

DECISION OF THE INDEPENDENT JUDICIAL OFFICER

ERC

Held at Huguenot House, St Stephens Green, Dublin 2

On Wednesday the 11th May 2011 at 11am

In respect of

Julien Cadelon of USAP (The Player)

And

A citing in respect of Dangerous tackling of an opponent, contrary to Law 10.4(e) of the Rules of Rugby Union.

Judicial Officer appointed to hear the case:

Mark McParland, Ireland ("The Judicial Officer")

Decision of the Judicial Officer:

- (i) The Player accepted the citing complaint brought against him.
- (ii) The Player did not agree that the act of foul play merited a "red card". The Judicial Officer was however satisfied that the act of foul play merited a "red card" and that the Player should have been ordered off for the offence.
- (iii) The Player is suspended from taking part in the game of rugby up to and including Sunday the 12th June 2011. This represents a six week suspension when credit is afforded to the Player for being stood down by USAP in the final match of the Top 14 Championship, being a match between USAP v. Castres Olympique on Saturday the 7th May 2011.
- (iv) The Judicial Officer made no award in respect of costs.

Introduction

The Judicial Officer was appointed by Professor Lorne D Crerar, Chairman of the ERC's independent Disciplinary Panel pursuant to the Disciplinary Rules found in the Participation Agreement of the Heineken Cup 2010/2011. The Judicial Officer was appointed to consider the citing complaint ("the Complaint") against the Player in the match played between Northampton Saints and USAP on Sunday the 1st May 2011 in the Heineken Cup 2010/2011.

Raymond M Wilton was appointed as citing commissioner to this match and had cited the Player for dangerous tackling of an opponent, contrary to Law 10.4.(e) of the Rules of Rugby Union.

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

- Mr Roger O'Connor, Disciplinary Officer, ERC
- Max Duthie of Bird and Bird Solicitors on behalf of the Disciplinary Officer
- Julien Cadelon, the Player

- Pierre Becque, Lawyer for the Player
- Alison Moore, Interpreter

Preliminary matters and procedure

At the commencement of the hearing the Judicial officer noted the identities of all present and narrated the Complaint reminding the Player that the Complaint was in respect of an allegation that the Player had engaged in the dangerous tackling of an opponent, contrary to Law 10.4(e) of the Rules of Rugby Union.

The Judicial Officer reminded all parties that the ERC Disciplinary Rules found in the Participation Agreement for the Heineken Cup 2010/2011 (the Disciplinary Rules" and "DR" in the singular) would apply. The Judicial Officer outlined the procedure to be followed to determine the matter emphasising the importance to both the Player and his Lawyer of the need to understand fully the proceedings and requesting them to indicate at any time during the hearing matters which they required clarified or explained in further detail. The Player and all present agreed to proceed on that basis.

The Judicial Officer established what evidence had been placed before him prior to the hearing and enquired as to whether all present had received the same in good time. The Judicial Officer enquired as to whether any additional evidence was to be presented before him. The evidence for consideration was as follows:-

- The citing complaint
- Video evidence showing the relevant passage of play from a number of angles
- The statement of Lee Dickson, the player who was the subject of the tackle
- A statement from Matt Lee, Lead Physiotherapist of Northampton Saints
- A joint statement from both George Clancy, match referee, and Peter Fitzgibbon, Assistant Referee No. 1
- Letter from Pierre Becque of the 9th May 2011

The Judicial Officer noted that while the letter from Mr Becque referred to above indicated that the Player and himself would attend at the deferred hearing, that no other witnesses were required and that the Player had not been subject to any disciplinary hearing previously, it did not constitute full and meaningful responses to the Player Directions relating to citing cases set out at Section B of Appendix 6 of the Disciplinary Rules.

The Judicial Officer adjourned the hearing to enable the Player and his Legal Representative consider the Standing Directions and to formulate appropriate responses, should they wish to do so. The Player and Becque provided written replies to such Directions and the hearing reconvened.

In such reply:-

- a) The Player acknowledged that he was the Player named in the citing complaint.
- b) The Player confirmed he did not wish to raise any preliminary issues.

