



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 2:00 pm.

In respect of

Nick Blevins of Canada ("the Player")

And

A citing by **Yves Thieffine, Citing Commissioner**, in respect of an allegation of a dangerous tackle contrary to law 10.4(e) of the Laws of Rugby Union in the match between Romania and Canada played on 6 October 2015 at Leicester ("the Citing Complaint").

Judicial Officer appointed to hear the case:

Simon Thomas (Wales) ("the Judicial Officer")

Decision of the Judicial Officer:

- (i) The Player having admitted the act of foul play contained within the Citing Complaint, the Judicial Officer found that the Player had committed an act of foul play contrary to law 10.4(e).
- (ii) Further to the tournament disciplinary programme ("TDP"), the Player is suspended from taking part in the game of Rugby Union for a period of 5 weeks up to and including Sunday 15th November. The Player is free to resume playing on Monday 16th November 2015.

1. Introduction

- 1.1. The Judicial Officer was appointed to consider the Citing Complaint against the Player in the match played between Romania and Canada on 6 October 2015 at Leicester in the Rugby World Cup 2015 ("The Tournament")
- 1.2. Yves Thieffine of France was appointed as Citing Commissioner to this match and had cited the Player for an offence contrary to Law 10.4(e) of the Laws of Rugby Union. The short description contained in the citing complaint stated that he had committed an act of "*Dangerous tackling. A player must not tackle an opponent early, late or dangerously.*"
- 1.3. In addition to the Judicial Officer, the following persons were present at the hearing:
 - **The Player** (via skype)
 - **Mr Gareth Rees, Canada Team Manager** (via Skype)
 - **Mr Hugh Christie, Counsel for the player** (via skype)
 - **Mr Ben Rutherford**, Designated Disciplinary Official ("DDO"), Rugby World Cup Ltd ("RWC")
 - **Mr Patrick Lloyd**, Assistant Designated Disciplinary Official, Rugby World Cup Ltd

2. Preliminary Matters and Procedures

- 2.1. At the commencement of the hearing the Judicial Officer noted the identities of all present and narrated the complaint reminding the Player that the complaint was in respect of an allegation that he had committed an act of illegal and/or foul play contrary to law 10.4(e) of the Laws of the game.
- 2.2. The Judicial Officer outlined the procedure to be followed to determine the matter and explained that the Citing Complaint would shortly be put to the Player. He explained that if the Player admitted the allegation, then the Judicial Officer would proceed to consider what sanction (if any) should be imposed. Alternatively, if the Player denied he had committed an act of foul play, the Judicial Officer would proceed to hear the case and firstly decide on the balance of probabilities whether the act of foul play had occurred. If it had not that would be an end to the matter. If foul play had been established then the Judicial Officer would proceed to consider sanction (if any). The Player and all present agreed to proceed on that basis.
- 2.3. There were no preliminary matters to be determined.

3. Evidence

- 3.1. The Judicial Officer established what evidence had been placed before him prior to the hearing. The Player's representative confirmed that the Player had been provided with all of the written evidence.

3.2. The documentation circulated to the parties and the Judicial Officer prior to the hearing included the following

- The Citing Complaint
- The match summary sheet
- The written report of the Match Referee, Wayne Barnes
- The written report of Assistant Referee, Glen Jackson
- The written report of the Assistant Referee, Marius Mitrea
- A translation of the statement from Romania Number 9, Florian Surugiu
- A translated statement from the Romania Team Doctor, Tavi Campian
- Confirmation from the Romania Team Manager of the results of Mr Surugiu's MRI scan
- A World Rugby injury report form
- A copy of the joint memorandum issued by Joel Jutje and Tim Gresson the World Rugby High Performance Match Officials' Manager and World Rugby Judicial Panel Chairman, respectively, dated 22 May 2015 concerning dangerous tackles.
- The Judicial Officer's pre-hearing directions
- The Player's responses to the pre-hearing directions

4. The Allegation

4.1. The Citing Commissioners report provided the following details:

"At a ruck, number 9 Romania challenges for the ball. Number 12 Nick Blevins, joins the ruck at speed, takes number 9 Romania with right arm around the neck, right hand on the face/jaw, twists and pulls back his opponent. Both fall on the ground and continue to play".

