

EPRC CHALLENGE CUP

DECISION OF JUDICIAL OFFICER
Hearing Held by Skype Conference Call
21 October 2016

In respect of:

Dmitrii Gerasimov (“the Player”)

and

A citing complaint (“the Complaint”) brought by Eddie Wigglesworth, the citing commissioner appointed to the match played between Enisei-STM Krasnoyarsk and Worcester Warriors at the Slava Stadium, Moscow on 15 October 2016 (“the Match”) alleging that during the Match the Player committed an act of foul play contrary to Law 10.4.(j) of the Laws of the Game.

Judicial Officer:

Roger Morris (Wales) (“the Judicial Officer”)

Decision

- i. The Judicial Officer was not satisfied that the Disciplinary Officer had discharged the burden of proving on the balance of probabilities that the Player had committed the alleged act of foul play and therefore the Complaint was not upheld. The Player was immediately free to play.
- ii. There were no orders as to costs

1. Introduction

- 1.1 The Judicial Officer was appointed by Prof Lorne D Crerar, Chairman of the EPRC Disciplinary Panel, to consider the Complaint made against the Player for his alleged offending in the Match played in the EPRC Challenge Cup (“the Tournament”). A hearing was necessary because Eddie Wigglesworth, the citing commissioner appointed to the Match, had cited the Player for an alleged breach of Law 10.4(j) of the Laws of the Game – a dangerous “tip” tackle.
- 1.2 In addition to the Judicial Officer, the following were present at the hearing:
 - The Player.
 - Alexander Peruvin, Head Coach, Enisei-STM
 - Yuri Kreznbai, Backs’ Coach, Enisei-STM.
 - Mr Roman , Translator.
 - James Robertson, assisting the Player and also translating.
 - Liam McTiernan, the Tournament’s disciplinary officer (“the Disciplinary Officer”)
- 1.3 The parties agreed that the hearing would be conducted in accordance with the provisions of the Tournament’s disciplinary rules applicable to Season 2016-2017 (“the Disciplinary Rules” in the plural and “DR” in the singular).
- 1.4 The materials distributed to the parties in advance of the hearing were:
 - The citing commissioner’s report – the Complaint.
 - Letter from the Disciplinary Officer to Prof Crerar informing him of the Complaint.
 - Notice of Hearing dated 19 October 2016
 - The Player’s responses to the standing directions set under the Rules.
 - The Disciplinary Officer’s responses to the Player’s responses.
 - Referee’s “yellow card” report.
 - Assistant referees’ reports by way of e mail
 - E mail from the Disciplinary Officer reporting his contacts with Worcester Warriors.
 - Video clips.
- 1.5 The Judicial Officer referred the Player to his responses to the standing directions and in particular to his assertion that he had not committed an act of foul play. The Player confirmed that remained his position. The first purpose of the hearing, therefore, was to determine whether or not the Player had committed an act of foul play and all the evidence would be heard with that objective in mind. All agreed the hearing should proceed on that basis.
- 1.6 The Disciplinary Officer reminded the hearing that the burden of proving the case rested with him and that the requisite standard of proof in all the Tournament’s disciplinary cases is the balance of probabilities.

2. Video Evidence

- 2.1 The video was played, first in silence. It showed Worcester Warriors attacking in their opponents' 22, securing the ball and moving it to the right where it was eventually passed to the Worcester Warriors full back, ("W15"). As W15 attacked, he was tackled by the Player and the ensuing actions of the Player were the subject of the Complaint.
- 2.2 The Disciplinary Officer noted that there were two different camera angles. The first was a shot from across the field showing the incident at a distance and the second was a close up shot from behind and over the left shoulder of the Player. The essence of the Disciplinary Officer's submissions and comments in relation to the incident was as follows:

By reference to the first view:

- Although a distant shot it could be seen that the Player had tackled W15 with his arms around the thighs of W15.
- As the Player executed the tackle his right elbow pointed skywards, an action by a tackling player that was often indicative of him having lifted his opponent from the ground.