- c) The Player agreed the citing complaint, but indicated that he wished to give a fuller account of the incident.
- d) The Player accepted that he committed an act of foul play, but stated that same was unintentional.
- e) The Player stated that the Match Referee and his Assistant Referee No. 1 considered only a yellow card to be appropriate for his act of foul play.

Noting that the Player had no preliminary issues to raise, the Judicial Officer invited the Disciplinary Officer to confirm whether he had any preliminary issues to raise and he confirmed that there were none.

The Judicial Officer reviewed the complaint in full, it being acknowledged that the evidence had been fully considered by the parties and enquired of the Player whether he accepted that:

1. The complaint was a true and accurate account of the incident and the facts surrounding the incident.
2. The complaint should be upheld.
3. The alleged act of foul play warranted a red card.

The Player responded by acknowledging that he had committed an act of foul play, but maintained that such act did not warrant a red card, by reason of the involuntary aspect of his actions.

The Judicial Officer indicated that he would adjudicate on whether or not the act of foul play warranted a red card in the first instance and subject to such adjudication would then deal with adjudicating on the appropriate entry point prior to finally adjudicating on what, if any, suspension would be appropriate.

Evidence supporting the Complaint

The Judicial Officer required the Disciplinary Officer to present the evidence available to enable him decide as to whether the Player's act would not have warranted a red card.

The Disciplinary Officer presented his evidence regarding the Complaint in the form of the documentation referred to above and the video footage of the incident.

Mr Duthie, on behalf of the Disciplinary Officer, opened the report from Raymond Wilton, the Citing Commissioner, which read:-

"Red 11 tackled green 9 when in the air, tipping the player so that his head made contact with the ground first."

In referring to the statement of Matt Lee, Mr Duthie highlighted the effect of the Player's action, which caused Mr Dickson to rotate in the air and fall to the ground in a vertical position, landing on his head and the assessments undertaken by both Mr Lee and Dr. Cleal on the opponent and noted that Mr Lee confirmed that following the completion of the game, Mr Dickson had no adverse effects from the

incident, other than some mild muscular tightness in his right shoulder, which had completely resolved by the 4th May 2011.

Dr Duthie opened Mr Dickson's statement, which indicated that he had no recollection of the impact other than being aware of being hit and landing on the side of his head, following which he immediately felt pins and needles in his fingers and pain in his neck, but both these ill effects subsided quickly.

The Referee and Assistance Referee No. 1 gave a joint statement, in which they confirmed that they both saw the incident and deemed that the Player's action was deserving of a temporary suspension and that the Player was issued with a yellow card as a result of the incident.

In reviewing the video evidence, Mr Duthie pointed to the fact that the Match Referee and Assistance Referee No. 1 had decided on the issue of a temporary suspension while Mr Dickson was still being assessed and treated by the medical attendants and that such decision was therefore obviously made without reference to the extent of Mr Dickson's injury.

In the video evidence, it appeared from a USAP kickoff on the halfway line, the ball was kicked to the left towards the Northampton Saints 22 metre line and approximately 10 metres from the touchline. Mr Dickson clearly looking at the falling ball, jumped to catch same. The Player, approaching at speed, tackled Mr Dickson while in the air, it appearing that the Player's shoulder hit Mr Dickson in the area of his hip, following which his legs flipped upwards and he fell to the ground initially on his shoulder and then on his neck. He is seen to immediately clutch his head and then lay prone on the ground as a melee developed around him. Mr Duthie submitted that the Player hit Mr Dickson in the tackle before he actually received the ball in the air.

Player's Defence

The Player explained that his coach had called for the kickoff to be as high as possible so that USAP could put pressure on the Northampton Saints players. The Player ran as quickly as possible to chase the kick, it being his intention to try to catch the ball rather than take an opponent. While chasing the kickoff, he noted the Northampton Saints No. 4 and a Northampton Saints front row player approaching his path. He continued in pursuit of the ball, but was distracted in attempting to avoid these players as he raced to where he believed the ball would fall. The Player maintained that his view of Mr Dickson was obstructed momentarily and that he could not see if Mr Dickson was jumping or not.

By the time the Player ran around the Northampton Saints No.4, Mr Dickson was jumping and it was too late to avoid colliding with him.

