

## **Decision of Independent Disciplinary Panel**

### **EPCR Champions Cup 2016**

**Held at the Sofitel, Heathrow, London on the 21<sup>st</sup> of December 2016**

#### **In Respect of:**

Paul Willemse (the Player) and the ordering off of the Player for a breach of Law 10.4. (h) of the Laws of the Game in the game between Castres Olympique and Montpellier Hérault RC played on the 18<sup>th</sup> of December 2016.

#### **Disciplinary Panel appointed to hear the case**

David Martin (Ireland)

Hugh Logan (Ireland)

Jean Philippe Lachaume (France)

#### **Parties at the hearing in addition to the Disciplinary Committee were the following persons**

The Player

Christian Chevallier, Legal Representative

Lionel Fintoni (Interpreter)

Liam McTiernan, Disciplinary Officer EPCR

#### **In attendance**

Jennifer Rae, Harper MacCleod.

#### **Decision of the Disciplinary Panel**

1. The Player did not dispute that the Referee had been correct to order him off and the Committee therefore proceeded to determine what sanction, if any, should be imposed upon the Player.
2. The Committee considered that there was no reason not to impose a suspension and the Player was suspended from taking part in the game of rugby until 25<sup>th</sup> of December 2016. This represents a one week suspension commencing on the 18<sup>th</sup> of December 2016.
3. The panel made no award of costs.

## **Introduction**

The panel was appointed as an independent disciplinary panel by Professor Lorne Crerar, Chairman of EPCR Disciplinary Panel pursuant to the Disciplinary Rules of the European Rugby Champions Cup Participation Agreement Rules 2016/2017.

Wayne Barnes was appointed as Referee to the match and dismissed the Player for “charging into a ruck or maul contrary to Law 10.4. (h) of the Laws of the Game.

## **Preliminary matters and procedures**

At the commencement of the hearing the Chairman noted the identities of those present and narrated the Referee’s report and reminded the Player that the report was in respect of the allegation that the Player had committed an act of charging into a ruck or maul contrary to Law 10.4.(h) of the Laws of the Game. The Player’s position remained as set out in his letter dated the 20<sup>th</sup> of December 2016 and stated that he was not challenging the decision of the Referee.

The Chairman reminded all present that the EPCR Disciplinary Rules referred to above would apply and outlined the procedures to be followed to determine the matter. The Player and those present agreed to proceed on that basis.

The Chairman established what evidence had been placed before the Committee prior to the hearing and enquired whether all present had received same in good time.

The evidence for consideration was as follows:-

1. Letter from Liam McTiernan to Professor Lorne Crerar dated the 18<sup>th</sup> of December 2016.

2. Letter from Professor Lorne Crerar to the Player and Mr McTiernan dated the 19<sup>th</sup> of December 2016.
3. The Match Official Report red card from Wayne Barnes.
4. The TMO Report from Rowan Kitt.
5. Report from Assistant Referee Peter Allan.
6. Report from Assistant Referee Paul Dix
7. Statement of Rory Kockott, Castres Olympique
8. Statement from Castres Olympique medical team.
9. Match footage.

The Chairman invited the Player and the Disciplinary Officer to confirm whether they wished to raise any preliminary issues. Both parties confirmed there were no preliminary issues.

In those circumstances the Chairman indicated to the Player that the purpose of the hearing was to determine what sanction, if any, should be imposed upon the Player.

## **Evidence**

The Chairman asked the Disciplinary Officer to present the evidence which was as follows:-

The video footage was played without sound at normal speed, slow motion and a number of angles. The video shows that in the 61<sup>st</sup> minute of the match a ruck formed on the Castes 22 metre line. Montpellier were in possession. The ball had been placed on the ground by the tackled player. As the ball was about to be played by the Montpellier number 9, Castres number 9 approaches at the side of the ruck beyond the back foot. As he does this the Player arrives in the guard position and noticing Castes number 9 approaching from the side, the Player turns his right shoulder into to his body and leading with this upper arm makes contact with Castes number 9 in the chest/shoulder area causing Castes number 9 to fall backwards to the

ground. No effort is made by the Player to bind on the Cases number 9. The ball was released and play continued without reaction from the players.

