

Decision of the Independent Judicial Officer

ERC

Held at Huguenot House, St Stephen's Green, Dublin

On 28 January 2010

In respect of

Danny Grewcock of Bath Rugby ("the Player")

And

An ordering off for stamping on an opponent in contravention of Law 10.4 (b) Dangerous play and misconduct – Stamping

Judicial Officer appointed to hear the case:

Jean-Noel Couraud (France) ("the Judicial Officer")

Decision of the Judicial Officer:

As the Player had accepted that the referee was correct to order him off, the Judicial Officer had to determine what sanction should be imposed upon the player:

- (i) The Player is suspended from taking part in the game of rugby up to and including Saturday 13th of March 2010.
- (ii) The Player shall bear one third of the costs of the disciplinary hearing.

Introduction

The Judicial Officer was appointed by Professor Lorne Crerar, Chairman of the ERC's independent Disciplinary Panel pursuant to the Disciplinary Rules found in the Participation Agreement of the Heineken Cup 2009/2010. The Judicial Officer was appointed to consider the ordering off of the Player in the match played between Bath Rugby and Ulster on 23 January 2010 at Bath Recreation Ground.

Jerome Garces was appointed as referee of this match and had ordered the Player off. The referee's report on red card alleged that the Player had stamped on Stephen Ferris ("the Ulster player"), in contravention of Law 10.4(b).

Present at the hearing in addition to the Judicial Officer were the following persons:-

- The Player;
- Mr Thomas Shephard (lawyer, representing the Player);
- Mr Dave Guyan (team coach of Bath Rugby);
- Mr Roger O'Connor (Disciplinary Officer, ERC); and
- Ms Jennifer Nicol (Clerk to the Judicial Officer).

Hearing

At the commencement of the hearing the Judicial Officer confirmed the identities of all present and established that the Player was before the Judicial Officer to answer the offence for which he was ordered off namely stamping on an opponent contrary to Law 10.4(b). The Judicial Officer confirmed that those present had in their possession all relevant written materials and video coverage of the incident. The Judicial Officer ascertained that there were no preliminary issues.

Ordering Off

The Player did not challenge the referee's official report and accepted that he ought to have been ordered off. The Player accepted that he had committed an act of foul play. The Judicial Officer proceeded to determine what sanction should be imposed on the Player.

Sanction

In determining the appropriate sanction to be imposed on the Player the Judicial Officer had regard to the video evidence available to him; representations on that video evidence on behalf of the Player and on behalf of the Disciplinary Officer; oral evidence from the Player and also the documentary material made available to the Judicial Officer. The Judicial Officer also considered submissions made to him by Mr Shephard on behalf of the Player and by the Disciplinary Officer.

The video showed in approximately the 32nd minute of the game:

- A ruck being formed near the Bath Rugby try line;
- The Ulster player on this ruck and on his back on the ground at a break down;
- The Ulster player grabbing the right ankle of the Player with his arm,
- The Player responding by stamping down with force on the right arm of Stephen Ferris with his leg,
- The referee positioned near the ruck showing a red card and ordering the Player off the field.

In his statement the Ulster player said that the stamp was done with considerable force and was painful. The video confirmed that the stamp was done with such force.

The Player's position was that his action was completely inappropriate but he wanted to explain that the Ulster player grabbed the Player's leg with his arm at a moment when he wanted to extricate himself of the ruck to defend on the Bath try line.

Submissions on behalf of the Player were :

- He admitted that the act of foul play was deliberate and not reckless;
- He considered that he was provoked by the Ulster player;
- He said that after the stamp the Ulster Player played the majority of the remainder of the game and that as a result of his ordering off Bath Rugby played 50 minutes with 14 men and lost the game;
- He considered that the Ulster player was not vulnerable because he made no effort to get himself out of a vulnerable position;
- He shook hands with the Ulster Player after the game;
- He was remorseful;
- He has no other off field aggravating factors other than his record;
- There are mitigating factors;
- He has a good character; and
- He is 37 years old, he has many caps for England, five caps for the Lions and is a very experienced player.

The Disciplinary Officer submitted that the offending was clearly intentional, the Player's action was powerful and resulted in significant pain being inflicted on the victim who was in a vulnerable position at the time.

The Judicial Officer retired to deliberate in respect of what, if any, sanction would be appropriate in the circumstances.

He noted that the offence of stamping in contravention of Law 10.4(b) was listed within the IRB recommended sanctions for offences within the Playing enclosure (found at Appendix Three of the disciplinary rules) as follows: -

- Lower end: 2 weeks;
- Mid range: 5 weeks;
- Top end: 9+ weeks; and
- Maximum sanction: 52 weeks.

To decide upon the appropriate entry point the Judicial Officer determined the seriousness of the Player's conduct by reference to the following: -

- The offending was intentional (DR 6.7.32(a));
- The gravity of the Player's actions in relation to the offence (DR 6.7.32(c));
- The effect of the Player's action on the victim (DR 6.7.32(d)); and
- The vulnerability of the victim (DR 6.7.32(f)).
- The level of participation in the offending and the level of premeditation (DR 6.7.32(g)).

The Judicial Officer determined that the appropriate entry point for this matter was mid range and therefore a 5 week suspension.

The Judicial Officer considered that there were aggravating factors to take into account in determining the appropriate period of suspension.

The Player had a significant disciplinary record. He has served seven periods of suspensions in the English Premiership including two periods of suspension for stamping. The last period of suspension of the Player was two weeks for striking between the 5th and 18th of November 2009.

The Judicial Officer considered that the deliberate nature of the execution of the offence represented another aggravating factor. A period of three weeks was to be added to the entry point as a result.

The Judicial Officer considered that the following were off field mitigating factors to be taken into account in determining the appropriate period of suspension :

- The presence and timing of an acknowledgement of culpability/guilt by the Player;
- The Player was apologetic at the Hearing and clearly contrite, and
- He is 37 years old.

A period of one week was deducted, the Judicial Officer decided to limit the reduction in consideration of the gravity of the offence and the disciplinary record of the Player.

In all the circumstances the Judicial Officer determined that the appropriate sanction was the imposition of a period of suspension of 7 weeks commencing on 28th January 2010 and ending on 13th March 2010 (inclusive).

Costs

The Judicial Officer ordered the Player to pay one third of the costs of the hearing. The Player and the Disciplinary Officer are reminded that DR 7.1.1 provides for a right of appeal against this decision.

Jean Noel Couraud

Judicial Officer

A handwritten signature in black ink, appearing to read 'J. Couraud', written over a horizontal line.

Date 02 february 2010