The Player said that at the speed he was going, he was unable to stop when he saw Mr Dickson jump in the air. He acknowledged that he should have slowed down beforehand to control his run and avoid colliding with Mr Dickson when he was off the ground. He said that in real time it was difficult to control his actions and this would not be clear from the slow motion video.

Mr Becque pointed to the fact that Mr Candelon was only 1 metre 69 centimetres tall and that if he had been taller, it was unlikely that Mr Dickson would have fallen over him in the manner in which he did. He also pointed to the fact that the Player kept moving forward through and after the collision and that he could not have realised the effect of his action immediately. Mr Becque pointed out that in the Referee's report, it was stated that the incident involved the Northampton Saints No.15 rather than the Northampton Saints No.9 player.

In response to questions from Mr Duthie, the Player indicated that it was his intention to compete for the ball in air but, apart from his height, he knew it was not possible in this instance and his efforts were concentrated on arriving at the same time as the ball, in an effort to avoid Northampton Saints being able to exploit use of the ball.

He stated that it was too late to slow down when he saw the player in the air, as he was less than a metre away travelling at maximum speed, affording him very little opportunity to control his movements. He accepted that he should have slowed down.

On being asked whether he had the opportunity to sidestep the collision, the Player accepted that this may have been possible, but that he did not have the speed of mind at the time to take this action.

On being asked what happened immediately following the collision, the Player acknowledged that he had let his arms drop and did not hold on to his opponent. He stated that he realised he had made a mistake and let Mr Dickson go to avoid the tackle becoming more dangerous, not realising that Mr Dickson had flipped over him in the incident.

The Player acknowledged that he had not spoken to Mr Dickson as following the incident a melee had developed and the medical attendants looking after Mr Dickson had requested everyone to step away. At this time, he was given a yellow card and left the pitch.

The Player stated that he regretted not having spoken to Mr Dickson after the match. It was some three days after the match before he saw the video and realised how severe the fall was. It was acknowledged by all that there was no re-showing of the incident on the big screen at the match.

He said he was known as a fair player and while he wanted to send a message or call Mr Dickson after he realised how severe the fall was, he did not know the correct protocol as the situation was new to him.

Mr Becque in reviewing the videos stated that the incident had been flagged by the Assistant Referee No. 1, following which both such Assistant Referee and the Match Referee discussed the matter fully and decided that a temporary suspension/ yellow card only was appropriate.

Submissions on red card issue

Mr Duthie indicated that it was solely a matter for the Judicial Officer to decide as to whether the incident merited a red card using his experience and judgement. There was little guidance available on the matter other than the International Rugby Board Memorandum of the 8th June 2009 relating to tackles of a different nature from the one in this incident, although the risks were identical. Mr Becque had no further submissions to make.

The Judicial Officer retired to deliberate in private in relation to the red card issue.

The Judicial Officer was satisfied that the act of illegal and/or foul play was an act which merited the issuing of a red card. Having so decided invited the parties to make submissions as to sanction.

Submissions on sanction

Mr Duthie on behalf of the Disciplinary Officer submitted that the nature of the Player's action was an aggravating factor and pointed to the International Rugby Board Memorandum of the 8th June 2009 in relation to dangerous tackles. He referred to five separate dangerous tackle precedents, where an additional period of suspension had been added to the applicable entry point in similar situations. In particular, he referred to the Memorandum, in which where a lifted player was dropped to the ground from a height with no regard to the player's safety-a red card should be issued and while it was noted that the player had not been lifted in this instance, he was allowed to fall to the ground from height, with no regard for the player's safety, causing him to fall on his head. He also referred to disciplinary rule 6.7.34(c), which stated that an aggravating factor was a need for a deterrent to combat a patterning of offending.

The Player submitted through Mr Becque that he acknowledged the act of illegal and/or foul play. He acknowledged that he was wrong in not controlling his speed so as to avoid the collision, but emphasised that he did not see Mr Dickson falling to the ground in the manner in which he did. He stated that he no intention or causing injury to his opponent. The Player also stated that the matter had been fully considered by the match officials, who decided that a temporary suspension/ yellow card was an appropriate sanction.

Mr Duthie submitted that the Judicial Officer was required to take into consideration all playing consequences of such a suspension and exclude any close season periods of inactivity DR 6.7.44. He also acknowledged that it was with the discretion of the Judicial Officer to commence a suspension from a date on which a voluntary withdrawal was exercised DR 6.7.5 and DR 6.7.4.

