

# DECISION OF THE INDEPENDENT JUDICIAL OFFICER

EPCR

Held at Sheraton Hotel, Charles de Gaulle Airport, Paris on 13<sup>th</sup> January 2016

In respect of:-

**Julien Le Devedec** of Bordeaux- Bègles (“**the Player**”)

and

**The ordering off of the Player in the Match played between Bordeaux-Bègles –v– ASM Clermont Auvergne on 8<sup>th</sup> January 2016 at Stade Chaban-Delmas, Bordeaux for an act of striking an opponent contrary to Law 10.4(a), of the Laws of Rugby Union.**

Judicial Officer appointed to hear the case:

**Simon Thomas (Wales) (“the Judicial Officer”)**

## **Decision of the Judicial Officer:**

- (i) The Player accepted that he had committed the alleged act of foul play and the issuing of the ‘red card’ was by the referee was not in error. The Judicial Officer found that the Player had committed an act of striking an opponent with his head contrary to Law 10.4(a) and that this merited an ordering off.
- (ii) The Player is suspended from taking part in the game of Rugby up to and including Sunday, 24<sup>th</sup> January 2016. This represents two weeks suspension commencing 8<sup>th</sup> January 2016.

## **Introduction**

1. The Judicial Officer was appointed by Professor Lorne D. Crerar, Chairman of the EPCR's Independent Disciplinary Panel pursuant to the Disciplinary Rules found in the Participation Agreement of the Champions Cup 2015/2016. The Judicial Officer was appointed to consider the ordering off by the referee of the Player in the match played between Bordeaux-Bègles – v– ASM Clermont Auvergne on 8<sup>th</sup> January 2016 in the Champions Cup 2015/2016.
2. Mr Peter Fitzgibbon was appointed as match referee to this match and had ordered off the Player for striking the opponent with his head contrary to Law 10.4(a) of the Laws of the Game.
3. Present at the hearing in addition to the Judicial Officer were the following persons:
  - Mr Liam McTiernan, Disciplinary Officer EPCR
  - M. Julien Le Devedec (“the Player”)
  - M. Olivier Brouzet, Director of Development, Bordeaux Bègles
  - M. Raphael Ibanez, Head Coach, Bordeaux Bègles

## **Preliminary Matters & Procedures**

4. At the commencement of the hearing the Judicial Officer noted the identities of those present and narrated the referee's report reminding the Player that the report was in respect of an allegation the Player had committed an act of striking an opponent with his head contrary Law 10.4(a) of the Laws of Rugby Union.
5. The Judicial Officer reminded all parties that the EPCR Disciplinary Rules found in the Participation Agreement for the Champions Cup 2015/2016 (the “Disciplinary Rules” and “DR” in the singular) would apply. The Judicial Officer outlined the procedure to be followed to determine the matter. The Player and all present agreed to proceeding on that basis.
6. The Judicial Officer established what evidence had been placed before him prior to the hearing and enquired whether all present had received in good time. The evidence for consideration was as follows:
  - Referee's report
  - Assistant referee report of Leo Colgan
  - Assistant referee report of Paul Haycock
  - TMO report of Seamus Flannery

- Statement of Paul Jedrasiak of Clermont Auvergne No.4
  - Statement of Dr Mathieu Abbot, Clermont Team Doctor
  - Emailed statement of Raphael Ibanez
  - Match footage
7. The Judicial Officer noted the terms of the Player's response to the Standing Directions found at Appendix 6 of the Disciplinary Rules ("the Directions") which confirmed that the Player fully accepted that he had committed the alleged act of foul play and accepted the accuracy of the referee's report on the issuing of the red card.
  8. The Judicial Officer invited the Player and the Disciplinary Officer to confirm whether or not they had any preliminary issues that they wished to raise. Both confirmed there were none.
  9. The Judicial Officer therefore formally put the allegation to the Player who confirmed that he had committed the act of foul play and he did not seek to argue that the referee's decision to issue the red card was in error.
  10. The Judicial Officer reminded all parties that his function was to hear the case and determine the facts regarding the matter and thereafter decide what sanction (if any) should be imposed upon the Player.

### **Evidence**

11. The Judicial Officer asked the Disciplinary Officer to present the evidence which was as follows:

### **Video Footage of the Incident**

12. The video footage showed that after the elapse of 50 minutes of the match with the scores Bordeaux Bègles 10, ASM Clermont Auvergne 23 play is taking place near the Bordeaux Bègles left-hand touchline midway upfield. As the ball is released along the Bordeaux Bègles side from the tackle area, ASM No.1 is in an offside position. As he begins to move in field he begins grappling with BB No.1 who swings him around. The situation appears volatile as they continue to wrestle with each other and other players from both sides approach the two props seemingly in an attempt to restrain them. ASM4 approaches the melee and comes into contact with the Player. As they grasp and face each other holding onto each other's shirt and shoulders, the Player can clearly be seen dropping his head and driving it into the forehead area ASM4 who immediately turns to the assistant referee to draw his attention. Play continues away from this confrontation but the footage shows that the Player and ASM4 carry

on grappling with each other with their heads still close to each other until they are eventually separated with the help of non-playing members of the teams.

