

ERC HEINEKEN CUP

DECISION OF THE INDEPENDENT JUDICIAL OFFICER

Hearing by correspondence

IN RESPECT OF:

Kieran Marmion ("the Player")

and

A citing complaint ("the Complaint") brought against the Player alleging that he had committed an act of foul play in contravention of Law 10.4(a) of the Laws of the Game (striking with his head) in the Heineken Cup round 6 match ("the Match") between Saracens and Connacht Rugby played at Allianz Park on 18th January 2014.

Judicial Officer appointed to hear the case:

Roger Morris (Wales) ("the Judicial Officer")

Decision of the Judicial Officer

- (i) The Judicial Officer was satisfied to the requisite standard of proof that the Player had committed an act of foul play contrary to the cited law and therefore upheld the Complaint
- (ii) The Judicial Officer did not consider the offending so serious as to have warranted the ordering off of the Player (a Red Card) and therefore no sanction would be imposed on the Player and he was immediately free to play.
- (iii) There would be no award of costs.

Introduction

The Judicial Officer was appointed by Prof Lorne D Crerar, Chairman of the ERC Discipline Panel, pursuant to the discipline regulations found in the Participation Agreement of the Heineken Cup for season 2013/2014 to consider the Complaint which had been brought by Richard McGhee, the citing commissioner appointed to the Match.

The Complaint alleged that, in the 78th minute of the Match, the Player, with his head, struck Neil de Kock, the Saracens' No 21 player ("S21") on the head in breach of Law 10.4(a) of the Laws of the Game.

The Complaint

The narrative of the Complaint read as follows:

" Saracens #6 takes the ball into contact, is tackled and a ruck forms. The ball is trapped and the two scrum halves are both trying to wrestle the ball free. The referee blows his whistle to penalise Saracens for not releasing and as he is blowing his whistle Connacht #9 lunges forward and strikes Saracens #21 on the head with his head."

Submission by ERC

Following receipt of the Complaint, a hearing was convened for the parties to appear in person before the Judicial Officer. However, ERC's Disciplinary Officer, in collating and gathering the evidence in preparation for the hearing, had obtained a statement from S21 which put the video evidence in a different light from that initially apparent from first viewing. The statement had not been available to the citing commissioner.

In that different light, the Disciplinary Officer, in writing, set out his opinion that the level of offending was not so serious that it warranted the ordering off of the Player by the issue of a Red Card. The Disciplinary Officer invited the Judicial Officer to consider the evidence supplied with a view to determining whether he agreed with that opinion and, if so, whether that would obviate the need for a hearing with the parties present in person.

The evidence and decision

The Judicial Officer watched the video clips, read the statements of S21 and watched the video clips again.

The video showed the ruck identified in the Complaint and the Player and S21 wrestling for the ball as described by the citing commissioner. The video also showed the Player lunging towards S21, apparently leading with his head, making contact with S21 and S21 tumbling backwards from the ruck.

S21's account of what happened (and it is emphasised that this evidence was not available to the citing commissioner) said that he had felt himself being "cleaned out" in the shoulder/neck area. Following receipt of S21's statement the Disciplinary Officer had written to him asking specific questions so as to clarify exactly what had happened. In his responses to those questions S21 had said:

- *"I felt contact in my shoulder/neck area. It was Kieran Mammion (only after watching the video as I was unaware of any wrongdoing). I am not sure what made contact with my body as I was looking down at the time."*
- *"I was looking down so unsure which body part made contact with me."*
- *"There was no contact with my head whatsoever."*

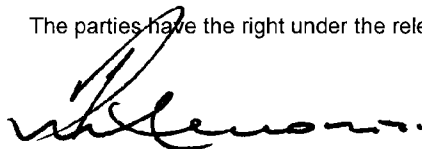
The Judicial Officer viewed the video again with S21's testimony in mind. He was conscious too that film is a two dimensional representation of a three dimensional event and sometimes what appears to have happened is a distortion of what actually happened. He concluded that although the Player had made illegal contact with S21 (probably with head to shoulder) he had not struck him head to head. Further, the force of the strike was not particularly strong and was not the cause of S21 tumbling out of the ruck.

Having considered the evidence carefully, the Judicial Officer came to the same conclusion as the Disciplinary Officer and decided that although the Player had committed an act of foul play (and therefore that the Complaint would be upheld) it was not of such gravity that it warranted the issue of a red card. In accordance with the entitlement bestowed upon him under the terms of Disciplinary Regulation 6.7.41 applying to the Match, the Judicial Officer determined that no sanction by way of suspension be imposed. The Player was immediately free to play the game.

There would be no order as to costs.

The Judicial Officer's decision was relayed to the parties on the 21st January 2014 by means of e mail.

The parties have the right under the relevant regulations to appeal against the above decisions.



Roger Morris

31st January 2014