

Decision of an Independent Disciplinary Committee

European Professional Club Rugby

Held at The Hilton Hotel, Heathrow Terminal 4

Date: Wednesday 27th of April 2016

In respect of:

Simon McIntyre, The Player (Wasps)

To consider a citing complaint that the Player committed an act of foul play contrary to Law 10.4.c which warranted a red card.

Disciplinary Committee appointed to hear the case:

H. Pat Barriscale Chairman (Ireland)

Roger Morris (Wales)

Julien Berenger (France)

The Decision of the Disciplinary Committee:

1. That the citing is upheld in that the committee is satisfied that the Player committed an act of foul play contrary to Law 10.4.c which warranted a red card;
2. The Player having accepted that he committed an act of foul play which warranted a red card, the Disciplinary Committee determined that the appropriate sanction was to impose a period of suspension on the Player of two weeks and that he be suspended from taking part in the game of rugby up to and including midnight on Sunday 8th of May 2016.
3. No order in relation to costs.

Introduction

The Disciplinary Committee was convened by Professor Lorne D Crerar, the Chairman of the EPC Disciplinary Panel pursuant to the Disciplinary Rules found in the Participation Agreement of the European Rugby Champions Cup 2015/2016. The Disciplinary Committee was appointed to consider the citing complaint ("the complaint") made by the Citing Commissioner Stefano Marrana which concerned the conduct of the Player during a match played between Saracens and Wasps at The Madejski Stadium on the 23rd of April 2016.

Present at the hearing in addition to the Disciplinary Committee were the following persons:-

- Liam McTiernan, Disciplinary Officer, EPCR;
- Simon McIntyre, The Player;
- Kevin Harman, Rugby Operations Manager, Wasps

After the appropriate introductions of all present were made, the Player and his representative confirmed that they had received all of the relevant documentation for the hearing together with the video clips which were available of the incident. As there were no preliminary issues raised by any of the parties the Disciplinary Committee proceeded to the hearing.

Hearing

At the commencement of the hearing, it was noted that the Player in his reply to the standing directions had stated that he accepted that he had committed an act of foul play which warranted a red card. He was asked if this was still his position and he confirmed that it was. In those circumstances, the Chairman stated that the Committee would move directly to consider sanction.

Sanction

The Player and his representative were asked to address the Committee in relation to the appropriate entry point that they should consider for this offence having regard to all of the provisions as set out in 7.8.32. The low end was four weeks, mid-range eight weeks and the top end between twelve and fifty two weeks. The Player and his representative both suggested that the low end entry point was more than adequate in all of the circumstances. The Player suggested that what he had done was stupid and he was embarrassed to have to appear before this Committee because of the same. He explained that he was trying to free his leg which was being held by the Saracens player, Itoje. It was imperative for the Player to get back into the defensive line and was being restricted from doing so because his leg was being held. He kicked out as an instinctive reaction and there was no malice or intention on his part to cause injury. He was extremely frustrated at being held and reacted badly by kicking out. He did not kick with any force and there was no injury whatsoever to the opposing player. He apologised to the Referee while he was reviewing the video on the field and was given a yellow card. This had a significant effect on the match for his own team as they were down to fourteen players and sixty eight minutes of the match had expired. He explained that he was not the most popular player in his club as a result of being sent off at such a crucial time.

The Disciplinary Officer was then asked were there any aggravating factors which needed to be considered and he confirmed that there were not.

As far as mitigation was concerned the Player explained that this was the biggest game his club had been involved in in the last nine years. He had just come on as a sub ten minutes earlier and was most anxious to impress. He had to get back into the defensive line and when his leg was held, he reacted badly. He had played 109 times for Wasps and also for the England under 18 teams. He had no previous disciplinary record of any description and had received one previous yellow card for a technical offence. His Manager said that he was one of the best behaved players in the team and had received an award from the community some time previously for his work with local clubs.

At that stage, they were asked by the Chairman to address the Committee as to whether the holding of the player's leg by Itoje could be considered as provocation and what weight, if any, they should give to that. It was pointed out at this stage that Itoje had received a Citing Commissioner's warning as a result of his behaviour leading to this incident. Both the Player and his Manager stated that this incident would never have occurred without the leg holding incident and asked that the Committee would give it as much weight as they possibly could.

Mr McTiernan at this stage handed in the Flannery Decision and referred in particular to Paragraph 16 thereof which gave some guidance in relation to low end entry point in a "kicking" type case. He also mentioned the "wholly disproportionate" provision in the Disciplinary Rules and was not advocating one way or the other in relation to the same. He merely brought it to the attention of the Committee.

As there was nothing further to add, the Committee were advised of the Player's playing schedule and retired to consider their decision in private.

Decision

When the Committee returned, they stated that they considered the low end entry point of four weeks appropriate.

The Player was entitled to maximum mitigation in their opinion having regard to his acceptance that his actions amounted to foul play, his conduct at the hearing and his exemplary disciplinary record. The Chairman said that the Committee had very carefully considered whether to impose no sanction under the "wholly disproportionate" rule but felt they could not do so in these circumstances as the

citing involved a kick to the head of another player. In those circumstances, the Player was suspended from all rugby until midnight on Sunday the 8th of May 2016.

As no application was made in relation to costs, no order was made by the Committee.

The Player was reminded of his right to appeal the Decision pursuant to the Disciplinary Rules and he acknowledged the same.

H. PAT BARRISCALE

Chairman

Date: 1st of May 2016