



Decision of the Independent Judicial Officer

Hearing held at the offices of Clifford Chance, 10 Upper Bank Street, Canary Wharf, London on 9 October 2015 commencing at 10.00am.

In respect of

Renaldo Bothma of Namibia ("the Player")

And

A citing by **Maurizio Vancini (Italy) Citing Commissioner**, in respect of an alleged offence under Law 10.4(e) namely, a player must not tackle (or try to tackle) an opponent above the line of the shoulders even if the tackle starts below the line of the shoulders, a tackle around an opponent's neck or head is dangerous play, in a match played between Namibia and Georgia on 7 October 2015 at Exeter Sandy Park ("the Citing Complaint").

Judicial Officer appointed to hear the case:

Alan Hudson (Canada) ("the Judicial Officer")

Decision of the Judicial Officer:

- (i) The Judicial Officer confirmed the admission of the act of foul play by the Player as alleged in the Citing Complaint.
- (ii) The Player is suspended for two weeks. Equated to matches, the Player is free to resume playing on 15 November 2015.

1. Introduction

- 1.1. I was appointed to consider the Citing Complaint against the Player arising from the match played between Namibia and Georgia on 7 October 2015 at Exeter Sandy Park in the Rugby World Cup 2015 ("The Tournament"). The incident occurred in the 49th minute of the second half.
- 1.2. Maurizio Vancini (Italy) was appointed as Citing Commissioner to this match and cited the Player for an alleged offence under Law 10.4(e) namely, a player must not tackle (or try to tackle) an opponent above the line of the shoulders even if the tackle starts below the line of the shoulders. A tackle around the opponent's neck or head is dangerous play.
- 1.3. The following persons were present at the hearing:
 - **The Player**
 - **Mr Bradley Basson** (President of the Namibia Rugby Union and in his capacity as the Player's legal representative)
 - **Mr Sybrand de Beer** (Chief Executive Officer of Namibia Rugby Union)
 - **Ms Yvonne Nolan**, (Designated Disciplinary Official ("DDO"), Rugby World Cup Ltd ("RWCL"))
 - **Mr Patrick Lloyd**, (Judicial Administrator RWCL)
- 1.4. The Player, in response to directions issued by me, accepted that he had committed an act of foul play as set out in the Citing Complaint. He confirmed this at the commencement of the Hearing. The Hearing therefore proceeded to deal with the issue of what sanction, if any, should be imposed on the Player in accordance with the provisions of section 10.10 of the Tournament Disciplinary Regulations ("TDR").

2. Evidence

- 2.1. I admitted into evidence the following documentation (in the Hearing Booklet):
 - The Citing Commissioner's Report (Tab 1);
 - Letter from the DDO Ms Nolan to the Player dated 8 October 2015 (Tab 2);
 - Emails to Mr Wessel Kotze dated 8 October 2015 (Tab 3);
 - Match Summary Sheet (including team sheet) (Tab 4);
 - Statements from Match Officials including Referee's Report on Temporary Suspension (Tab 5);
 - Statement from Vasil Abashidze (George Team Manager) (Tab 6);
 - Directions issued by Judicial Officer, and responses to the directions (Tab 7);
- 2.2. In addition, camera footage was admitted showing various angles of the alleged incident which was played during the Hearing at various speeds.
- 2.3. The Citing Commissioner described the incident in his report as follows:

"George were attacking inside 22 metre area in the centre of the field. Number 8 Namibia attempted to tackle number 10 Georgia – in possession of the ball, tackling him and grabbing up at neck level with left arm pulling him back by the neck. The dangerous tackle to ball carrier was harnessed with the other arm to the body and brought down. Number 10 Georgia thrown and fell heavily to the ground in a dangerous position unable to protect himself."

- 2.4. The Player accepts that this description is a true and accurate account of the incident save and except that he pulled Georgia 10 (G10) down with his bodyweight cushioning the impact of G10 when he fell to the ground, as opposed to throwing him to the ground.
- 2.5. The camera footage which was reviewed in detail during the Hearing, clearly showed the incident. It occurred while Georgia was on attack inside the Namibia 22 metre area in or about the centre of the field. G10 is in possession of the ball. G10 effects a line break, breaking a tackle by Namibia 10. As he proceeds toward the Namibia goal line, the Player approaches from G10's left side, and slightly from behind him, in defence and makes contact with G10. His left arm goes around G10's neck and throat area as he moves behind G10. He brings his right arm across the front of G10's torso while pulling back forcefully with his left arm around the neck and the forearm across the throat of G10. Using both arms around G10 in this manner, he uses his bodyweight to pull G10 backwards to the ground. His left arm remains around the neck and throat of G10 and he continues to pull back until G10 is on the ground. G10 releases the ball and the play continues. G10 remains on the ground briefly before getting to his feet and resuming play.
- 2.6. The Referee's Report on a Temporary Suspension which was issued following the incident reads:

"Georgia were attacking inside the Namibia 22 in the centre of the field. Namibia 8 attempted to tackle the ball carrier, tackling him at neck level. An informal review was made to the TMO who confirmed it was a yellow card offence. Advantage was played, Georgia scored a try and Namibia 8 was sin binned for a high tackle."
- 2.7. The Assistant Referees' statements indicate that neither saw the offence.
- 2.8. A statement was obtained on behalf of the G10 confirming that he was not injured as a result of the incident in question.
- 2.9. The Player presented evidence on his own behalf. He stated that he was in cover defence and saw G10 break the tackle with the Namibia 10. He attempted to stop G10's progress grabbing him around the body to get him to the ground as quickly as possible but was not aware that he had in fact committed a high tackle. He said it was not his intention to grab G10 around the neck and he wasn't certain what in fact happened in the tackle. He said he was quite uncertain why he had been given a yellow card by the Referee at the conclusion of the incident.
- 2.10. Mr Basson on behalf of the Player further described the incident from the Player's perspective. He said that when G10 broke the tackle just prior to the incident, G10 lost

his balance and stumbled forward which resulted in him having a lower body position and this caused the Player to come at G10 from an "awkward angle". This in his view contributed to the problem. He also said that the Player slipped when making the tackle and he emphasized that the camera footage showed that G10 was not injured in the incident. He said that the Player through his actions in fact "cushioned" the impact of G10 with the ground. He confirmed that Namibia players are encouraged to follow the Laws of the Game very carefully and agreed that it is wrong to grab any player around the neck area.

3. Assessment of sanction

- 3.1. I undertook an assessment of the seriousness of the Player's conduct in order to categorise the offending and identify the appropriate entry point under TDP Appendix 3. Mr Basson addressed me on the applicable subparagraphs contained within paragraph 10.10.2 of the TDP. I assessed the seriousness of the Player's conduct in reference to those features as follows:
- a. After hearing all of the evidence, I am satisfied that the offending was not intentional or deliberate in the circumstances.
 - b. I find that the Player's offending was reckless in the circumstances. He knew or ought to have known that grabbing G10 from behind in the manner he did put him at risk of committing an act of foul play.
 - c. The Player's left arm around the neck and throat area of G10 and the ensuing action by the Player of pulling back with his left arm such that the head of G10 was pulled backward as the Player dragged him to the ground using his bodyweight, resulted in a forceful and protracted pressure being applied to the neck and throat area of G10. This could have created a serious problem for G10 who was in a vulnerable position at the time. Any high tackle carries with it the potential for serious injury and that was certainly prevalent in this situation.
 - d. The Player's actions in this situation fortunately did not have any serious consequences as no injury resulted to G10.
 - e. The Player's actions resulted in a yellow card which disadvantaged his team especially as they were already short one player for an earlier yellow card.
 - f. Other than this, the Player's actions had no effect on the Match. There was no provocation or act of retaliation and the Player did not act in self-defense.
 - g. The Player alone participated in the offending and his actions were a complete act of foul play.
- 3.2. I have concluded that the appropriate entry point is Low End which under TDP Appendix 3 equates to a two week sanction.
- 3.3. I considered whether there are any off field aggravating factors within the meaning of TDP 10.10.4. I have concluded that, given the 22 May 2015 Further Amended Memorandum from World Rugby Relating to Dangerous Tackles which concludes:

"Each of the types of Foul Play referred to above:

- high tackles
- dangerous grasping
- tacking ball carrier around neck/head area

constitutes patterns of offending in the Game for which there exists a need for a deterrent in sanctioning" (my emphasis)

is of importance. In consequence, I increase the sanction by a period of one week.

- 3.4. I considered the following mitigating factors pursuant to TDP 10.10.5:
- a. The Player acknowledged at an early stage, his culpability for the offence in question;
 - b. The Player is 26 years old and has played ten times for Namibia. He has been a professional rugby player since 2010 playing for both the Sharks and the Pumas in South Africa. He has received no citing reports or red cards in his career. He has not received any yellow card for a high tackle.
 - c. The Player was described in the Hearing as being an exemplary leader on the field for his team. He has taken a leadership role for the Namibian team and is described as having an exceptional character both on and off the field.
 - d. The Player demonstrated considerable remorse during the Hearing. In my view he was quite genuine. He also stated that after the game in question he attempted to locate G10 to apologize but could not find him.
 - e. The Player's conduct throughout the Hearing was of a high level.

Accordingly, after taking into account the above mitigating factors, I have concluded that the Player is entitled to a one week reduction in sanction.

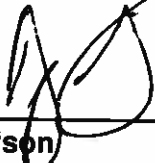
- 3.5. Mr Basson submitted that the Player ought to receive the benefit of a sanction less than a fifty per cent reduction pursuant to TDP 10.10.7. While there are off field mitigating factors that are applicable, the actions of the Player in the subject incident had the potential to cause serious injury to a vulnerable player. I have concluded therefore that this is not a situation whereby the sanction I have imposed is wholly disproportionate to the level and type of offending involved.

4. Finding as to Sanction

- 4.1. Accordingly, the Player is suspended for a period of two weeks. The Player is scheduled to play for Namibia in its final game in the Tournament against Argentina on 11 October 2015. Thereafter the Player is not scheduled to play again until 14 November 2015 when he is to play his first match for Toyota Verblitz. Pursuant to TDP 10.10.14 "weeks" in the sanctioning regime equates to "matches". As a result, the Player is suspended up to and including 14 November 2015. He is free to play again on 15 November 2015.

5. Right of Appeal

- 5.1. The Player was advised that pursuant to TDP 10.13 he has 48 hours in which to appeal this decision from the time he is notified of the written decision.



Alan Hudson
Judicial Officer

Dated: 9 October 2015