13. The assistant referee draws the incident to the attention of the referee who views the incident on the big screen. After reviewing the footage and after consultation with the TMO he orders the Player off from the field for "leading with his head".

#### **The Referee's Report**

14. Mr Fitzgibbon's report read as follows.

"There was a scuffle involving several players from both teams after the ball was moved away from a Maul. The number ones from both teams were involved in a tangle, holding and pulling each other. Players from both sides arrived on the scene, including No. 4 from Clermont Auvergne and No. 19 from Bordeaux Bègles. The assistant referee recommended that we review the footage with the TMO to ascertain whether foul play had occurred, and to pay particular attention to what happened between the players mentioned above. As they were holding each other, we saw Bordeaux Bègles No. 19 strike Clermont Auvergne No. 4 with his head, making contact with the forehead/face of that player. I decided to send the Player off and showed him a red card."

#### **Assistant Referee's Report**

15. The assistant referee report of Leo Colgan read as follows:

"Following a phase of play the two number ones from each team carried on in a scuffle which led to other players trying to intervene and actually escalating the situation. I observed in particular the altercation between No.4 Clermont and No.9 Bordeaux where No.9 appeared to use his head. Once we separated the players I told the referee that I had seen the two number ones start the sequence of events and that the Clermont No. 4 and Bordeaux No. 19 had also had an altercation which I suggested we review onscreen with the TMO. On review, the footage clearly showed that Bordeaux Bègles No. 19 strike Clermont Auvergne No. 4 with his head making contact with the forehead/facial area of that player. The referee decided to send the Player off and showed him a red card".

16. Assistant referee Paul Haycock confirmed that he was unaware of the incident had made no recommendations to the referee.

## **TMO**

17. The TMO's report read as follows:

"The referee received a "flag" for foul play from Leo Colgan and referred the incident to myself, the TMO, for review. On review I saw Julien Le Devedec strike a Clermont player in the face with his head. In line with protocol the referee looked at the big screen and led the conversation. He said that he was looking at red 19 and described what I witnessed and asked me if he was correct. I concurred with him and he said that he was going to send off the Player.

PS - We noted his post match interview with the press the following day where he admitted he was disappointed and ashamed of his actions!".

## **Paul Jedrasiak (ASM No.4)**

18. The emailed statement from Mr Jedrasiak read as follows:

"At the end of an action towards the touchline, a scuffle occurred involving a few players from both teams. I approached with a number of other players and in the ensuing exchanges found myself opposite Mr Le Devedec - We had grabbed hold of each others jerseys and he then made contact with his head to my face. It was not a forceful contact and was not painful. This was an isolated incident with the Player. I never saw Mr Le Devedec again following his expulsion and have had no contact with him since.

## **Clermont Team Doctor**

19. Mathieu Abbot (Clermont Team Doctor) stated:

"Following the incident in question I treated our player Paul Jedrasiak. He had a cut to the bridge of his nose which required some swabbing but no further action either or during after the match. Paul is fit and is able to train today and is available for next week's game."

20. This concluded the evidence.

21. The Disciplinary Officer confirmed that he had no further evidence to present. Accordingly the Judicial Officer invited the Player to give his explanation with the assistance of Mr Brouzet who was to translate for him.

## **Player's Evidence**

22. The Player stated that the incident had occurred after he had observed his team-mate No. 1 coming into contact with the opposing prop (No. 1). He said that he had come to try and separate them and as he was doing so he became embroiled with Jedrasiak. He described how he was facing Jedrasiak one-to-one and each was grasping the other's jersey. He described how he had the "bad reflex to go the forehead" and that he admitted he made the first move. He said that he had regretted what he had done. He described how he had only come on to the pitch a few moments earlier as a replacement.
23. Upon questioning by the Judicial Officer, the Player confirmed that he had probably been only on the pitch for one minute prior to the incident and that there had been only one lineout before he had committed the act of foul play. When the Judicial Officer asked him why he had decided to strike the opponent with his head (because at this point there only appeared to be some pushing and shoving between them) he explained that he wanted to let Jedrasiak know that he was "ready" for a confrontation if Jedrasiak had wanted one. He said how the strike had been without any degree of force and had been to the forehead area rather than to the nose. Although he could not be certain, he was not convinced that his strike had caused the cut to Jedrasiak. He explained that after the incident he had felt very upset at his own actions because he realised that they were totally inappropriate. He described how he had not had the opportunity to speak with Jedrasiak after the hearing because he and his team had left the stadium very shortly afterwards. He had, however, apologised to his own coaches for putting his own team in the position of having had to play most of the second half with only 14 men.
24. The Player's apology was confirmed by Mr Ibanez.

