

DECISION OF THE INDEPENDENT JUDICIAL OFFICER

ERC

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

Wednesday, 13th October 2010, 2.00 p.m.

In respect of

Martyn Williams of Cardiff Blues ("the Player")

And

A citing in respect of **an allegation of striking with a knee in contravention of Law 10(4)(a)**

The Judicial Officer appointed to hear the case :

Antony M. Davies (England) ("the Judicial Officer")

Decision of the Judicial Officer :

- (i) The Player did not contest the citing complaint brought against him. The Judicial Officer found that the Player had committed the act of illegal and/or Foul Play alleged in the citing complaint.
- (ii) The Player did not agree that the act of illegal and/or Foul Play merited a "red card". The Judicial Officer was however satisfied that the act of illegal and/or 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 27th October 2010. This represents a **two week** suspension commencing on 13th October 2010.
- (iv) The Judicial Officer made an award of costs against the Player representing his proportionate share of the hearing 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 Cardiff Blues and Edinburgh on Saturday, 9th October 2010, in the Heineken Cup 2010/2011.

Tony Lanaway was appointed Citing Commissioner to this match and had cited the Player for striking an opponent with the knee in contravention of Law 10(4)(a).

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

- Mr. Roger O'Connor, Disciplinary Officer, ERC
- Martyn Williams, the Player
- Robert Norster, CEO, Cardiff Blues

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 committed an act of illegal and/or Foul Play by striking an opponent in the face with his left knee in contravention of Law 10(4)(a) striking with knee.

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. The Player and all present agreed to proceeding 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 then enquired as to whether any additional evidence was to be presented before him. There was no such evidence.

The Judicial Officer noted the terms of the parties' responses to the Standing Directions.

The Judicial Officer invited the Player and Disciplinary Officer to confirm whether or not they had any preliminary issues that they wished to raise. There were no such issues.

Plea

The Player confirmed that he accepted he had committed the act of illegal and/or Foul Play alleged in the Complaint but indicated that he intended to argue that there should be no sanction on the grounds that the act did not merit a "red card".

In the light of the Player's admission, the Judicial Officer confirmed that he intended to hear evidence from the Disciplinary Officer as to the nature and seriousness of the offending behaviour followed by the Player's evidence and submissions. The parties would have the opportunity of questioning the other and making final submissions at the conclusion of which the Judicial Officer would make his decision.

Evidence in support of the Complaint

The Disciplinary Officer referred the Judicial Officer to the written Citing Complaint form compiled by the Citing Commissioner, Tony Lanaway. On the morning following the game in question, he was contacted by a representative of Edinburgh Rugby highlighting their concern over an incident involving the Player and Chris Paterson, number 15 of Edinburgh Rugby, on 26 minutes on the match clock. Mr. Lanaway examined the incident as part of his review of the game. His written Citing Complaint stated :

"The incident commenced at 26.25 on the match clock as a break by Williams is checked initially by Edinburgh number 10, Dan Parks, and then by Paterson. In the ensuing ruck and with Paterson on his back at 26.27, Williams' forearm goes across Paterson's throat and travels across Paterson's face towards the ground. Williams raises his left arm and gestures towards the ground as if to steady himself, instead the hand returns to the hairline of Paterson and possibly to the

facial region, forcing Paterson's head back. Williams then places his left hand on the ground, raises his body slightly and strikes Paterson in the face with his left knee in contravention of Law 10(4)(a) striking with knee."

The Disciplinary Officer then referred the Judicial Officer to a DVD of the incident. Only one angle was shown. He submitted that that corroborated the Citing Officer's detail. The Player is in possession of the ball attacking in the Edinburgh 22. He is brought to ground. He tries to recycle the ball, but Mr. Paterson is holding onto the Player, delaying release and recycling of the ball and preventing the Player from getting up and continuing his part in the game. The ball comes back into play but Paterson does not release the Player. The Player is then seen to push his hand and forearm on Paterson's face and neck region. He then lifts his whole body up slightly and "drops" his left knee into the cheek and side of the head of Paterson. The Referee has been playing an advantage and penalises Paterson for his failure to release the ball and the Player. The Referee sends Paterson off the field ("yellow card").

As part of the directions process, the Disciplinary Officer had asked for certain items of clarification as to Paterson's view of the matter. No formal statement from Paterson was available, though he had confirmed through his Club that prior to the strike the Player had pushed his hand and forearm on Paterson's face and throat, that the contact with the knee was with the cheek and side of the head, that there was no lasting effect and that the Player had apologised at the end of the game. Specific confirmation was given that Paterson was not injured.

The Judicial Officer considered the Referee's report. Mr. Romain Poite confirmed that he had sent off Paterson temporarily for a cynical infringement but did not see any Foul Play committed by the Player.

The Disciplinary Officer put forward his submissions as to entry point and referred the Judicial Officer to the Player's disciplinary record. He reminded the Judicial Officer that in the event the offending was deemed to be at the lower end, he would need to find compelling reasons for reducing the period of suspension.

The Disciplinary Officer also submitted that had a Referee seen an incident of striking

with the foot or the knee to the head, he would regard it as a grave offence and award a “red card”. He referred to a number of recent cases and the sanctions imposed as evidence supporting this contention.

