

Decision of the Independent Judicial Officer

EUROPEAN PROFESSIONAL CLUB RUGBY

Held at The Sofitel Hotel, Heathrow Terminal 5

Wednesday 27th of January 2016

In respect of

of Laurent Sempere (“the Player”) of Stade Francais

And

Judicial Officer appointed to hear the case:

H. Pat Barriscale, Ireland (“the Judicial Officer”)

Decision of the Judicial Officer:

1. That the citing is upheld in that the JO is satisfied that the Player committed an act of foul play contrary to Law 10.4(m) which warranted a red card;
2. That the Player is suspended from taking part in a game of rugby up to and including midnight on Sunday the 8th of May 2016. This represents a 15 week suspension;
3. No order in relation to costs.

Introduction

The Judicial Officer was appointed by Professor Lorne D Crerar, Chairman of the EPCR Disciplinary Panel pursuant to the Disciplinary Rules found in the Participation Agreement of the European Rugby Challenge Cup 2015/2016. The Judicial Officer was appointed to consider the citing complaint (“the Complaint”) which concerned the conduct of the Player during a match played between Stade Francais and Leicester Tigers at Stade Jean Bouin on the 24th of January 2016.

Present at the hearing in addition to the Judicial Officer were the following persons:-

- Laurent Sempere, the Player;
- Pierre Arnald, Chief Executive Officer, Stade Francais
- Liam McTiernan, Disciplinary Officer, EPCR

After the appropriate introductions were made the Player and his representative confirmed that they had received all of the documentation relevant to the hearing together with the video clip which was available of the incident. As there were no preliminary issues raised, the Judicial Officer proceeded to the hearing.

Hearing

The JO outlined the procedure which he proposed following and this was accepted by all in attendance. He stated that initially he would consider the question of whether or not a red card offence had been committed and if he did so, would then proceed to sanction. If he were

not so satisfied, then that would be the end of the hearing. The Player was asked whether he accepted that he was guilty of a red card offence and he said he was not. He wished to contest the hearing fully.

The JO then requested Liam McTiernan (LMT) to present the evidence which was available from the Citing Commissioner. He showed the various video clips taken at the time the incident occurred and stated that there were two points particularly to note:-

1. The fact that the injured player, Mr Ayerza, can be seen to hold his eyes as he gets up from the ground after the maul;
2. That he complains to the Referee immediately at the next breakdown in play which was after a try to Stade Francais.

He then went through the detailed citing report compiled by Mr Ferguson and suggested that there were three principal points for consideration from the same:-

1. At the point of first contact the Player's right arm appears to wrap under the injured player's face area;
2. As the injured player gets up from the maul, he appears to be holding his face and particularly his eye area;
3. By a process of elimination the Citing Commissioner was able to account for every players' hand and arm position except the right arm of Mr Sempere;

He then showed the photographs of the injured player's face. One was taken immediately after the match and the other was taken an hour later. A blackened area could clearly be seen just below the eye with a graze on it. In addition, his eye was noticeably bloodshot. There was also an injury to his nose to be seen but this did not occur in this incident. The injured player recorded statement was listened to and the written statement presented also.

The Player was asked for a response to the matters which had been presented by LMT. He said he was not happy to see the injured player's face in that condition but that he was not responsible for the same. He did not make contact with the face of Mr Ayerza and was in contact only with his jersey in the chest area at all times. He did not put his fingers into the eyes of the injured player and would have known and felt it if he did so. On questioning from the JO he accepted that the injury to the injured player did occur at this time. There was a further extensive view of the videos in slow motion by all of the parties present and he was asked by the JO to point to another player involved in the maul who could have caused the injury. He was unable to specify another player who did or even could have caused the injury. The Player pointed out that the Referee had a clear view of the incident in that he was no more than three meters away and there was nothing to concern him in the incident.

A portion of Mr Ayerza's statement was read out at this stage as follows "I got into good body position below the opposition number 2 and felt some pressure in both eyes and scum cap". This could clearly be seen at the start of the incident and it was suggested to the Player by LMT that he was grabbing his jersey to get hold of the player and could easily have made contact with the eye and eye area at this time. This was not accepted by the Player who reiterated that he had only made contact with his jersey.

As there was nothing further to be said by any of the parties present, the JO retired to consider his decision on red card.

Decision on Red Card

The JO stated that he had no doubt that the injury occurred in this incident and that on the balance of probabilities, which was the standard he had to apply, that the Player was

responsible for those injuries. He was satisfied that it was definitely a red card offence and in those circumstances was upholding the citing. The Player had been asked to point to any other player who could have caused the injury and was unable to do so. The JO stated that he would then move on to sanction.

Sanction

The Player and his representative were asked to address the JO in relation to the entry point that he should consider under Clause 7.8.32 of the Disciplinary Rules. They had available to them both the English and French versions of the Disciplinary Rules 2015/2016. They suggested that the offending was not intentional and that if contact was made with the eye area it was accidental. The JO suggested that the Player's actions could be considered reckless and this was not accepted by them. They suggested a low end entry point was appropriate in the circumstances.

The JO asked them to address him in relation to 7.8.32(h) and (j) particularly in relation to the victim's injury. The Player responded by saying that he was very sorry for the Player in question but that it was not in his nature to cause such an injury. He was completely against any such conduct.

By way of mitigation he stated that he had been twelve years playing professional rugby and had played in excess of two hundred matches in that time. He had played with France up to under 21 level and all of his family were directly involved in rugby. He had a good disciplinary record and had one red card which involved a suspension of two weeks in 2013/14 for holding back another player. They acknowledged that they had contested the case but suggested to the JO that in all the circumstances he should fully understand why they did so. They requested that he would get the maximum possible mitigation.

As far as aggravating factors were concerned, LMT pointed to the two World Rugby Memoranda which were at Appendix 8 of the Disciplinary Rules. He stated that these could be considered as an aggravating factor but that the JO was not obliged to do so if he did not wish to. The JO then retired to consider his decision in relation to sanction.

Conclusion

The JO returned after some deliberation and stated that he was satisfied that the offence was reckless and not intentional. It was a serious offence and the part of the victim's body which was involved/affected and the extent of the victim's injury were matters for serious consideration. He felt that the mid-range entry point of 18 weeks was appropriate in the circumstances. He specifically mentioned the 2007 Hartley case and the following extract therefrom "the lower end of the scale of seriousness would include, but not limited to, wiping with an open palm or fist without any real force or intent and causing no injury. In certain circumstances, it might also include reckless contact with a finger into the eye area". The JO did not consider this was such a case.

As far as aggravation was concerned, the JO felt that an increase of three weeks was appropriate having regard to the World Rugby Memoranda and particularly as this type of offence appeared to be more prevalent recently. As far as mitigation is concerned, the JO said he was prepared to allow six weeks. He accepted that the Player felt strongly that he did not cause the injury and was entitled to have the case contested in those circumstances. He acknowledged the Player's genuine concern for the injury to Mr Ayerza.

The conclusion, therefore, was that a total ban of fifteen weeks was imposed to expire on Sunday the 8th of May 2016 at midnight.

As there was no application made in relation to costs no order was made in this regard.

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

H. Pat Barriscale
Judicial Officer
Dated: Friday, 29th of January 2016