4.2. The Judicial Officer narrated the Citing Complaint and asked the Player whether he admitted or denied committing the act of foul play contained within the complaint. The Player accepted that he admitted the complaint and that the narrative that was accurate.

4.3. Accordingly, the Judicial Officer upheld the Citing Complaint and explained that he would now hear the evidence surrounding the foul play before determining what sanction (if any) should be imposed in accordance with the procedure laid down in TDP 10.10.

5. Evidence

The evidence was as follows:

5.1. Match footage

- a) The match footage supporting the complaint showed that the incident occurred after the elapse of 3 minutes of the first half where the scores were Canada 0 Romania 0. The compilation of clips included the broadcast footage, and three

further angles all of which were played at normal speed and at various slower speeds. The quality of the match footage was very good.

- b) The incident which was the subject of the Citing Complain develops whereby Canada are in possession of the ball approximately 7 metres short of the Romania try line approximately 4 metres from the Canada left hand touch line. A Canada player is tackled in possession of the ball. He is brought to ground and a ruck forms. One of the players entering the ruck area from the Romania side is Florian Surugiu (Romania number 9) who bridges over the tackled player and attempts to take possession of the ball. Before he does so, the Player runs from an onside position directly towards Romania 9 and with his left hand grasps Romania 9 under his chest and with his right arm places his hand under the chin of Romania 9, grips him and then begins to pull him backwards towards the Romania side and towards the near touch line. The footage showed that the Player had grip on number 9's head but that this is momentarily released as he begins the pulling and twisting motion. He then grips, once again, R9's head whilst R9 is rolled away from the tackle situation. The Player then having released his grip around the players R9's head and neck area for a second time reaches with his right hand behind R9's left upper arm, near the shoulder. He then is seen looking towards the Assistant Referee who passes a message through the match officials' communication system to the Referee. Canada Number 9 collects the ball at the ruck and sprints over the try line for a score. This is then disallowed as a consequence of the foul play of the Player which is penalised with a penalty kick to Canada.

5.2. Match Official Reports

- **The Referee, Wayne Barnes** had provided a statement as follows:

"Though I penalised the head roll, this was on the recommendation of my Assistant Referee Marius Mitrea. He communicated the offence through the communication system.

I did not see the offence live."

- **Glen Jackson**

"I didn't see the incident in question".

- **Marius Mitrea**

"I confirm I witnessed the incident and reported it to the referee via radio. Therefore there was a penalty kick against 12 Canada. I saw 12 Canada committed to the ruck and put his arm around the neck of 9 Romania and brought this player to the ground".

- **Florian Surugiu**

His translated written statement read as follows:

"I went in at the ruck area in order to get to the ball (Jackal) I went over and immediately I felt somebody that came to clean me off from the contact area, and then I felt a snap while he was pulling me away. First I thought he hit me with his leg but then I realise after I've seen the game later on that he was grabbing me by the neck."

5.3. Medical Evidence

The medical evidence from the Romania team Doctor, Tavi Campian read as follows:

"The injury was in the fourth minute. That was the reason Romania 9 was replaced in the 23rd minute as he couldn't sprint any more and not able to follow the phases of play".

There was also confirmation of the MRI scan which Romania 9 had undergone as a consequence of the injury and this read as follows:

"Rupture of left adductor longis origin – 2 months recovery period".

5.4. Players evidence

The Player then gave his evidence in conjunction with the match footage.

- a) The Player confirmed that he had entered the ruck with speed. He described how his right arm had slipped up around the neck area of Romania 9. He described how the whole movement of tackling Romania 9 and rolling him away had happened so quickly that he didn't have the chance to let him go properly. He then said that having grasped the jaw area/head area of Romania 9, as soon as he realised the nature of his hold of Romania 9 he let him go. This aspect of the footage was evidenced from angle 4, camera 21 (zoom) at 4 minutes 55. As the footage moves to 4 minutes 59, the Player can be seen releasing his hand grip upon Romania 9. Romania 9 then moves in a downwards motion again and the Player's hand is obscured by the two bodies until at 5 minutes 2 seconds of the footage, due to the rotation of his body towards the touch line, his right hand and arm become in view once again. At this stage the Player's hand can be seen again under the chin area of Romania 9.
- b) The Judicial Officer questioned the player about what the Judicial Officer said appeared to be a "reconnection" of a grip with the Player's hand and Romania 9's head after initially appearing to let him go.
- c) The Player accepted that the footage showed that he had reconnected with the head of Romania 9. He said he could offer no explanation. He also accepted he had had the opportunity to let him go completely.

