

**EUROPEAN RUGBY CUP**

**DECISION OF DISCIPLINARY COMMITTEE**

**Held at the Park Inn Hotel, Heathrow, London  
Monday 6 November 2006**

**IN RESPECT OF:**

Salvatore Perugini ("the Player") and the citing complaint from independent citing commissioner Iain Goodall arising from a Heineken Cup match between Ulster and Stade Toulousain on 21 October 2006.

**MEMBERS OF THE DISCIPLINARY COMMITTEE ("the Committee")**

His Honour Judge Jeff Blackett (RFU) (Chairman)  
Jeremy Summers (RFU)  
Robert Flockhart (SRU)

**PRESENT AT THE HEARING:**

The Player  
Rene Bouscatel – President Stade Toulousain  
Guy Noves – Coach Stade Toulousain

Roger O'Connor – ERC Disciplinary Officer  
Max Duthie – Solicitor for ERC

**DECISION OF THE COMMITTEE**

**The Committee upheld the citing and found that the Player had committed an act of foul play in that he struck an opposition player with his head in breach of Law 10.4(a).**

**The Player is suspended for 5 weeks from 6 November to 11 December. He may play again on 12 December 2006.**

**The Committee declared that each party should bear their own costs.**

## **PRELIMINARY ISSUES**

1. No preliminary issues were raised on behalf of the Player. The Chairman nevertheless indicated that rulings made by the Committee that these proceedings were valid and did not breach ERC Disciplinary Regulations, raised in an earlier hearing concerning Omar Hasan also of Stade Toulousain, applied equally to this hearing.

## **CHARGE AND PLEA**

2. The Player pleaded not guilty to the charge of head butting Ulster number 5, Matthew McCullough in contravention of Law 10.4(a)

## **EVIDENCE**

3. Mr Duthie adduced the following evidence:

- The Citing Commissioners report sent to ERC on 23 October 2006;
- The DVD recording of the match;
- An e-mail from Michael Reid, CEO Ulster RFC dated 3 November 2006.

## **THE CITING**

4. Mr Duthie read the Citing Commissioners report that indicated that the incident occurred in the 19<sup>th</sup> minute of the 1<sup>st</sup> half and stated: "Approximately 8 metres into the Ulster half a Toulouse maul was turned into a ruck. The Player was bound into the ruck in close proximity to McCullough. The Player then released his binding, moved forward and head butted McCullough who received on field treatment before continuing with the game." None of the match officials saw the incident.

5. The Committee then viewed the video recording of the incident which showed the player, who was wearing a scrum cap, launch himself in an upward direction so that the top of his head struck McCullough in the area around the jaw on his right side. As he began to move forward the ball emerged from the side of the ruck. McCullough fell backwards and remained on the ground having treatment for a short time before continuing to play. There was no indication that McCullough suffered any wound – there was no blood and he continued to play until the end of the game. Mr Duthie invited the Committee to consider the position of the ball, the Player's upward motion into McCullough, the position of the Player's arms which were initially by his side although his right arm swung upwards as contact was made, and the reaction of McCullough.

6. Mr Duthie also read the e-mail of Mr Reid of Ulster RFC dated 3 November 2006 which stated that the team doctor could "not put pen to paper" but that McCullough had received a cut which required 5 stitches above the eye as a direct result of this incident.

## DEFENCE CASE

7. The Player stated that he had joined the ruck but was stationary and could not push back McCullough who was illegally holding the ball. He therefore took a step back to gain enough power to clear him out of the ruck and then drove forward intending to grab him round the body. Simultaneously McCullough had started to come up into a vertical position and he drove up into his head. He stated that the first point of contact was his shoulder into McCullough's head and further contact with his head was unintentional. The Player accepted that the match recording appeared to show that the top of his head had made contact with McCullough's head.

8. When questioned the Player confirmed that he did not see the ball at the point when he came into contact with McCullough but that he had intended to move him away from the ruck. The Player thought that McCullough was some 20cm taller than himself and stronger than him. He reiterated that he had intended to make contact with McCullough's body and had not appreciated he had made contact with his head. Because of this, the Player did not apologise to McCullough after the incident. He had similarly not spoken to him after the game but stated that his English was not good enough to have done so even if he had appreciated (which he did not) that his head had hit McCullough. He did not accept that he had caused the injury suggested in the e-mail from Ulster.

