

EUROPEAN RUGBY CUP
DECISION OF THE DISCIPLINE COMMITTEE

**IN RESPECT OF A HEARING HELD AT THE
ERC HEADQUARTERS, ST. STEPHEN'S GREEN, DUBLIN
ON FRIDAY 13TH FEBRUARY 2009
IN RESPECT OF MARTIN CORRY**

Citing complaint for infringement of law 10.4(a) and 10.4(k)

Members of Discipline Committee:

H Pat Barriscale, Chairman (IRFU)

Dr. Barry O'Driscoll (IRFU)

Jean Noel Couraud (FFR)

Decision of the Committee

1. The Committee found that the player had not committed an act of foul play contrary to 10.4(a). The Committee found that the player had committed an act of illegal and/or foul play contrary to 10.4(k).
2. The player is suspended from taking part in a game of rugby up to and including 12 midnight on Thursday 26th March 2009. This represents a six week suspension commencing on the 13th February 2009.
3. The Committee made an award of costs against the player in respect of the hearing on the 13th February 2009. The Committee made no order as to costs in relation to the adjourned hearing on the 5th February 2009.

Introduction

The Committee was convened by Professor Lorne D Crerar, the Chairman of the ERC Discipline Panel pursuant to the Discipline Regulations of the ERC in respect of a citing complaint made by Mr Denis Templeton, Citing Commissioner. The citing complaint concerned the conduct of the player during an ERC match between Ospreys and Leicester Tigers at Liberty Stadium, Swansea on 24th January 2009. The citing complaint alleged that the player was guilty of offences under Law 10.4 (a) punching or striking an opponent and 10.4 (k) an act contrary to good sportsmanship.

Present at the hearing on the 13th February 2009 in addition to the members of the Committee were the following:-

Roger O'Connor, Disciplinary Officer, ERC

Max Duthie, Solicitor

Martin Corry

Peter Wheeler, Chairman, Leicester Tigers

Richard Smith QC

Hearing

At the commencement of the hearing, the Chairman confirmed the identities of all present and established that the player was before the Committee to answer a citing complaint. The Chairman outlined the procedure to be adopted by the Committee for the hearing and that the provisions of the ERC Disciplinary Regulations would apply. The player and all present agreed to proceed on that basis.

The Chairman established what evidence had been placed before the Committee prior to the hearing and enquired as to whether all present had received the same in good time. The Chairman then confirmed what additional evidence was to be presented before the Committee. These included the video evidence of the incident in question, a number of medical reports and five testaments on behalf of the player.

There were no preliminary issues raised prior to the hearing. The Chairman narrated the terms of the citing complaint and asked the player how he wished to plead in relation to the complaint. The player denied that he had committed an act of illegal and/or foul play.

The Committee then heard evidence from the Osprey's hooker, Richard Hibbard, who was the injured party together with supporting evidence from Andy Lloyd, one of the panel members from the Ospreys, who witnessed directly the incident in question. Mr Hibbard alleged specifically that he received a poke in the eye and that Martin Corry was responsible for the same. He had a sharp pain for a number of seconds and his eye watered thereafter. He immediately took issue with Mr Corry and alleged that he was gouging. He went to the touch judge and indicated to him that there was an incident

and surely he must have seen it. He was subject to cross examination by Mr Smith QC who determined that he did not bring to the attention of the medical staff after the game any complaint or issue in relation to his right eye which is alleged to have been involved in this incident. There was specific attention to his left eye which was injured in the first half of the match but there was no citing complaint in relation to the same. He accepted that he had no specific injury and there were no sequellae from the incident. Evidence was then given on the telephone by Professor Gareth Jones who was the medical attendant to the Ospreys and he was cross examined by Mr Smith QC. This ended the prosecution case.

Mr Smith then called evidence on the telephone from Mr Jonathan Luck who is a Consultant Ophthalmic Surgeon who gave evidence in relation to the nature of the force on someone's eye in the circumstances and the potential consequences for the same. Detailed cross examination took place then by Mr Duthie and some questioning by members of the Disciplinary Committee. Mr Corry then gave evidence who denied vehemently that he had gouged Mr Hibbard. In his view, gouging was a despicable act and he wouldn't want to be associated with it in any way nor have any of his team members so associated. He went on to explain the actions which could clearly be seen on the video footage and that at all times his hand was closed in a clenched fist and never with his fingers open as had been suggested. After cross examination by Mr Duthie, the Chairman of the Committee asked why Mr Hibbard would make such an allegation and come before the Committee and be subjected to cross examination in relation to the story. He could not give an explanation as to why he would do this and there was no suggestion that there was any personal animosity between the two players either during this match or previously.

Five testimonials were then handed in on the part of Mr Corry from such people as Keith Wood, Andy Robinson OBE and Lawrence Dallaglio. Mr Peter Wheeler gave evidence himself as to Mr Corry's character and overall contribution to rugby. After concluding statements by both Mr Duthie and Mr Smith QC the Committee retired to deliberate in private in respect of whether the player had committed an act of illegal and/or foul play.

On returning, the Committee considered that the complaint of an infringement of law 10.4 (a) punching or striking an opponent had not been upheld. The Committee decided that the complaint of an infringement of law 10.4 (k) an act contrary to good

sportsmanship had been upheld. The Committee determined that Mr Corry had no intention of gouging the player in question and was probably reckless as to the consequence of his act. They found that there had been inappropriate contact in the eye area.

In this regard, the Committee then reconvened and heard from Mr Duthie on behalf of the ERC, Mr Smith QC on behalf of the player as to the appropriate sanction. It was urged strongly by Mr Smith that this must come in at the lower end of the scale having regard to the fact that at worst it was a momentary poke and that there was no injury to the player and that he made no complaint whatsoever to the medical team in relation to his right eye after the match finished. He suggested that consideration should be given to reducing the sanction beyond the 50% maximum and suggested that there were exceptional circumstances to be considered. These were that this was his last season and that it would be a disastrous end to his career. He had been fantastic servant to the game of rugby football to include captaining both his club and country and being a representative on the British Lions. He specifically referred to the testimonials which had been handed in and noted all of which stated that he was a hard, tough competitor but was always fair.

On questioning by the Chairman, Mr Duthie confirmed that there had been two previous minor sanctions in 2005 but nothing prior or since.

The Committee considered the evidence before it including all of the submissions made by both sides and based on this the Committee fixed on an entry point of 12 weeks namely the lower end. The Committee considered the evidence given on behalf of the player regarding sanction and were satisfied that no exceptional circumstances applied particularly having regard to the fact that there had been two previous minor offences in 2005 and the fact that the citing complaint had been contested. The Committee were satisfied that there were no aggravating circumstances to be considered which were relevant and considered all of the mitigating circumstances which were brought before it.

Having regard to all of the above, the Committee considered that the appropriate sanction was one of six weeks suspension commencing on 13th February 2009 and ending on Thursday 26th March at 12 midnight.

The parties were reminded of the right to appeal in the circumstances within 72 hours of the receipt of the written decision.

Signed: _____

H. Pat Barriscale
Chairman