

RUGBY FOOTBALL UNION

DISCIPLINARY APPEAL HEARING

At: Coventry Holiday Inn, M6 Junction 2

On: 21st March 2011

JUDGMENT

Appellant: Mark TAYLOR

Club: Old Halesonians RFC

Match: Worcester U17 v Old Halesonians U17

Venue: Worcester

Match Date: 12th December 2010

Panel: HHJ Sean Enright, John Brennan & Peter Howard

Secretary: Liam McTiernan

Attending: Mark Taylor (the Coach)
Mike Churchill (Club Secretary, Old Halesonians)
Tony Crocombe (Club Treasurer, Old Halesonians)
Tom King (Captain, Old Halesonians U17)
Judy King (Spectator)
Gregg Higgs (Spectator)
Richard Hickman (Spectator)

Graham Daly (The Referee)
Dave Thomas (Secretary, North Midlands Referees' Society)
Paul Bolton (RFU Press Officer)
Peter Jordan (North Midlands Disciplinary Committee)

Regarding: An appeal against both findings and sanction, imposed by the North Midlands Disciplinary Committee on 11th January 2011 for conduct prejudicial to the interests of the union and/or the game, namely threatening words or action towards a match official.

Preliminary Matters

1. This appeal came before the Panel on 1 March 2011. On that occasion, the Panel issued directions including, in particular, a direction that the allegation that the Appellant assaulted the referee be adjourned and heard *de novo*.

2. The Appellant did not object to the composition of the panel.

Evidence

3. The following was common ground between the parties, or unchallenged. A player from Old Halesonians was sent off 3 minutes into the game following a dangerous tackle. The Appellant's son played for Old Halesonians. After he had cleared the ball into touch, he was the victim of a late tackle. Mr Daly did not see the incident, having followed the ball into touch. The Appellant's son was flattened by the late tackle, may well have been knocked out and was on the floor for some time. As players from each side took their positions for the lineout, the Appellant went on to the pitch. He was aggrieved and upset. He headed towards Mr Daly, shouting, swearing and gesticulating wildly.
4. Mr Daly's account was not in any material respect different from the contemporaneous match report. He said that when he noticed the Appellant making his way towards him, he blew his whistle. The Appellant grabbed the front of his shirt. Mr Daly knocked his hand away. The Appellant pushed him in the chest. The Appellant called him "every name under the sun". In particular, he called him a "cunt", said he was both "fucking useless" and "shit". The Appellant also said "If you don't sort it out, I am going to smack you." Players and adult spectators intervened and ushered the Appellant away. The Appellant urged players from Old Halesonians to "take Worcester on themselves" as he left the pitch, a comment which Mr Daly understood as an exhortation of violence. Mr Daly decided to abandon the game. The Appellant's threat to "smack him" was decisive in that regard. Mr Daly's intuition was that a brawl would ensue at the next scrum or ruck. Mr Daly has been a referee for 15 years and had not abandoned a game for 5 years.
5. The Appellant's account was different. He accepted that he went onto the field of play. His explanation was that his son had been the victim of a late tackle for the second time in the match. He accepted that his language had been profane. He denied that any physical contact occurred between him and Mr Daly. He denied that he had threatened or offered violence to Mr Daly, whether as alleged or at all. He denied that he had urged the Old Halesonians team to violence, whether as alleged or at all.
6. The Appellant called two spectators, Mrs Judy King and Mr Richard Hickman to give evidence on his behalf. They both confirmed that the Appellant was obviously angry. They both denied that there had been any physical contact between the Appellant and Mr Daly. In their view, the Appellant and Mr Daly were no closer than about an arm's length or two apart. Only Judy King had the advantage of a side view. Neither could hear what was said.
7. The Appellant also called a player, Tom King, to give evidence on his behalf. He denied that there had been any physical contact between the Appellant and Mr Daly. He said that players had intervened because it was "about to kick off". He could not hear what was said.

Findings

8. The Panel found the following facts on the balance of probability:
- (i) The Appellant invaded the field of play and grabbed the referee by his shirt with the result that the referee had to knock his hand away.
 - (ii) The Appellant pushed the referee in the chest.
 - (iii) The Appellant subjected the referee to foul and vulgar abuse of the worst kind including the calumny of bias.
 - (iv) The Appellant threatened to “smack” the referee if “it” happened again.
9. As to (i) and (ii), the Panel preferred Mr Daly’s account to the account given by the Appellant and his witnesses. The allegation involved nothing more than fleeting contact. It is emphasised that the allegation concerned a push rather than a shove. As to (iii), the allegation was not seriously disputed. In any event, neither the Appellant nor his witnesses sought to gainsay Mr Daly’s account. As to (iv), the Panel preferred Mr Daly’s account to the account given by the Appellant.
10. It can be seen, therefore, that the Panel dismissed the allegation that the Appellant exhorted Old Halesonians players to resort to violence. The words he used were equivocal. If the appellant had wished to encourage his team towards violent conduct, he would have done so in clear terms.

Sanction

11. The sanction imposed by the North Midlands Disciplinary Committee was correct, namely a suspension from coaching, organising or managing a team for 55 weeks from 10 December 2010 to 1 January 2012 (inclusive).
12. It was evident that the period of suspension reflected an entry point of 48+ weeks plus a substantial period to reflect the obvious aggravating features (the need for a deterrent, the appellant’s position of a responsibility and the appalling example he set to a young and impressionable team) minus a significant period to reflect the appellant’s compelling mitigation (the appellant’s positive good character and contribution to the game and his club).
13. The appellant is free to return to coaching on 2 January 2012.

Costs

14. The appeal fee is forfeit.

Signed: Sean Enright, Chairman

Date: 24 March 2011