

ERC DISCIPLINE PANEL

Discipline Committee Decision

At: ERC, 35/38 St. Stephens Green, Dublin

On: Friday, 11th April 2008

Player: **VILIAMI VAKI**

Club: USA Perpignan

Match : London Irish v USA Perpignan, Heineken Cup 2007/2008
Quarter Final

Venue : Madjeski Stadium, Reading

Date of Match: 5th April 2008

The Panel : Antony Davies (RFU) (Chairman), Dr. Barry O'Driscoll (IRFU)
George Spotswood (IRFU)

**Secretary to
the Committee:** Roger O'Connor, Disciplinary Officer, ERC

Attending: Viliami Vaki ("the Player"), Pierre Becque (Société d'Avocats -
for the Player)

Preliminary Matters

1. The Player and his representative did not object to the composition of the Committee, nor did they raise any preliminary matters.
2. The Chairman explained the purpose of the hearing and the procedure to be followed.

To Consider

3. The ordering off the playing enclosure (red card) of Perpignan number 6 (the

Player) by Match Referee Alain Rolland during a quarter final match of the Heineken Cup between London Irish and USA Perpignan at Madjeski Stadium Reading on 5th April 2008.

4. The Player confirmed that he had been the player ordered off by the Match Referee.

Circumstances of the Ordering Off

5. We considered the Referee's report on red card completed by the Match Referee, Alain Rolland. This confirmed that in the 39th minute of the second half, i.e. the last minute of the game, he had awarded the red card to the Player for foul play contrary to Law 10.4(a). His description of the incident read simply :

"6 red punched an opponent off the field of play after the whistle was blown".

6. The proximity of the Referee to the incident was 30 metres and the incident had been flagged by an officially appointed Touch Judge, Simon McDowell. We also considered his Touch Judge report. He was some 5 metres away from the incident. He stated:

*"The Referee asked for confirmation that the player involved in foul play was red
6. I confirmed yes."*

7. We then went on to consider the video evidence. We considered two clips taken from different angles. The first clip is taken from a position high up in the stand on halfway. We saw Perpignan take a quick tapped penalty through their scrum half on the halfway line. The ball is transferred to a supporting player who then passes on to the Player who has taken up a position on the left wing about 5 metres in from the touchline. The pass to the Player is clearly forward and the Referee, who is in line, blows loudly and clearly for the infringement. The Player continues to run forward with the ball and reaches the London Irish 22, when he is tackled from in field, i.e. his right hand side, by London Irish 9. The tackle is round the lower legs and takes him to ground and over the

touchline. When he is being taken into touch, another London Irish player (number 7, Steffon Armitage) goes to ground and makes contact with the Player whilst the Player is on the ground on his front. In this view the exact point of contact is obscured by the upper body of the Touch Judge.

8. The second video clip was taken from behind the London Irish try line at pitch level looking up the touchline towards the London Irish 22. This shows the point of contact clearly. London Irish number 7 comes into contact by diving to ground on top of the Player. As he does so, his right thigh makes contact with the Player's head. The force of the collision knocks the Player further into touch. At the point of contact, the Player is already in touch on the ground held by his legs in the tackle. The Player then jumps up to his feet immediately after contact is made and swings his right arm towards the head of London Irish 7. Contact is made between the inside forearm of the Player and the left hand side of the face of London Irish number 7. The players are separated. The Referee is seen to consult with his Touch Judge to confirm the identity of the player responsible for the incident of foul play before sending the Player from the field of play. It is the last incident of the game.

9. We next considered a written and signed statement from London Irish number 7 Steffon Armitage. His statement confirmed that his number 9 put in a cover tackle, tackling Perpignan number 6 into touch on the London Irish 22 metre line. He, wearing London Irish number 7 shirt, had put in a support tackle, which resulted in the three players being "in a ball" in touch. He stated that as they disengaged and he was getting to his feet, Perpignan number 6 swung his arm and made contact with the left upper part of his head with his forearm. He then stated there was a subsequent strike with the fist on the left hand side of his face. He maintained that he did not cause any provocation and confirmed that he was not injured as a result of the blows.

The Player's Case

10. The Player confirmed that he accepted the Match Officials' reports as true and accurate and accepted that the Referee was not wrong to have shown him a red card in the circumstances depicted in the videos. He stated that this was the last play of the

game and he was aware of that. The game was already won and lost. It had not been a problematical game with any previous incidents of foul play. He was tired and frustrated that his team had lost such an important game.

11. The Player described running in open space parallel with the touchline from the halfway line to the opponents' 22. He was aware the Referee had blown for the forward pass and was tackled round the lower legs by London Irish number 9. The force of that tackle combined with his own speed brought him quickly to ground and dragged him over the touchline. He knew then the game was finished. He was aware that London Irish number 7 was coming towards the tackle at some considerable pace, but he was not expecting contact because he felt that player had sufficient time to pull out of such contact. He was already on the ground over the touchline. He was certainly not expecting the contact which occurred. He felt at the time that the London Irish number 7 had deliberately brought his knee into contact with his head because of the force with which he was hit. There had been no previous incident between the two of them, nor with any other player, in an extremely intense and hard fought game, and he considered the collision unnecessary, unacceptable and deliberate. This was sufficient in the circumstances to turn frustration into anger and he accepted that on the spur of the moment he had been sufficiently provoked to the extent where he lost control and struck out at the opposition player.