9. M. Noves supported the Player's account and confirmed that he was trying to clear out McCullough who was in an illegal position. He stated that McCullough had in fact been penalised by the referee. He also noted that Toulouse had played more ERC games than any other club and had had very few disciplinary incidents. The philosophy of Toulouse was to avoid dangerous play. M. Noves believed that the fact McCullough had been rising explained why the Player had made contact with his (McCullough's) head.

## FINDING

10. Having carefully considered all the evidence and submissions, the Committee found that the Player had effected a clumsy clear out of McCullough. Whilst the action was not a head butt in the true sense, the Player had driven up in such a way that there was a risk that he would strike McCullough's head. Thus, although the Committee did not find the Player's action to have been intentional, it was nevertheless reckless and dangerous play that could have caused significant injury.

11. The Committee therefore upheld the citing complaint and found the Player guilty of striking an opponent with his head.

12. The Committee discounted the evidence from Ulster relating to the injury. Having carefully scrutinised the match recording, including footage before and after the incident, it observed that the point of contact was the right jaw/chin and the strike with

the head could not possibly have caused a wound above McCullough's eye which required suturing.

### ENTRY POINT

13. The Committee did not invite specific submissions as to entry point, as it had sufficient evidence before it to enable it to determine the seriousness of the Player's conduct.<sup>1</sup> In considering the appropriate entry point the Committee found:

- a. The offending was reckless rather than intentional. The Player drove upwards towards McCullough in such a way that there was a risk that his head would make contact.
- b. Striking with the head is an inherently more grave form of striking and there was no provocation.
- c. The victim was affected in that he was knocked down and required treatment on the pitch, but he continued to play.
- d. There was no effect on the game.
- e. There was no premeditation although the conduct was completed.

14. The Committee therefore categorised the offence as being at the LOWER END of the scale of seriousness<sup>2</sup>

### SANCTION

15. Mr Duthie then invited the Committee to consider aggravating features<sup>3</sup>. Without criticising the Player he pointed to the fact that no remorse had been shown. He also produced the Player's disciplinary record and suggested that this was relevant to the Player's status as an offender. The Player had been suspended for 20 weeks for a similar offence in 2001/2002. This had occurred in a 6 Nations fixture in which the player had won his 2<sup>nd</sup> cap for Italy. He had also been banned for a 2 week period and a further 1 week period in the 2005/2006 season.

16. In mitigation on behalf of the Player M. Noves noted that the Player had previously had a reputation as an offender but in effect had turned over a new leaf and had put earlier indiscretions, which he blamed on youth, behind him. The Player is now 28 and had been a professional for 9 years during which time he had represented Italy on 40 occasions. He was due to represent his country again in 10 November 2006 in a fixture against Australia. The Player himself stressed that he had learned his lesson when he received the sanction in 2001.

17. The LOWER END entry point for striking with the head is 6 weeks.<sup>4</sup> The Committee were not persuaded that there were any aggravating features. Although the

---

<sup>1</sup> ERC Disciplinary Rules 2006/2007 ("DR") 7.6.24

<sup>2</sup> DR 7.6.25

<sup>3</sup> DR 7.6.26

<sup>4</sup> Appendix 3 DR; DR 7.6.24

Player did not have a good record, in that he regularly accumulated yellow cards, the Committee accepted that he had not committed any serious offences since 2001. Rather than treat his record as an aggravating feature they decided to address this aspect of his character by not giving him any credit for a good record as a mitigating factor. Similarly, although he did not express remorse either at the time of the offence or at the hearing, he did accept that he had struck an opponent with his head and said that if he had thought he had injured the opposition player he would have been more concerned. The Committee felt that to treat this as an aggravating feature and then to deny credit for no remorse in mitigation would effectively amount to double jeopardy.

18. The Committee found only one of the prescribed mitigating factors to be present<sup>5</sup>, that being his conduct at the hearing, which was exceptional. It also noted the fact that the Player will miss three international matches as a result of suspension whilst acknowledging that the current regulation do not allow that to be considered as an additional off field mitigating factor.

19. Accordingly the Committee reduced the period of suspension by one week from the LOWER END entry point and suspended the Player for a period of five weeks from 6 November 2006 to 11 December 2006. The Player may resume playing on 12 December 2006.

#### **ANCILLARY MATTERS**

20. Costs should lie where they fall. Full reasons for this direction are included in the judgment in relation to Trevor Brennan.

21. The Player is reminded of the right of appeal against this decision in accordance with Rule 8 of the Heineken Cup Disciplinary Rules 2006/2007.

---

**7 November 2006**  
**Jeff Blackett**  
**Chairman**  
**Disciplinary Committee**

---

<sup>5</sup> DR 7.6.27.(d)