

European Cup Rugby

Decision of Discipline Committee

**Held at the Park Inn, Heathrow, England
On the 6th February 2006.**

In respect of:-

Epi Taione (hereinafter called "the Player")

And

A Citing Complaint relating to an allegation that he bit Denis Leamy during the course of a match between Munster and Sale Sharks.

Members of the Discipline Committee

Wyn Williams (Chairman) (Wales)

Paul Mauriac (France)

Barry O'Driscoll (Ireland)

Decision of the Committee:

- (1) The Committee found that the Player had bitten Mr. Leamy as alleged.
- (2) The Player is suspended from taking part in the game of rugby up to and including Sunday 11th June 2006. This represents a suspension of 18 weeks.
- (3) The Committee ordered that the Player should pay to ERC its reasonable costs of convening the hearing. The order was made upon the understanding that Sale Sharks would pay the sum due.

Introduction

This Committee was convened by Professor Lorne Crerar, the Chairman of the ERC Discipline Panel pursuant to the discipline regulations of ERC in respect of a citing complaint made by Mr. Iain Goodall, the Citing Commissioner at the match between Munster and Sale Sharks on the 21st January 2006. His complaint alleged that the Player had bitten Denis Leamy. On the Friday before the hearing ERC was informed that the Player intended to admit the allegation.

Hearing

At the hearing the Player was represented by Mr. Haslam, a solicitor. He was accompanied by the Chief Executive of Sale Sharks, Niels de Vos. ERC was represented by Mr R O'Connor and its solicitor Mr. J Taylor.

At the outset the Committee asked the Player and his solicitor whether it was correct that he wished to admit the allegation against him. Both Mr. Haslam and the Player himself confirmed that the Player admitted the allegation. It was then agreed that the hearing would be concerned only with the appropriate sanction.

Mr. Haslam called the Player to give evidence. He produced three written character references and he made detailed submissions. The Committee viewed video footage of the game and they were provided with a short medical report upon Mr. Leamy and some photographs of his injury.

The Player was playing at No.6 for Sale and Mr. Leamy was his opposite number. A scrum was awarded to Munster and the incident occurred just as the scrum was coming to an end. The Player rose from his position at the side of the scrum to pursue the Munster scrum-half. Mr. Leamy blocked his path. It was not suggested that Mr. Leamy did anything out of the ordinary in so doing. The two men came together and just after contact the Player bit Mr. Leamy to his arm near to the elbow joint. Mr. Leamy reacted angrily but after a short scuffle with the Player the incident ended. Dr Michael Shinkwin, the Munster Doctor, was called on to the field and he saw an oval mark on Mr. Leamy's arm which was consistent with a bite. The skin was not broken by the bite.

Our first task was to categorise the incident in terms of its seriousness. Under the Regulations offences are categorised as lower end, mid range, or top end in terms of their seriousness. This is done so that the appropriate starting point within a range of sanctions can be determined.

We concluded that this offence was at the lower end. In saying that it should not be thought that biting is anything other than a serious offence which is to be condemned in the strongest terms. However, looked at against the criteria in Regulation 6.6.24 we determined that the offence lay at the lower end of biting offences. Although the bite was deliberate it caused a transient injury and, importantly, the skin was not broken. It had no effect upon Mr. Leamy's ability to play rugby. The incident had no effect upon the game. In no sense was the bite premeditated. Although the bite was inexcusable, it was motivated more by frustration than malice.

The starting point for a lower end biting offence in terms of sanction is 6 months suspension. However, before fixing the actual sanction we are required to consider aggravating and mitigating features under Regulations 6.6.26 and 6.6.27.

We found no aggravating features.

There were many mitigating features. We found that the Player was genuinely remorseful. He had not played or trained since the day of the match. He had apologised to Mr. Leamy after the game. He admitted the offence before us. He conducted himself before us in a way which suggested he was genuinely sorry for what had occurred. His character references were impressive. It is clear that he is

highly respected by his own Union (Tonga) and that he performs many off-field activities which positively promotes the game. He bears the financial responsibility for a large family at home in Tonga; a burden which he undertakes following the death of his father. All that said we should record our disappointment that an experienced professional player who has captained his country should descend to biting.

Regulation 6.6.28 empowers us to reduce the “lower end sanctions” if there are no aggravating features and there compelling mitigating features. We found there to be no aggravating features and we concluded that the mitigating features set out above were compelling. In fixing the length of the suspension we took into account the “voluntary suspension” already served and the fact that the Player would normally expect to play an important part in the Tonga team for its fixtures throughout our summer. We felt that a reduction from the usual lower end sanction of 6 months was justified and we concluded that the appropriate length of suspension was 18 weeks. The result is that the Player is suspended until midnight on Sunday the 11th June 2006.

Wyn Williams
Chairman