

**RUGBY FOOTBALL UNION**

**DISCIPLINARY HEARING**

**At:** Holiday Inn, Brighouse, Leeds

**On:** 4<sup>th</sup> January 2012

**JUDGEMENT**

**Players/Official:** Andre Bester

**Club:** Rotherham Titans RFC

**Match:** Bedford Blues -v- Rotherham Titans

**Venue:**

**Date of Match:** 10.12.11

**Panel:** Mike Hamlin (Chairman), David MacInnes, Austin Newman

**Secretariat:** Rebecca Morgan

**In Attendance:** Nigel Yates (for the RFU)  
Andre Bester – Official/Head Coach  
Daryl Chapman – RFU Assistant Referee  
Martin Jenkinson – Director of Rugby – Rotherham Titans  
Malcolm Whittaker – Team Manager – Rotherham Titans  
Steven Savage – RFU Refereeing Department

To Consider:-

The hearing was convened to consider two allegations of conduct prejudicial to the interests of the Union and/or the Game contrary to RFU Regulations 5.12 against Andre Bester (“The Official”) in that:-

- (i) On the 10<sup>th</sup> December 2011 The Official verbally abused Daryl Chapman, Assistant Referee at various times throughout the match, “I am going to take you down”, “I will destroy you for today”, “I will have you as a consequence of your actions” during a match between Bedford Blues and Rotherham Titans.
  
- (ii) On 10<sup>th</sup> December 2011 The Official threatened the Assistant and Referee, Daryl Chapman by his manner and tone of his verbal interactions during the match between Bedford Blues and Rotherham Titans.

### **PRELIMINARY ISSUES**

There was no objection to the composition of the Panel but Mr Yates on behalf of the Rugby Football Union applied to amend both allegations by adding the words “and immediately thereafter” at the end of each charge. Mr Jenkinson on behalf of the club and The Official objected and also to the late submission on the afternoon of the hearing of the No 4 Official’s Statement namely Mr Phillip Quince. Mr Jenkinson submitted that The Official was prejudiced by the proposed amendment and late service of the Statement. The Panel considered and disagreed. The late production of the Statement was regrettable but in the interests of justice the proposed amendment would not materially prejudice The Official. However, the Panel considered that the matter should be adjourned to enable The Official, The Club and Mr Yates to consider their respective positions in view of the preliminary matters raised.

Mr Yates after discussing the matter further with the RFU Officials and having considered the evidence and the statements, subsequently applied to further amend the charges and replace both charges with one encompassing charge as follows:-

“On the 10<sup>th</sup> December 2012 Andre Bester of Rotherham Titans Rugby Union Football Club verbally abused Daryl Chapman the Official Referee during a match between Bedford Blues and Rotherham Titans contrary to Regulation 5.12”.

The amended charge was put to Mr Bester who admitted the amended allegation. Consequently Mr Yates applied to withdraw the original two allegations. The Panel agreed and they were marked withdrawn.

The Panel had considered:-

1. The Referee's Report and Abuse Report Forms.
2. The Assistant Referee's Abuse Report Forms.
3. Statement from Number 2 Assistant Referee Andrew Vertigan.
4. The RFU's observer Report from Clive Nicholas.
5. Andre Bester's written statement.
6. Martin Jenkinson's statement.
7. The club statement by Rotherham Titans RFC.
8. Malcolm Whittaker's written statement.
9. Tony Foster, Team Manager's statement.
10. Sam Dickinson, Captain of Rotherham Titans statement.
11. Semisi Taulava, players written statement.
12. Email from Allan McHale to Steven Savage of the RFC dated 14<sup>th</sup> December 2011.
13. Telegraph Report dated 2<sup>nd</sup> November 2002 relating to the Leicester -v- Sale Premiership Game.
14. Statement of Phillip Quince the Fourth Official dated 4<sup>th</sup> February 2012.