## **Submissions as to Sanctions**

26. The Disciplinary Officer stated he did not advocate any particular sanction in the case.
27. The Judicial Officer explained that his function was now to consider the facts of the case and to determine the seriousness of the Player's conduct constituting the offending in accordance with DR7.8.32 (entry point) before considering the existence of any aggravating factors (DR7.8.34) and mitigating factors (DR7.8.35).
28. The Judicial Officer noted that for allegations of foul play contrary to Law 10.4(a) involving striking an opponent to the head, the World Rugby Sanctions found in Appendix 3 to the Rules were as follows:

Lower end – 4 weeks

Mid range – 10 weeks

Top end – 16+ weeks (maximum 104 weeks)

29. The Judicial Officer invited the Player's representative to address him in relation to entry point. Mr Brouzet did not have a copy of the Rules before him and so the Judicial Officer took him through each of the paragraphs slowly inviting him to comment upon them.
30. The Judicial Officer and the Player came to identical conclusions as to facts surrounding the entry point criteria which were as follows:
- a. and b. The Player's offending was intentional rather than reckless (although not premeditated).
  - c. The Player's actions were not grave in that it was apparent from video, the evidence of the Player and the victim that the strike was without any real force and was more a "statement of intent" rather than an attempt to hurt or injure.
  - d. The Player had struck with his head which was an essential ingredient which constituted the act of foul play.
  - e. f. and g. There was no real provocation, the Player had not been acting in retaliation nor acting in self-defence.
  - h. There was no real effect of the Player's actions on the victim. Although he appeared to have suffered a minor cut, the bleeding was quickly stemmed by the use of a swab and the Player was able to play on immediately.
  - i. The only effect of the Player's actions on the match appeared to be with his own team which had to continue for 30 minutes with 14 men.
  - j. The victim player was vulnerable in the sense that he was unable to defend himself from a strike with the head as his arms were grasping the Player at the time.
  - k. There had been no premeditation.
  - l. The Player's conduct was completed rather simply attempted.

- m. There were no other features of the Player's conduct in relation to or connected with the offending.
31. Based on the assessment of the seriousness of the Player's conduct in light of the above and notwithstanding the strike had been intentional, the Judicial Officer found that the appropriate entry point was lower end. This therefore constituted a starting point of a four week suspension.
32. The Judicial Officer considered in accordance with DR7.8.34 whether there existed any off field aggravating factors. The Disciplinary Officer confirmed that so far as he was aware there were none. The Judicial Officer accepted that this was the case.
33. Turning to mitigating factors pursuant to DR7.8.35, again the Judicial Officer took the Player and his representative carefully through these provisions and accepted the Player's submissions which were as follows:
- a. The Player had admitted his acknowledgement of culpability/wrongdoing from the outset. This had assisted the judicial process and had saved both time and expense.
  - b. The Player had an exemplary disciplinary record and good character. The evidence before the Judicial Officer was that he was 29 years of age. He had played Rugby Union professionally for 10 years with four years at Brive, five years at Toulouse and is now in his second season at Bordeaux Bègles. During his entire career he had never been shown a red card or cited for any act of foul play. Whilst he had received several yellow cards in that period they were for technical offences rather than for dangerous play. Mr Ibanez had also given an emailed statement which he supplemented in his oral evidence before the Judicial Officer attesting to the Player's work ethic and general good character. The Judicial Officer accepted all of this.
  - c. Whilst the Player was not young or inexperienced, the fact that he had a good record over a long period was obviously in his favour.
  - d. The Player had conducted himself well at the hearing and shown appropriate respect at all times.
  - e. Whilst the Player had not spoken directly to the victim player or apologised for his conduct, the evidence before the Judicial Officer, which was accepted, was that the Player had made a public pronouncement in the press the day after the match expressing his shame and remorse for what he had done.

- f. There were no other off-field mitigating factors that were relevant.
34. The Judicial Officer noted the terms of DR7.8.36 which provides that when considering the effect of any off field mitigation the Judicial Officer could not apply a greater reduction than 50% from the entry point suspension and that in assessing the level of reduction from the entry point suspension, the Judicial Officer should start at 0% and work up to the maximum of 50%.
35. In the particular circumstances of this case, the Judicial Officer accepted that the Player was entitled to maximum mitigation in this case (of 50%) which meant a reduction from the entry point of two weeks.
36. The Judicial Officer therefore announced his decision that the Player would be suspended from the game of Rugby Union for a period of two weeks. In applying the two week suspension to the Player's anticipated matches, he and his team were due to play Exeter this forthcoming weekend and ASM Clermont Auvergne on Sunday, 24<sup>th</sup> January 2016.
37. Accordingly, the Judicial Officer suspended the Player from taking part in the game of Rugby Union up to and including Sunday, 24<sup>th</sup> January 2015. He is free to play on Monday, 25<sup>th</sup> January 2015.
38. Under the rules the Judicial Officer was not empowered to make any award of costs and accordingly, no award was made.

### **Right of Appeal**

39. The Judicial Officer notified all parties of their right to appeal his decision pursuant to DR8.1.

Date: 14 January 2016

Simon Thomas  
Judicial Officer