

RFU DISCIPLINARY HEARING

Venue: Holiday Inn Hotel, Bloomsbury, London

Date: 19th January 2012

Player: Josh Thomas Brown (London Scottish RFC)

Match: Leeds Carnegie v London Scottish (31st December 2011)

Panel: Philip Evans; Peter Budge; Gerard McEvilly

Disciplinary Secretary: Rebecca Morgan

In Attendance: Josh Thomas Brown and Paul McFarland Club Secretary

JUDGMENT

1. As a consequence of a citing the Player had been charged with the following offence.

STATEMENT OF OFFENCE

Strike, Contrary to Law 10(4)(a)

PARTICULARS OF OFFENCE

On the 31st December 2011, JOSH THOMAS BROWN of LONDON SCOTTISH struck an opponent during the 23rd minute of the second half of the match LEEDS CARNEGIE v LONDON SCOTTISH

Preliminary Issue

2. The citing report in this matter read as follows:

“23rd min. Scrum formed on the half way line. London Scottish got the ball and started to attack.

Two centres grasped each other with Leeds centre pushing London Scottish centre backwards whilst both remaining on their feet.

Both players then went out of camera shot. There was a knock on and referee stopped play.

Immediately this happened a number of players from both sides ran over 20 metres towards an incident which had developed out of camera shot.

Leeds No 6 (Ryan Burrows) grasped at 2 London Scottish players. London Scottish No 5 (Josh Thomas-Brown) saw the incident, got up from the ground, ran 5-6 metres and punched Leeds No 6 (Ryan Burrows) on the head from behind.

Spoke to referee who said he did not see the incident because he was watching another development. He was informed by T.J. Andrew Taylorson who saw the punch. Andrew advised the referee to go to his pocket and give a card which he did, giving a yellow.

Spoke to Touch Judge who confirmed he saw the punch and advised the referee to go to his pocket and give a card. He did say he broke protocol by not specifying which colour."

3. The citing report had been supplemented by a short report taken from the citing officer which explained why he thought the match referee had been incorrect in not awarding a Red Card. He said:

"As an ex-international Referee, I believe that this was a 'cheap shot' that warranted a red card and that the Referee was wrong not to award one"

4. It was submitted that the citing officer's initial failure to identify the reason why he considered the referee to be wrong in not sending the Player off pursuant to paragraph 10 (e) of Appendix 4 to regulation 19 was fatal to the citing and that it ought therefore to go no further.
5. The panel considered that submission and had in mind its duty to conduct the proceedings in a fair and just manner (regulation 19.5.5). The panel also had regard to regulation 19.5.6 which states;

"Proceedings, findings or decisions of a Disciplinary Panel or Appeal Panel shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless such a defect, irregularity omission or technicality raises a material doubt as to the reliability of the Disciplinary Panel's or Appeal Panel's proceedings, findings or decisions."

6. The panel were of the view that the additional statement by the citing officer brought the citing within the ambit required by paragraph 10 (e) and the only

possible question of unfairness or prejudice that arose was from the short time the Player and his club had had to consider the further addendum to the statement. As a result the panel inquired whether the player wished to apply for an adjournment if he required more time to meet the charge he faced. After having time to consider this matter the player stated that he wished to proceed.

7. The panel informed him that the submission seeking to prevent the citing going any further was rejected by the panel for the reasons set out above.
8. The Charge was then put to the Player and he denied it.

Evidence as to Fact

9. The panel considered the following material;
 - i. The citing officer's report;
 - ii. The video of the incident;
 - iii. Letter from Leeds Carnegie confirming that the opposition player was not injured as a result of the incident;
 - iv. The evidence of Josh Thomas Brown
 - v. Letter from London Scottish dated the 13th January 2012
 - iv. Submissions made by Mr McFarland on behalf of the Player

Decision

10. Whilst watching the video the Player told the panel that he had run over to split up the continuing incident which had by then developed. In his attempt to split things up he had swung his arm around the neck of the opposition player. He said this had only been in an attempt to separate the players. He did however accept that it did appear that he seemed to catch him half way up the side of his head.
11. The panel watched the video on numerous occasions and agreed with the Player that it did appear that he had swung his arm around the neck area of the opposition player. The panel were satisfied in fact that he had struck the side of the Leeds player's head around his ear area with a part of his arm. The panel were also

satisfied that he had run some yards to the incident in order to conduct this act of foul play and not as he suggested merely to split things up.

12. In this matter, because officials had seen the incident and dealt with the matter by way of a yellow card, the panel were required to dismiss the citing unless satisfied that on the balance of probabilities the referee was wrong in not sending the player off (Regulation 19 appendix 4 para 14).
13. The panel agreed with the citing officer and were satisfied that the referee had been wrong. This incident had taken place within a protracted incident and the player had got up, run a few yards and deliberately delivered a 'cheap shot' to the head area of an opposition player, all be it that that player was himself engaged in a confrontation with the Player's team mates at the time. The panel did conclude the referee was wrong in this instance not to show the Red Card. The citing was therefore upheld.
14. Having announced that decision the panel heard submissions as to the seriousness of the incident. Having taken those submissions into account the panel concluded the following factors were relevant to its assessment. Although an intentional act it was not conducted with a fist or elbow. There was no injury to the Leeds player and this incident in isolation had no real effect on the player or the game. Although premeditated to a limited extent there had also been some provocation.
15. In all the circumstances the panel did just feel able to deal with this matter as a low end entry point. Therefore the starting point was 2 weeks.
16. The panel found no aggravating features which required them to increase the sanction from that starting point.

Mitigation

17. The panel heard the Player had no matters recorded on his discipline record. The panel did feel that his mitigation could warrant a reduction of the sanction to some degree. However, as the entry point was 2 weeks and the panel did not feel in absence of a plea of guilty able to reduce the sanction by 50%, the sanction would remain at 2 weeks.
18. Therefore the player was suspended from playing for 2 weeks and will be free to play again on the 3rd February 2012.

Costs

1. The panel makes an award of costs against the Player/Club in the sum of £250.

Right of Appeal

2. The right of Appeal and procedure on appeal is set out in the RFU regulations at 12.1.1

Philip Evans – Chairman

24th January 2012