The Referee Wayne Barnes in his report of the incident stated:-

“In the 61<sup>st</sup> minute of the match the television official Rowan Kitt asked that I review an incident of potential foul play.

I watched footage on the big screen within the stadium and saw Montpellier number 19 run towards a breakdown and then with this shoulder he made contact with the head of a Castles player causing the Castles player to fall to the floor. I checked with the Television Match Official whether he agreed with my summary of the facts which he did. I therefore issued a red card.”

The Television Match Official Mr Rowan Kitt confirmed that he brought an act of foul play by Montpellier number 19 to the attention of the Referee and he reviewed the incident with the Referee. Both agreed there was a no arms charge into a ruck by Montpellier number 19 resulting in a Castles player being struck in the head by Montpellier number 19 shoulder. We agreed on the sanction of a red card.

The Player explained his actions and said that both he and the Castles number 9 arrived at the same time. He took the view that the Castles number 9 was entering the ruck from the side that as the Player was going past the ball he ended up in a collision situation. He adjusted to block the player and wanted to push the player away. His shoulder was below the shoulder of the Castles number 9 and that it was not intended to make contact with the player's head area. He explained that he had been on the pitch for 2 minutes as he had come on as a substitute having been out of the game due to injury for approximately 6 weeks prior to this game.

The Player accepted that his action was reckless.

Mr Chevallier drew the Committee's attention to the Player's letter dated the 20<sup>th</sup> of December 2016 which explained the Player's position and his apology to the Castes number 9. Mr Chevallier made reference to precedent cases involved in the French league and these were not considered relevant by the Committee.

## **Sanction**

The Disciplinary Officer did not make submissions relating to the entry point or the Player's conduct on the pitch.

It is the function of the Committee to consider the facts of the case and to determine the seriousness of the Player's conduct. In determining the seriousness of the offence the Committee considered each of the facts set out in disciplinary rule 7.8.32;

- (a) The offending was neither intentional nor deliberate.
- (b) The offending was reckless.  
The Player made use of this shoulder and arm and made no effort to bind on the Castes number 9. It is accepted that both players arrived at the side of the ruck at the same time and the incident can be described as a collision.
- (c) & (d) The offending was serious in that this type of action is dangerous as it involved the Player using his arms and shoulder without an effort to bind.
- (e) – (g) There was no provocation and no retaliation and the Plaintiff was not involved in any action of self defence
- (h) The Castre number 8 required treatment after the incident but was able to continue play and would not appear to have suffered any affects from the incident. This was confirmed by the Castes

medical team.

- (i) The incident did not have any effect on the match.
- (j) The Caste number 9 was in a slightly vulnerable position as he was approaching the player as speed.
- (k)- (n) There was no premeditation and the Player's conduct was completed. There were no other features of the Player's conduct in relation to or in connection with the offending.

Based on the assessment of the seriousness of the Player's conduct and in light of the above as the offending was reckless and there was a risk of injury to the Caste number 9 the Committee in deliberating in private considered the appropriate entry point to be low end. This is determined to be two weeks in accordance with World Rugby recommended sanctions for offences within the playing enclosure and found at appendix 3 of the disciplinary rules. The Committee found there were no off field aggravating factors.

Turning to the mitigating factors it was submitted that the Player had acknowledged his culpability at the outset and this assisted the judicial process in saving both time and expense. The Player is aged 24 years and has been engaged as a professional rugby player for 4 years. He has received one red card as an under 20 player during the under 20 World Cup Final when he was playing for South Africa against New Zealand. Apart from this the Player has no other disciplinary record. The Player phoned the Castes number 9 immediately after to enquire about his health and to apologise. He had serious regrets regarding this action and conducted himself in an exemplary manner at the hearing. It was accepted that whilst the Player's actions were reckless, there was no intention to commit an act of foul play as his actions were an attempt to prevent the Castes number 9 from playing the ball.

The Committee did not find there were any other off field mitigating factors and having considered the manner in which the Player approached this issue they allowed the Player the full mitigation of 50% which is one week.

The Player is therefore suspended from playing for a period of one week until midnight of the 25<sup>th</sup> of December 2016.

The Player's right of appeal was drawn to his attention.

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David Martin  
Chairman  
23 December 2016