and by reference to the second, clearer view of the incident

- The second angle of view was taken from behind the Player and at a low level.
- The Player could be seen confronting the ball carrying, advancing W15 and preparing to tackle him.
- He set himself into a good low position with flexed knees and tackled W15 with shoulder to midriff and arms wrapped behind W15's knees and thighs. The Player's head was to the side of W15's right hip.
- At this point the Player was executing, in the Disciplinary Officer's words, "a textbook tackle".
- The tackle was then joined, fleetingly, by E11 whose shoulder collided with W15 before E11 fell away.
- The Player's right arm then rose so that, still holding W15 by the leg, his elbow was above the horizontal and pointing to the sky.
- The consequence of the Player's actions was that W15 was tipped upside down and landed on the ground, albeit from not a great height, hitting the ground first with his neck, shoulder or upper body area.
- Although there was interference from E11 the significant factor in W15 being dangerously tipped upside down was the Player's lifting action.

3. The Player's comments in relation to the video evidence

3.1 The Judicial Officer then asked the Player to explain what had happened from the Player's point of view. The synthesis of that explanation was as follows:

- He confronted W15 who was running at him, carrying the ball, and intended to make a low tackle by grasping W15 around the legs with the intention, then, of driving him backwards.
- He pointed to W15 dipping into the tackle so that, as contact was being made, W15 was falling downwards and forwards. The Player also pointed to the position of his head, tucked down and next to W15's right hip such that the Player would be unsighted and unaware of what was occurring after that moment.
- He did not realise until afterwards that whilst he was tackling low, E11 was attempting to tackle high. He suggested that the force of E11's contact was the cause of W15 falling sideways with the consequence that W15 tipped over the fulcrum unwittingly being provided by the Player's tackle.
- It was as a consequence of E11's actions that the Player lost control of the tackle and the fact that his arms turned so that his elbow was pointing upwards was the result and not the cause of W15 being tipped.
- It was W15 falling over that caused the Player's arms to move in the manner they did and not the Player's arms that caused W15 to tip over.

3.2 Questioned by the Judicial Officer, the Player and his coach added:

- His intention was to perform a legitimate tackle by taking the other player low and in performing such a tackle, lifting an opponent was not a part of his technique or his coached technique
- At no point in such a tackle would he be trying to lift the other player and that is not what he did.

4. Written evidence

4.1 The match officials' reports were read. The Disciplinary Officer pointed to the comment reported by the citing commissioner to have been made by the referee to the effect that the referee's line of sight was poor in respect of the landing on the floor of W15. In his match report the referee had said that the tackled player landed on the "back side". Mr McTiernan suggested that had the referee's line of sight been clear then he would have seen how W15 landed and might well have issued a red card.

4.2 The Disciplinary Officer conceded that the citing commissioner's reporting of a comment by the referee was hearsay evidence which should be treated with caution although it was permissible to take it into account.

4.3 There were no other comments that were made in respect of the officials' reports.

4.4 There was nothing in writing from Worcester Warriors but the Disciplinary Officer reported that he had spoken to the club. The club had confirmed that W15 had not been hurt on the field, that he did not require medical attention either during or after

the game and, indeed, that W15 had little or no recollection of the incident which he regarded as not having been significant.

5. Submissions as to liability

5.1 The Disciplinary Officer confirmed that the burden was on him to prove that the Player had done that of which he was accused and made the following points to summarise the case:

- His starting point was the memorandum in relation to tip tackles issued by World Rugby (then IRB) on 8th June 2009. That memorandum had described three scenarios:
 - a. A case involving a victim player being lifted and forced or speared into the ground. Such a case would expect to attract a red card. The Disciplinary Officer said that that he was not suggesting that the present case fell into this scenario.
 - b. A case involving a victim player being lifted and then dropped with no regard for his safety although not driven to the ground. Such a case should also attract a red card.
 - c. Other cases involving tipping an opponent but without the characteristics set out in a and b. These other cases would normally attract a yellow card.
- The Disciplinary Officer suggested that a red card was warranted in the current case under scenario b. He accepted however that W15 was not dropped from a height.
- He also accepted that he had not initially noticed the force of the intervention of E11 in the tackle until the video evidence was being reviewed by the Player and conceded that the Judicial Officer would have to determine whether that contact was sufficiently forceful to have been the principal cause of W15 ending up the way he did.
- It was for the Judicial Officer to determine at what point it appeared the Player had lifted his opponent and at what point in that action the actions of E11 were contributory.

5.2 The Player submitted as follows:

- Never had he had any intention of lifting W15.
- His only intention was to perform a legitimate tackle and once his head was to the side of W15's hip, he could not in any event know what was happening.
- He was unaware of the intervention of his fellow player, E11, but having looked at the video, it was that intervention that caused the tip and also caused his arms to rotate in what appeared to be a lifting action. In fact, the rotation of the arms was a reaction to W15 being destabilised and not the cause of it

There were no further submissions either party wished to make and the Judicial Officer retired to consider matters in private.

6. Consideration of liability

6.1 The Judicial Officer reminded himself that the applicable standard of proof is the balance of probabilities and considered the evidence with that in mind. The question for the Judicial Officer was, what caused the “textbook” tackle described by the Disciplinary Officer to go wrong such that the tackled player, W15, tipped upside down and landed head/neck and shoulders first on the ground? The Disciplinary Officer had also fairly accepted that E11 was involved at least to an extent and that what turned into a tip probably would not have done without that involvement.

6.2 The Judicial Officer concluded as follows:

- The Player’s only intention as he confronted W15 was to perform a legitimate tackle involving him placing his head alongside W15’s hip simultaneously with grasping him around the thighs and making contact with W15’s midriff by way of the Player’s shoulder.
- The Judicial Officer accepted the Player’s evidence that in performing the tackle described, he had no intention to lift W15 but only to tackle him to the ground.
- As W15 was being tackled by the Player, W15 leant forward into the tackle so that when contact with him was made by E11, W15 was already destabilised. The contact by E11 was simultaneous with W15’s upper body moving to his right at the beginning of the movement that led to him tipping.
- The contact by E11 with W15 was shoulder and left arm to the head and upper body and although fleeting, sufficiently powerful to cause W15 (held legitimately by the Player) to fall to W15’s right and because he was still being held by the Player to tip over.
- The Player did not cause W15 to tip and when W15 started to tip there was nothing the Player could do to stop it.
- It was the tipping of W15 that caused the Player’s right elbow to point skywards and not the lifting of the Player’s elbow to the sky that caused W15 to tip.
- Although a skyward pointing elbow is one of the indicators of a player having lifted an opponent, in the circumstances of this case, the Judicial Officer accepted that such a movement on the part of the Player was an inadvertent reaction to what was happening and not a causative action.
- The Judicial Officer noted that the Player’s legs were bent throughout the tackle and that there was no straightening of the Player’s legs (often indicative of an attempt to lift) until W15 was already close to hitting the ground. There was a clear doubt as to the exact cause of W15 being tipped but the Player’s own explanation of what was happening during the incident was a coherent interpretation of the video clips that had been seen and the explanation was delivered in a straightforward and convincing way.

In all the circumstances the Judicial Officer determined that the correct decision would be to dismiss the Complaint.

7. Disposal

The hearing was reconvened and the parties informed of the Judicial Officer's decision to dismiss the Complaint so that the Player was immediately free to play. The Disciplinary Officer confirmed there was no issue of costs to be dealt with. Finally, the parties were reminded that the Rules provide a right of appeal against the Judicial Officer's decision

A handwritten signature in black ink, appearing to read 'Roger Morris', written in a cursive style.

Roger Morris

26 October 2016