of madness' when he saw the Wharfedale No 8 Dave Baldwin, with a stranglehold on the Stourbridge scrum half... Tommy Richardson. As far as I am aware, he has a clean sheet concerning his rugby conduct, as far as foul play is concerned ! Simon apologised to both Baldwin and the referee after the game and also at the time of the sending off. Not only did I suspend Simon on the 18th of January 2010, but I also terminated his contract with SRFC. He is one of our few retained players and we cannot afford to have a player on suspension. The financial implications of his actions will cost him approx £1800 in lost earnings from rugby, for the remainder of this current season. As an individual, Simon is a charming young man and an excellent rugby player. His actions on this occasion were totally out of character, from the player that I know ! I would have no hesitation in re employing him as a Stourbridge player next season."*
3. In his email, Carl Wythes, the Stourbridge Disciplinary Officer, states as follows: *"I confirm that the player, Mr Simon Frewin, asks you to accept his guilty plea by post in confirmation of the notification from our Director of Rugby, Neil Mitchell, on the 21st January 2011. In mitigation, and on behalf of Mr Frewin, I should be grateful if the disciplinary panel would take account of the following matters when*

considering the penalty it will have to impose. Mr Frewin's recollection of the event is that the Wharfedale No. 8 had a head-lock upon the Stourbridge No. 9, Tom Richardson, whilst on the floor. The referee had blown for a penalty to Stourbridge but the Wharfedale No. 8 continued to put pressure around the neck of the Stourbridge No. 9 which Mr Frewin feared could cause serious harm. Mr Frewin pulled the Wharfedale No. 8 off Mr Richardson when the Wharfedale No. 8 took hold of Mr Frewin's right foot and, as Mr Frewin recalls the incident, he attempted to pull his foot away but the Wharfedale No. 8 would not release and in the heat of the moment Mr Frewin raised his foot and stepped down upon the Wharfedale No. 8 making contact with the area around his upper lip with the heel of his right boot. Mr Frewin accepts that this should not have happened and that he was reckless in his actions. Mr Frewin bitterly regrets his conduct which arose in the heat of the moment and was utterly out of character. By way of mitigation I should be grateful if the Panel would take account of the following:

- a) Mr Frewin notified a guilty plea via our Director of Rugby on receipt of the charge sheet.*
- b) That the injury to the Wharfedale player was minimal and that, although the player received some first aid, he continued to play for the remainder of the game.*
- c) The injury to the Wharfedale player had no effect upon the result of the game.*
- d) Mr Frewin showed remorse and apologised to the Referee immediately and later in the club bar, and apologised to the player at the end of the game.*
- e) The action was a reaction to an offence committed by the Wharfedale player upon the Stourbridge No. 9, which the Wharfedale player exacerbated by continuing to hold Mr Frewin's foot*

Mr Frewin bitterly regrets his conduct which, as we say, is utterly out of character. He repeats his apology to the Panel, the Referee and the Wharfedale player. He fully accepts that he should not have struck out at all, let alone in the position he found himself in.

Mr Frewin regrets the embarrassment he has caused himself and to his club. He has never acted in this manner before and assures the Panel that he will not do so again.

Mr Frewin has played rugby since the age of seven, has played at Coventry and Sandal RFC, and has obtained representative honours for Yorkshire. He has never before been subject to a sending off and, indeed, has only received three yellow cards for technical reasons for the whole of that period. Mr Frewin asks the Panel to impose the

minimum penalty it feels able to impose, especially bearing in mind the contents of the email sent by our Director of Rugby on the 25th January and the financial implications to Mr Frewin as a result thereof. As you are aware Mr Frewin was suspended immediately by the Director of Rugby and has not played since the 15th January.”

4. The DVD confirmed the stamping. At the time, the Wharfedale 8 (W8) was lying on his back on the ground with his head and body facing upwards and exposed. He did have an arm around a Stourbridge player. The Player was standing immediately behind the W 8's head. The Player was holding on to the W 8's left arm, which was outstretched and vertical, with his own left hand. It may well be that the W8 had hold of the Player's right boot with his other hand. It is impossible to tell. However, if he did, the Player managed to free his right boot because it was the right boot which was then used in the stamping. In that respect, there was a clear stamp which caught the W8 on the lower part of the face and upper chest.

Decision

The Panel accepts the written plea of guilty and finds the charge proved

Entry Point

Having carried out an assessment of the seriousness of the Player's conduct in accordance with 19.8.2.5 of the RFU's Disciplinary Regulations (DR), the Panel finds that the Player's conduct was intentional and deliberate, that it involved a stamp to the face of an opponent who was in a vulnerable position, that any provocation which there might have been did not justify the Player's reaction, that the W8 sustained a small cut to his lower face but that, after on field treatment, he was able to carry on playing, that the offence was not premeditated for any length of time but was a spur of the moment reaction, the conduct was completed, there was only some very minor player reaction and the incident did not have an adverse effect on the rest of the game. In these circumstances, the Panel concludes that the appropriate Entry Point is at the Top End of the scale of seriousness i.e. 9 weeks.

The Panel then considered RFU Guidance Note 3 and considered where the starting point should be within the prescribed range of 9 to 52 weeks. Bearing in mind in particular the minor nature of the injury sustained and the other factors in the Guidance Note, the Panel concluded that the Entry Point should be **a suspension of 10 weeks.**

Aggravating Factors

Having considered 18 8.2.7 of the DR, the Panel concluded that there were no factors, which would justify an increase.

Mitigating Factors

Having considered 18.8.2.8 of the DR, the Payer had shown remorse and had admitted his guilt from the outset. He had an impeccable disciplinary record hitherto, after many years of playing at a high level. He has also suffered financial loss because his Club have now terminated his contract for the rest of this season. The Panel concludes, therefore, that he is entitled to a discount of 50%, which thereby reduces the 10 weeks to **5 weeks**.

Sanction

The Player is, therefore, suspended for 5 weeks from the 15th January 2011 to and including 19th February 2011. He is free to play again on 20th February 2011.

Costs

The Panel makes an order for costs against the Player/Club in the sum of £200.

Right of Appeal

The Player has a right of appeal and that right of, and the procedure on, appeal is set out in RFU Regulation 19.10.

Signed: Clif Barker, Chairman.

Date: 7th February 2011.