## **THE FACTS**

Mr Yates informed the Panel and it was agreed by Mr Bester that 20 minutes into the second half with the score between the two sides at a time when either side could easily have won and in the end Rotherham Titans lost by one point; Andre Bester became animated and took exception to two high tackles which he felt were missed or not penalised by the officials. The Assistant Referee Daryl Chapman was the only official in earshot and Mr Bester shouted “the official’s failure/your failure to sanction the alleged high tackle was unacceptable and he was going to take the officials down.” Mr Bester was incensed at what had taken place. There was no physical threat of any description. It was said in the heat of the moment. There were no specified threats or further verbal abuse at all. The Panel were also informed that the Assistant Referee also regretted the incident.

## **MITIGATION**

Mr Bester agreed that the facts set out by Mr Yates were a correct record of what had happened. The two high tackles were not dealt with in his opinion appropriately. It was, he conceded, a matter of interpretation. He sincerely regretted his outburst. He stated that the same officials would be very welcome at Rotherham. He said he was passionate about his job and the game. He stated there would be no repetition and he would ensure that his passion would be controlled in future. He opined further that the card system at half time applied in Premiership Games should be applied in Championship games, this would permit coaches/directors of rugby to officially raise possible concerns during the game with the referee and/or the officials. He confirmed that he had previously in season 2005/6 received a touchline ban for two weeks. He had been coach of Rotherham in all for a period of 5 years having also coached in Ireland and South Africa. Rotherham had not sanctioned Mr Bester. On the evidence at that time The Club, taking into account Mr Bester’s denial, deemed it inappropriate to take any action pending the RFU

Disciplinary Hearing. The Club had raised concerns with the RFU Referee Department concerning the incident generally through official channels (the email to Mr Savage dated 14 December 2011).

### **SANCTION**

The Panel undertook an assessment of the seriousness of Mr Bester's conduct. As an allegation contrary to Regulation 5.12 all options were available to the Panel although the Panel were mindful of the sanctions in respect of abuse of officials committed by players. Mr Bester in the heat of the moment and spontaneously intentionally made the abusive comment "about taking the officials down". It was not premeditated. It was a spontaneous response of Mr Bester's to the perceived inaction by the officials. The Panel noted that the Assistant Referee had turned and walked towards Mr Bester and it may be that a more considered response by the Assistant Referee to the comments and the incident may have assisted in defusing the situation. However, Mr Bester's comments were inappropriate and abusive towards the Assistant Referee. There was no impact on the game as such but certainly some spectators in the stand and others would have, and did, witness the incident.

Notwithstanding the above Mr Bester's actions were unacceptable, tarnish and have the potential to harm the image of the game. This type of behaviour from coaches/directors of rugby is unacceptable which Mr Bester candidly acknowledged and undermines the integrity of the officials and the game.

In the circumstances of this particular incident, on the evidence and by reference to the appendix in the regulations applicable for a player, a low entry sanction would have been a 6 week suspension. The Panel were of the unanimous view that the facts relating to this incident properly classified it as being at the low entry of 6 weeks had it been a player. It was not a heinous example of abuse. There were no aggravating features and Mr Bester is entitled to credit for all the relevant mitigating

factors set out in the regulations. His previous appearance before a disciplinary committee was more than 5 years ago and therefore of no relevance. Mr Bester's prompt admission to the amended charge was to his credit. He is an experienced coach. He should have known better. However, taking into account all the above circumstances and factors the Panel determined that Mr Bester should receive not only a suspension but a financial sanction as well. The Panel imposed a 3 week touchline suspension but determined that to act as an ongoing deterrent it would suspend the 3 week suspension period as it was more appropriate to suspend the sanction to reflect the circumstances of this particular case and to put Mr Bester on notice that any subsequent repeat or misbehaviour would probably result in the suspended sanction being implemented in addition to any sanction for any subsequent offence. Accordingly, Mr Bester would be suspended from any contact with the team on match days, including a touchline involvement on match days, a changing room ban for a period of 3 weeks but the 3 week period would be suspended until the 1 June 2013. In addition he will pay a financial penalty of £500 plus £250 costs. These amounts to be paid by 18<sup>th</sup> January 2012.

### COSTS

The Panel Ordered Mr Bester to pay £250 costs

Mr Bester was reminded of the right of appeal as set out in RFU Disciplinary Regulation 19.12.

Signed



M J Hamlin, Chairman

Dated this 13<sup>th</sup> of January 2012