

EUROPEAN RUGBY CUP

DECISION OF DISCIPLINARY COMMITTEE HELD AT HUGUENOT HOUSE DUBLIN IRELAND ON THURSDAY 7th FEBRUARY 2007

IN RESPECT OF:-

David Couzinet ("the Player") and a Citing Commissioners Report of an infringement of law 10.4.(b) in the Round 6 game of the Heineken Cup between Northampton Saints and Biarritz Olympic at Franklin Gardens, Northampton on the 21st January 2007.

MEMBERS OF THE DISCIPLINARY COMMITTEE:- (the "Committee")

Mark McParland (Chairman) (IRFU)
Dr. Barry O'Driscoll (IRFU)
George Spotswood (IRFU)

DECISION OF COMMITTEE:

- (i) The Committee found that the Player had committed an act of illegal and/or foul play which merited a red card (ordering off).
- (ii) The Player is suspended from taking part in the game of Rugby up to and including the 22nd March 2007. This represents a six weeks suspension commencing on the 7th February 2007.
- (iii) The Committee made no decision as to costs.

INTRODUCTION

This Committee was convened by Professor Lorne D. Crerar, Chairman of the ERC Disciplinary Panel, pursuant to the Discipline Regulations of the ERC in respect of a citing complaint made by Russell Howell the Citing Commissioner. The citing complaint concerned the conduct of the Player during a Heineken Cup match played between Northampton Saints and Biarritz Olympique on Saturday 21st January 2007 at Franklins Gardens, Northampton, England. The citing complaint alleged that the Player stamped or trampled on the Northampton

Saints Number 5 (the "Opponent") at approximately thirty five minutes into the first half.

Present at the hearing, in addition to members of the Committee were:-

Roger O'Connor (Disciplinary Officer) (ERC)

Max Duthie (Solicitor) (Representing the Disciplinary Officer)

Marcel Martin (President of Biarritz Olympic)

John O'Donnell S.C. (Representing the Player)

HEARING

At the commencement of the hearing the Chairman confirmed the identities of all present. The Player was not present but Mr O'Donnell acknowledged that the Player was the Player the subject matter of the citing complaint and did not seek to make any issue as to identity. 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. All present agreed to proceed on that basis.

The Chairman informed the hearing of the evidence that had been placed before the Committee prior to the hearing and what additional evidence was to be presented before the Committee. The documentation before the Committee consisted of the Citing Commissioners Report of Russell Howell, e-mail correspondence between the Disciplinary Officer and the Match Referee, still photographs of the act the subject of the citing complaint and the decisions of prior Committees in respect of Brent Cockbain and Serge Betsen. A written submission was received from John O'Donnell S.C. on behalf of the Player.

At the onset of the hearing Mr O'Donnell apologised for the Player not being present and gave us the reason that he did not receive a copy of the Citing Report and was unaware of the hearing until the 5th February 2006 when he was away from Biarritz on holiday with his wife and one year old child. He was to be represented at the hearing by Mr O'Donnell and by Mr Martin who confirmed that the Player was available by phone.

The Chairman asked the Player's representatives as to how the Player wished to plead in relation to the citing complaint and the allegation that he had committed an act of illegal and/or foul play. Mr O'Donnell informed the Committee that the Player did not accept that he stamped or trampled on the Opponent but accepted that he may have been guilty of a lesser offence. In such circumstances, the Committee decided that the hearing should proceed based on the Player denying that he had committed an act of illegal and/or foul play.

Mr Duthie in presenting the evidence on behalf of the Disciplinary Officer referred to the citing complaint confirming that the complaint was one contrary to law 10.4.(b) in that Mr Couzinet stamped or trampled on an Opponent. Mr Duthie opened to the Committee the terms of a skeleton argument and then presented the video clip of the incident the subject matter of the complaint.

In summary the evidence presented and as seen on the video was to the effect that after approximately thirty five minutes of the first half a maul formed with Biarritz Olympic in possession on the far side of the ground to the main cameras. The maul turned into a ruck with the Biarritz Olympic number 8 being held by the Opponent. As those two players went to ground, the Player on seeking to rejoin the ruck/maul with a single action stamped on the Opponent at a time when he was some distance from the ball and defenceless to protect himself.

Mr Duthie contended that the Player did not look for the ball and that the ball was well away from the player who was stamped on. He also maintained that the Player clearly saw the Opponent in a defenceless and prone position in which he could take no measures to protect himself and that there was compelling evidence of the Player's intention to stand on the Opponent in the vicinity of his shoulder joint and in proximity to the head of the player. Mr Duthie suggested that the Player did not try to ruck the ball and that he had completed his action and not just attempted same.