While the Top 14 Championship was still ongoing, USAP had no further matches to play during the current season.

The Player stated that he had been selected to tour Argentina with the French Barbarians, who were to play two tests against the full Argentinean International team on the 4th and 11th June 2011.

The Judicial Officer retired to deliberate in private in respect of what sanction would be appropriate in the circumstances. The Judicial Officer was satisfied that the following have occurred:-

The Player, while chasing a kickoff at speed, tackled the Northampton Saints No.9, while in the air and in doing so continued to move forward without regard to the outcome of his actions. In the collision the Northampton Saints No.9 had his feet flipped in the air and fell to the ground from a height on to his shoulder and neck area. No effort was made to ensure that the Northampton Saints No.9 was brought safely back to the ground.

The Judicial Officer noted that the offence of dangerous tackling and contravention of law 10.4(e) was listed within the IRB Recommended Sanctions for Offences within the Playing enclosure (found at Appendix 3 of the Disciplinary Rules) as follows:

- Low range- two weeks
- Mid range-six weeks
- Top end-10 weeks plus
- Maximum sanction-52 weeks.

To decide upon the appropriate entry point, the Judicial Officer assessed the seriousness of the Player's conduct by reference to the following "on-field" issues:-

While the Player's actions were not intentional, they were grossly reckless and that the nature of the Player's act of illegal and/or foul play constituted a dangerous tackle, which could have caused a catastrophic injury to a vulnerable opponent who was in the air at the time and had no means of defending himself.

The Player had not been provoked and his act of foul play had been completed giving rise to a melee/brawl between players on both teams.

In light of the same the Judicial Officer determined that the appropriate entry point for this matter was 6 weeks, being the Mid Range.

The Judicial Officer then considered the "off-field" issues and in doing so looked at whether there were any "aggravating" or "mitigating" factors.

The Judicial Officer then considered that the following were off-field aggravating facts to take into account in determining the appropriate period of suspension:-

The Player had belatedly acknowledged his wrongdoing. He had made no apology to the Northampton Saints No 9 in respect of a dangerous tackle. There is a need for a deterrent to combat this type of tackle which occurred in a semi-final of the ERC's premier event and was witnessed by a wide audience.

For such reason, a period of two weeks was added to the entry point.

The Judicial Officer considered that the following were off-field mitigating circumstances to take into account in determining the appropriate period of suspension.

The Player had a good discipline record, conducted himself in an appropriate manner at the hearing and appeared to be of good standing within the game in France.

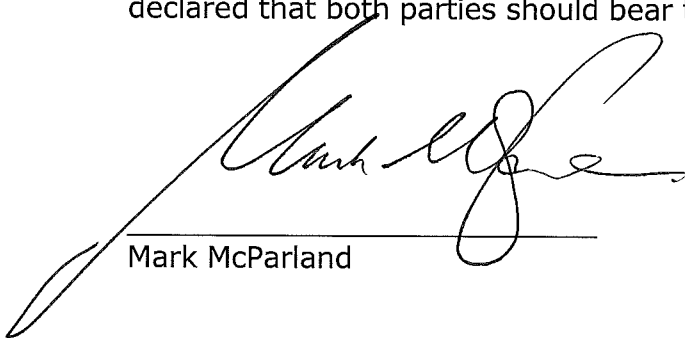
A period of two weeks was to be deducted by reason of these facts.

The issue of the playing consequences of the suspension to be imposed was difficult based on the facts of the hearing. The playing commitments of the Player's club USAP were completed for the season, although the Top 14 Championship play offs were still ongoing. The Player's selection to the French Barbarians meant he had playing commitments up to and including the weekend of the 12th June 2011.

In all the circumstances, the Judicial Officer determined that the appropriate sanction was the imposition of a period of suspension of six weeks ending on Sunday the 12th June 2011 (inclusive), the Player having been given credit of one week where he had voluntarily withdrawn from playing in the final regular season game involving USAP and Castres Olympique.

Both parties were reminded of their entitlement to appeal this Decision.

There being no application for costs on the part of the ERC, the Judicial Officer declared that both parties should bear their costs.



Mark McParland

19th May 2011
Date