The Player’s case

The Player had previously lodged a written statement apologising for the incident and referring to his strong previous disciplinary record over an extended career. He pointed out particularly that last season he had been awarded the ERC European Fair Play Award for being the “fairest and most sportsmanlike player in Europe”. He accepted that he had been at fault and maintained that the conflict arose from the cynical actions of Mr. Paterson, which resulted in him receiving a “yellow card”. By reference to a DVD of the incident, he explained his involvement and intentions in detail. His side had made a poor start in the first quarter of the game and were 10-0 down at home, having missed three kicks at goal. Their first clear opportunity to score was when on 26 minutes he made a clean break into the opponents’ 22. He was brought to ground initially by Edinburgh 10 and then Paterson. He was attempting to release the ball so it could be played by his team mates following him. His break had gained good momentum for his team and there was a good prospect of scoring a try. Although Paterson was on his back, he would not release the Player or the ball. He managed to move the ball backwards through his legs, but Paterson still continued to hold his jersey, preventing him getting up and continuing in support of the next phase of play. He pushed at Paterson’s face twice with his left hand and arm to try and get him to release. This did not work. Paterson still had hold of his jersey. In an effort to release himself, he then set his body with the intention of striking Paterson’s shoulder and arm which was holding onto his shirt. He only intended to use enough force to get Paterson to release him. He had no intention of targeting the face and contact was made with the side of the head and cheek. The distance between his knee and Paterson was at most 4 inches. In his mind there was no question of revenge or causing injury. He and Mr. Paterson are good friends.

The Player has 95 International Caps. Last year his Club won the Magners Fair Play League. Additionally, and as previously mentioned, he was awarded the ERC Fair Play Award. This is voted for by an ERC Panel. Whilst he has been awarded “yellow cards” for technical infringements, he has only one previous “red card” for foul play in 2006 –

an incident of striking with the head (albeit in the Player's submission provoked), resulting in a 3 week suspension.

Finally, the Player maintained that had the Referee seen the incident, he would have awarded a "yellow card" at most.

The Judicial Officer requested final submissions from both parties.

Decision as to disposal

The Judicial Officer upheld the Complaint on the basis of the evidence heard and the Player's admission, and thereafter heard representations as to sanction. The Judicial Officer retired to deliberate in private in respect of what, if any, sanction would be appropriate in the circumstances. In this regard, the Judicial Officer considered the terms of the Disciplinary Rules, including DR 6.7.29 through to DR 6.7.44. The Judicial Officer considered that this was an offence for which a suspension ought to be imposed.

The Judicial Officer noted that the offence of striking with the knee in contravention of Law 10(4)(a) 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 – 3 weeks
- Mid Range – 8 weeks
- Top End – 12 weeks
- 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 :-

- The offending was intentional and deliberate but was not premeditated, malicious or gratuitous
- The act – though illegal – had a rugby specific purpose in that the end result sought was to bring an end to the illegal holding of the Player by Paterson
- There was no intent to cause injury but with acts of this nature there remains a

risk of serious injury being caused

- The action was completed. There was one strike only. The strike was not with any significant force – corroborated by the lack of injury – and was from a maximum distance of 4 inches
- The victim player was vulnerable in that he was on the ground on his back, with the Player on top of him
- There was significant provocation. Prior to the strike with the knee, the Player had attempted to push Paterson away and get him to release on two separate occasions. These efforts were made with the hand and arm. Only when these failed did the Player move on to the more serious strike

In the light of the same the Judicial Officer determined that the appropriate entry point for this matter was **Lower End**, giving an entry point of three weeks' suspension

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 concluded there were no off-field aggravating factors but that the following off-field mitigating factors should be taken into account in determining the appropriate period of suspension:-

- The Player had acknowledged his culpability from the outset. His response to the directions and his conduct at the hearing had been exemplary
- The Player has a long and distinguished International career, playing 95 International games in a 15 year period, together with numerous games for Club and other representative sides. Given the length of his career, the level at which he has played and the position in which he has played, he has a good disciplinary record. He has one previous blemish which, in common with this incident, had an element of provocation about it.
- The Player has shown remorse for his actions. He sought out Mr. Paterson, with whom he is good friends, to apologise and received an apology from that player
- In the previous season, the Player received an esteemed and prestigious Fair Play Award.

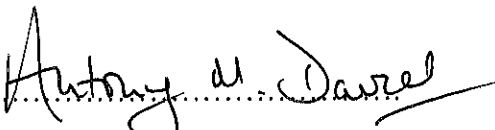
On account of the above off-field mitigating factors, a period of one week was to be deducted.

In all of the circumstances, the Judicial Officer determined that an appropriate sanction was the imposition of a period of suspension of 2 weeks commencing on 13th October 2010 and ending on 27th October 2010, inclusive.

The Player and the Disciplinary Officer are reminded that DR 7.1.1 provides for a right of appeal against this decision.

Costs

The Disciplinary Officer's request for costs was granted, these being the proportionate cost (apportioned with other cases) of the administration of the disciplinary process but does not include legal costs as there were none.

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Antony M. Davies

Judicial Officer

15th October 2010