On behalf of the Player, Mr O'Donnell argued that the action of the Player was clearly seen by the Referee who was in close proximity and that he had judged that the act merited a yellow card only, this view being supported by the Touch

Judge on that side. Mr Courtney is a highly qualified international Referee of considerable experience. The Citing Officer was some distance away from the act and in such circumstances the Referee's decision should not be set aside unless it was manifestly wrong and not merely a difference of opinion. Mr O'Donnell said that the Referee should be the sole judge of fact and law and should not be second guessed as to do so would compromise the Referee's ability to control a match.

In relation to the act itself, Mr O'Donnell stated that it was not the Player's intention to hurt his Opponent. The Player put his foot on the Opponent in an attempt to clear out the Opponent from an off side position. The act took place in the heat of the match when the Player believed that the Opponent was off side and in the wrong. It was put to the Committee that the Player had struck the Opponent's jersey only and not his shoulder and the Committee were asked to note that there was no medical report, no complaint of injury or no evidence of injury before the Committee. Mr O'Donnell suggested there was no evidence that the Player had struck the face of the Opponent and that in putting his hands to his face, he hoped the Opponent was not playing to the Referee. Mr O'Donnell stated that the act had been fully detected and that the Player was entitled to any benefit of the doubt.

Mr Duthie in reply referred the Committee to Law 16.3. (F) which reads;

"A player rucking for the ball must not ruck players on the ground. A player rucking for the ball tries to step over players on the ground and must not intentionally step on them. A player rucking must do so near the ball."

Mr Duthie referred the Committee to the decision of the Judicial Committee on Allegations of foul play against Robin Brooke and Glen Taylor where it is specifically stated that rucking which is directed at a player to remove him as an obstruction or impediment to securing possession of the football is illegal. Mr Duthie stated that clarification of the law had been sought from the IRB who confirmed that a player must not ruck an Opponent on the ground and that rucking at a player is an act of illegal and/or foul play.

In relation to the Citing Commissioners entitlement to bring the complaint, the Committee were referred to clause 7.3.2. of the Disciplinary Rules 2006/'07, which states;

"The appointed Citing Commissioner will attend at the match and shall be entitled to cite a player for any act or acts of foul play that in the opinion of the Citing Commissioner warranted the player being shown a red card, even where such act(s) may have been detected by the Referee and/or Touch Judge(s) and may have been the subject of action taken by them." The rule in this matter had been upheld in respect of the citing complaints brought against Brent Cockbain and Salvatore Perugini.

The Committee retired to deliberate in private in respect of whether the Player had committed an act of illegal and/or foul play. The Committee having considered the evidence before it, the laws of the game and in particular law 16.3. (f) and the ERC Disciplinary Regulations and in particular regulation 7.3.2. found that the Player had committed an act of illegal and/or foul play. Having so found, the Committee reconvened and heard from both Mr Duthie and Mr O'Donnell on the issue of sanction.

Mr Duthie opened the amended IRB Regulation 17 Appendix 1 and referred to the penalties provided for a breach of law 10.4. (b) in respect of stamping on an Opponent. He stated that the sanctioning policy of the ERC was an inquisitorial process and not an adversarial process. He referred to clause 7.6.24. of the Disciplinary Rules 2006/'07 having regard to such rule stated that the nature of the offence was that the Player had stamped with his boot on an Opponent in a situation where there was no provocation and where the Opponent was vulnerable and would not have seen it coming. In the absence of the Player there were no off field aggregating or mitigating factors that the Committee could hear except that the Ligue Nationale de Rugby had advised that the Player had been sanctioned on two separate occasions for ten days during the seasons 2002/'03, and 2004/'05.

Mr O'Donnell invited the Committee to use the discretion contained in rule 7.6.32. whereby the Committee would be entitled if it believed that the act of

foul play would not have warranted a red card to impose no sanction on the player. If sanction was to be imposed it should be at the low entry level as the act had no effect on the overall game with no injury to the Opponent who continued to play the match to the end. By way of mitigation the Committee was invited to consider the Player's attempt to apologise and the fact that he had played for the French A Team and two times for the full French International side. He was represented at the hearing by the President of Biarritz Olympic and that he should be given a minimum of 50% to the low entry point.

Having considered all matters put before it the Committee decided that the Player's act of illegal and/or foul play was intentional and that while the Opponent was not seriously injured, the Player's act of stamping was to an Opponent's shoulder joint close to his head when he was vulnerable and not in a position to defend himself. The Committee considered the seriousness of the Player's action to be deserving of sanction at the mid point in the range. In considering off field aggravating and mitigating factors and the need for a deterrent to combat this pattern of offending as a relevant aggravating factor, the Committee was at a considerable disadvantage in the absence of any evidence from the Player personally in a situation where the Player was being disciplined for the third time in four seasons and having regard to such record, the Committee determined that an appropriate sanction was the imposition of a period of suspension for six weeks from the 7th February 2007 and ending on the 22nd March 2007.

The parties are reminded that part 8 of the Disciplinary Rules 2006/'07 provides for a right of appeal against this decision and the manner in which such appeal should be dealt with.

Mark McParland
Chairman Disciplinary Committee
16th February 2007