- d) The Judicial Officer asked the Player why he had looked at the touch line to the Assistant Referee. He said it was because he had heard the Assistant Referee communicating with the Referee over the incident.
- e) At this point the Player suggested that he did not think his actions had caused the injury to Romania 9. He stated that he believed he had observed Romania 9 limping and having difficulty moving prior to the ruck.
- f) Mr Christie, for the Player, submitted that the involvement of other players at the breakdown may have been the cause of the injury and in so doing referred to the footage. He said that the Player's actions in the tackle area would probably not have caused an injury to the groin.
- g) The Judicial Officer considered that the only satisfactory way of dealing with these points would be to try and make contact with Romania 9 and question him. Accordingly, the hearing was adjourned for a short period for the Assistant Designated Disciplinary Officer to arrange for Romania 9 and his Team Manager (as interpreter) to give evidence.

5.5 Florian Surugiu

Mr Surugiu gave evidence by telephone through his Team Manager and interpreter Mr Bargaunas.

- a) He stated he had not been involved in any contact before the ruck and had no injury before it.
- b) He said that when he was being cleared out he felt a pain in the groin area while going to the side.
- c) He said that he felt as if he had been hit in the leg at that moment and felt pain whilst rolling away but he hadn't actually been hit in the leg.
- d) Mr Surugiu was asked whether the injury had occurred from the actions of the Player in the clear out from the ruck or some other contact in the ruck. Mr Bargaunas translated Mr Surugiu's evidence that it was *"because of the contact he received from the opponent player (i.e. the Player) when he was cleared out from the ruck area"*.

6. Submissions as to Sanction.

- 6.1 The Judicial Officer invited Mr Christie to address him on sanction by reference to TDP 10.10.2 (entry point criteria).

6.2 Mr Christie submitted as follows that:

- a) Whilst it was accepted that contact was intentional, the Player had not intended to tackle dangerously. The twisting motion and the force applied to Romania 9 was by the forearm.
- b) Mr Christie stated the offending had not been reckless.
- c) As to the gravity of the Player's action in relation to the offending, Mr Christie submitted that the Player had stopped grasping or holding Romania 9 as soon as he realised that his hand was around his head/neck. There was no element of provocation, retaliation or self defence. As far as the effect of the Player's action of the victim was concerned, Mr Christie submitted that the Judicial Officer could not properly be satisfied on the balance of probabilities that the Player had caused the adductor muscle injury. There were a lot of dynamic movements going on at the particular time and even if the tackle had caused the injury, there was nothing about the illegal aspect of the tackle which had caused the injury.
- d) Mr Christie further submitted that the Assistant Referee who had been in an excellent position to have observed the incident at the relevant time and the fact that he had deemed the matter to be sanctioned satisfactorily by penalty kick should, together with all of the circumstances referred to above, cause the Judicial Officer to conclude that the appropriate entry point was low end.
- e) As far as aggravating factors were concerned, Mr Christie commented upon the 22 May 2015 memorandum but distinguished this case from the memorandum that on the basis that it was meant to deter deliberate acts of dangerous tackles rather than in inadvertent acts of this type.
- f) As far as mitigation was concerned, Mr Christie stated that the player should be entitled to considerable mitigation. He had acknowledged culpability at the earliest opportunity. He was 26 years of age having played 30 tests for Canada and had only once before served a suspension of 3 weeks for a high tackle in 2012 in a match between Canada and Russia. His conduct during the hearing had been co-operative and entirely proper.

7. Decision as to Sanction

7.1 Prior to assessing the entry point, the Judicial Officer carefully reviewed all of the evidence and paid particular attention to the mechanics of the dangerous tackle as depicted from the match footage.

- a)&b) The Judicial Officer was satisfied from the footage that whilst the tackle had occurred at high speed, the manner of the way in which the Player had approached Romania 9 was consistent with an intention to grasp Surugiu around the head or neck with his right hand and arm. The Judicial Officer did not accept that the Player had "slipped up around the neck". The Judicial Officer therefore found that the offending was intentional and not reckless.