12. He had spoken to the Referee afterwards and apologised, explaining that it was an immediate reaction. He had not been able to apologise to the London Irish number 7 after the game, because they had left the ground almost immediately. There had been little effect upon the game, though he appreciated the incident would have been seen by very many through extensive television coverage and a substantial crowd at the game.

13. The Player described himself as feeling angry with himself for losing self-control. He was aware particularly that his normal replacement at number 6 was injured and this would lead to his Club turning out weakened teams for the three remaining French Championship games on 11th, 19th and 26th April. He felt he had let himself down and his team down.

14. The Player is nearly 32. He has, save for one matter, an exemplary disciplinary record given the length of his career, the level at which he has played and particularly the position in which he has played. He is a former Pacific Island Player of the Year, and though he currently plays his rugby in France (three seasons with USA P), he is a Tongan International and Captain and that as such he is regarded as a national hero, mentor and role model.

15. On 22nd November 2006, the Player received a suspension of three weeks for dangerous tackling whilst playing for the Pacific Island team against Scotland. This was his only previous transgression.

16. Monsieur Becque was invited to address us as to whether there should be any sanction at all, as to entry point, aggravating and mitigating factors. Beyond stating that USA Perpignan had already resolved to suspend the Player so he was not available for selection for the French Championship game the following day against Castres, he was content to leave us to come to our decision without further submission on his part.

Decision

17. The Disciplinary Rules which apply in this case are contained in Schedule 4 to the Heineken Cup 2007/2008 Tournament Rules. Under those Rules our initial decision must whether or not any further action or sanction should be taken against the Player. We had little difficulty in concluding that the reasons for the Referee's decision were not wrong, and indeed it was not argued at any point by the Player to the contrary. We are therefore mandated to impose a sanction in accordance with Disciplinary Rule 6.7.31. We considered the following features of relevance in assessing the seriousness of the Player's conduct:

- (a) The strike was deliberate.
- (b) We could discern only one contact, that being between the inside forearm of the Player and face of the opponent.
- (c) There was in existence palpable provocation and the Player acted in retaliation thereto. In particular, the Player was already on the ground and in

touch when contact was made with his head. We have considerable sympathy for the Player's argument that the opponent could and should have taken some action to pull out of, or mitigate, the contact. Accordingly that contact could properly be regarded as late, unnecessary and unacceptable. Having viewed it, we do not believe it to be a legitimate tackle within the Laws of the Game.

- (d) There was no injury to the opponent.
- (e) The incident was followed by the involvement of a number of other players in a melée which did not serve the good interests of the game, though much of the other players' involvement was to separate the protagonists.
- (f) There was no premeditation, it was an immediate reaction to unnecessary contact being made with the Player's head.
- (g) There was only one discernible point of contact and, given the manner in which that contact came about, it was extremely unlikely that any injury could have been sustained by London Irish number 7.

18. The Committee unanimously categorised the offence as being in the LOWER END of the scale of seriousness and in accordance with Appendix 3 of the IRB's recommended sanctions, the entry point is one of two weeks.

19. We then considered whether there were any relevant aggravating factors and concluded that there were not.

20. We considered mitigating factors and found the following of relevance :

- (a) The Player's acknowledgment of culpability.
- (b) The Player's good record, given his age and experience and the level at and position in which he has played.
- (c) The Player's conduct at the hearing has been exemplary. He has not sought to justify what he has done. He concedes it was wrong. He raises the issue of provocation by way of explanation, not excuse. He has travelled from Perpignan for the hearing to express his remorse, the representations made by the Player and his representative have been careful and considered.

- (d) Notwithstanding the clear provocation, we find the Player would have apologised to his opponent had he not been prevented by circumstances. He had apologised to the Referee.

21. A reduction in the low entry point suspension of two weeks would, in these circumstances, normally follow, but we noted particularly Disciplinary Rule 6.7.36 which requires us to make further findings before so doing. We are required to be of the opinion that there are no on field or off field aggravating factors and we so find. We are also required to find compelling mitigating factors. These can be both on field and/or off field. We are given no specific guidance as to what we may consider “compelling”. We therefore consider we have a wide discretion to use our experience in disciplinary matters and our knowledge of the game. We find unanimously that the totality of the evidence and information we have considered (including the nature and circumstances of the incident, how it was dealt with and the character and antecedents of the Player) arouses in us a sufficiently strong interest to lead us quite properly to the conclusion that there are indeed compelling mitigating factors as to warrant a reduction in the period of suspension.

Sanction

22. The Player is suspended for one week from 5th to 12th April inclusive and may play again on 13th April 2008.

23. The Player will pay the administrative and travelling costs of the Disciplinary Committee.

Appeal

24. The Player and his representative were reminded of their rights of appeal as set out in Disciplinary Rule 7.

Dated : 15th April 2008

Antony M. Davies

Chairman

ERC Discipline Committee