- c) The Judicial Officer concluded that the Player's actions in relation to the offending were moderately grave. He had used an illegal grip with one arm, not two. Whilst it is correct that initially he appeared to release Romania 9's head from his grip, he nevertheless chose to grasp him again around the head whilst he continued with the twisting and pulling movement towards the touchline and away from the tackle area.
- d) The nature of the actions, the manner in which the offence was committed, including part of the body used (for example, fist, elbow, knee or boot). The Judicial Officer noted that whilst the Player had grasped Romania 9 illegally and dangerously with his right hand and arm, his left hand and arm was in a legitimate positioning grasping Romania 9 beneath the shoulders and on the underside of his jersey.
- e) There was no provocation.
- f) The Player had not acted in retaliation.
- g) The Player had not acted in self defence.
- h) As far as the effect of the Player's actions on the victim was concerned, the Judicial Officer was satisfied upon considering the totality of the evidence and on the balance of probabilities, that the injury to Surugiu had been caused by the Player's actions. Mr Surugiu had been consistent throughout in his written and oral evidence. He had suffered a significant groin injury which has incapacitated him for a period of two months.
- i) The effects of the Player's actions on the match – Canada had a try disallowed as a consequence of the Player's foul play and to that extent, his own team was prejudiced by his actions by the match. However, Mr Surugiu had been removed from the game due to the injury.
- j) The vulnerability of the victim Player, including part of the victim's body involved/affected, the position of the victim player and ability to defend himself – the Judicial Officer accepted that Romania 9 was vulnerable.
- k) The level of participation in the offending and level of pre meditation – the Judicial Officer was satisfied that the tackle had occurred at high speed and that whilst it had been intentional there had been no pre-meditation to elevate its seriousness further.
- l) The Judicial Officer was satisfied that the Player's offending was completed and not merely attempted.
- m) There were no other features of the Player's conduct in relation to what connected with the offending which were of relevance.

7.2 Based on the assessment of the above criteria the Judicial Officer was satisfied that the Player's conduct and circumstances of the case merited a mid range entry point which, in accordance with the TDP meant a starting point of a 6 weeks suspension.

8. Aggravating Factors

8.1 The Judicial Officer then turned his attention to consider the existence of any aggravating factors under TDP 10.10.4.

8.2 The Judicial Officer was satisfied that the only aggravating off field factor present was the need for a deterrent to combat a pattern of offending in the game.

8.3 The 22 May 2015 Memorandum confirms that a pattern of such offending has been identified in the game of rugby since August 2011 whereby players not in possession of the ball were being grasped/grabbed by an opponent in and around the neck and/or head area principally in an effort to clear out players from the breakdown. The circumstances which the Memorandum is meant to address sits squarely with the facts of this case. Accordingly the Judicial Officer considered that the sanction should be increased by a period of one week for that reason.

9. Mitigating Factors

9.1 As to mitigating factors, the Judicial Officer was satisfied that there were several. The Player had admitted that his actions had consisted of foul play. He had made this known in the responses to the Judicial Officer's directions which had assisted the disciplinary process.

9.2 As far as the Player's disciplinary record was concerned, he was relatively experienced having played 30 tests for his national team whilst still only 26 years of age. The Player was neither young nor inexperienced. The Player's conduct at the hearing was good.

9.3 As far as a demonstration of remorse was concerned, there was no evidence before the Judicial Officer that the Player had communicated with Romania 8 over the incident.

9.4 There were no other mitigating factors that the Judicial Officer considered relevant and appropriate.

9.5 TDP 10.10.6 confirms that in relation to the application of mitigation to entry point, one should start from 0% and work up to a maximum of 50%. Taking all matters into account the Judicial Officer considered that the appropriate mitigation in this case would be a reduction of 2 weeks off the entry point.

9.6 The Judicial Officer was informed that the Player had now returned to Canada and would be playing with his club side, UBC Old Boys, with "meaningful" matches over the forthcoming consecutive weeks. Mr Rutherford, on behalf of World Rugby,

agreed that the application of five weeks to the Player's anticipated matches in accordance with the TDP meant a suspension up to and including Sunday 15 November 2015. The Judicial Officer therefore suspended the Player to that date. He is free to play on Monday 16 November 2015.

The Judicial Officer made no award for costs.

The Player is reminded of his right to appeal and the Tournament Disciplinary Programme

Simon Thomas
Judicial Officer

12 October 2015