

DISCIPLINARY DECISION



Match	NEW ZEALAND U20 V FRANCE U20		
Player's Union	FRANCE	Competition	World Rugby U20 Championship
Date of match	13 th June 2017	Match venue	MIKHEIL MESKHI STADIUM, TBILISI
Rules to apply	Tournament Disciplinary Program		

PARTICULARS OF OFFENCE

Player's surname	ARRATÉ	Date of birth	24.06.1997
Forename(s)	ALEX		
Referee Name	MIKE ADAMSON (SCOTLAND)	Plea	<input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not admitted
Offence	Law 10.4(m) contact with an opponent's eye/eye area (acts contrary to good sportsmanship)	SELECT:	Red card <input type="checkbox"/> Citing <input checked="" type="checkbox"/> Other <input type="checkbox"/> If "Other" selected, please specify:

HEARING DETAILS

Hearing date	15 th June 2017	Hearing venue	The Biltmore Hotel Tbilisi
JO	CHARLES CUTHBERT (UAE)		
Other Attendees	Thomas Lievreumont, Manager France Ben Rutherford, World Rugby Designated Disciplinary Officer Gilles Fabre, World Rugby in house translator on the phone		
Appearance Player	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	Appearance Union	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/DVD FOOTAGE

The report of the **Citing Commissioner, John Montgomery (Scotland)** stated as follows:-
 "NZNo2 attacks the French line between French 10 metre & 22 metre line near to the touch line. He is tackled by French Nos 14 and 12. He is clearly seen wearing a taped headband as he is tackled. A ruck is formed with NZ 12 and 14 involved. Whilst on the ground video evidence shows F1's fingers extended over the face of NZ No 2. On emerging from the ruck he has no headband and points accusingly at F12. In a statement obtained from NZNo2 (ASAFO AUMUA) he alleges that contact was made with the area around his right eye during the incident. A photograph was obtained showing a mark to the right side of his right eye.
 A statement was also obtained from Noah Whitehead, Team Doctor, New Zealand U20 who confirms that NZNo2 had been examined and that his eye had been affected and injured.
 In view of the statements and the video evidence it was considered that the incident was worthy of citing."

The Referee in an email dated 14th June 2017 to the DDO stated:-

“During the match between New Zealand and France, there has been an alleged contact to the eye/eye area of New Zealand 2 by France 12. Myself, the AR's and the TMO were unaware of the incident at the time on the pitch and no action was taken.”

The DVD footage which was provided to all the parties was contained in four DVD clips from eleven separate camera angles. However only three angles all shown in the DVD (NZL2 EYE AREA CONTACT) were reviewed at the hearing as these were the most relevant angles. I refer to the key scenes using the timing from the clip:-

Angle 1

- 0.00-Initial contact between F12 and NZ2. F12's right arm grabs NZ2's left arm
- 0.02-NZ2 continues to move forward and eventually goes to ground under the weight of F12 and F14
- 0.03-F12 stays on his feet over NZ2. His left arm is on the far side of NZ2's face and upper body
- 0.05-F12 pulls his left arm away and stands back
- 0.06-NZ2 stands up and shouts at F12

Angle 2

- 0.10-Initial contact
- 0.12-NZ2 goes to ground-F12 stands over him
- 0.13-the right side of NZ2's face is on the ground-his head moves and now he is face down. His head raises off the ground and then goes back to the ground
- 0.14-F12 pulls his left arm back and moves away
- 0.15-NZ2 rips off his white headband whilst still prone on the ground and throws it to the ground

Angle 3

- 0.20-Initial contact
- 0.22-Players go to ground-F12's left hand is on NZ2's right shoulder.F12 moves his left hand from NZ2's shoulder and positions it under NZ2's head on the right side of NZ2's face. He pulls NZ2's head up off the ground and NZ2's face turns and grounds on his left hand side. F12 pulls his hand upwards across NZ2's face and F12 stands up

The Player responded to my prehearing directions as follows:-

“Following your email dated 14 June 2017, please find below my statement in relation with the standing directions:

- (a) I am the player named in the citing report.
- (b) I will not be arguing any preliminary matters.
- (c) I accept that the citing report is a true and accurate account of the incident, as far as it is noted in that report:

“In a statement obtained from NZ N°2 (ASAFO AUMUA) he alleges that contact was made with the area around his right eye during the incident. A photograph was obtained showing a mark to the side of his right eye.”

Referring to law 10.4(a), I accept that this incident corresponds to a “contact with the Eye Area”.

At no stage have I entered into contact with the eye of NZ N°2 (ASAFO AUMUA). The video evidence and the photograph evidence show that the contact was very brief, less than a second, and made on the face, on the area around the eye, but not into the eye.

(d) The offending was reckless. Viewing the video evidence I understand that I should have known that there was a risk of committing an act of foul play. There was absolutely no intent on my part to commit such an act of foul play. I was only trying to grab the player I had tackled in order for me or one of my teammates to contest the ball. The action occurred in a very short moment, less than a second. I understand and accept that this very short action could have warranted a red card. I wish to take the opportunity of the hearing to explain what my intention was, and to present my sincere and unreserved apology for this reckless act.

(e) *(Not relevant)*

(f) I shall be attending the hearing in person with Thomas LIEVREMONT, France U20’s Team Manager.

May I please ask for an interpreter to be present to assist the hearing?

At this early stage, I wish to stress how sorry I am for what unfortunately occurred. I had absolutely no intent to commit an act of foul play.

This is the first time I am to appear before an international disciplinary committee and wish to apologize for any related inconvenience.”

I dealt with the formalities of the hearing and explained the procedure to the Player through the translator. I asked him to confirm my understanding of his responses to the pre-hearing directions namely that he accepted that he had committed the offence of Foul Play and that the offending was correctly cited. He confirmed that this was the case. I said that in that case we could move straight to the sanctioning stage.

We viewed the DVD footage again and I invited the Player to comment on it. He said once NZ2 had gone to ground, he had tried to “anchor” himself by holding onto NZ2 so he could continue to contest the ball. He could not remember the incident but DVD showed that he had started grasping NZ2’s shirt with his left arm in the right shoulder area. He accepted that he then moved his left hand and positioned it under NZ2’s face although he could not remember doing that.

I asked him firstly where he was looking when his hand was under NZ2’s face and secondly whether his hand was clenched (as it would have been if he was still anchoring) or was flat. Again he could only answer by reminding himself of what he could see on screen-he said he appeared to be looking directly at the head of NZ2 as he was bent over him and that his hand appeared to be flat rather than clenched. He again stressed that he was anchoring and that he was not aware that his hand had passed across the face of NZ2.

I read the statement of NZ2 (set out below) to the Player and invited him to comment on it. His Manager responded on his behalf

“The statement by NZ2 was totally incompatible with NZ2’s actions for different reasons. The contact with the face didn’t last even one second and when he got up, he just took his position again and does not ask for the doctor’s intervention. When he’s tackled, he falls on the ground and he still has his tape on the eyes..the video can show that..when there is contact with the eyes, you have red eyes, not white like he has....and also when he mentioned the incident to the CC he only mentioned the contact in the eye zone..the statement is not compatible with what we have seen on the video..but we are not contesting that the act of foul play happened”

I adjourned the hearing to consider the evidence and make the assessment of seriousness.

ESSENTIAL ELEMENTS OF OTHER EVIDENCE (e.g. medical reports)

Asafo Aumua New Zealand No2 (NZ2) said in an undated written statement supplied to the DDO:-

“I carried the ball up during the match, it was in approximately the 7th or 8th minute of the match. I felt a hand and fingers rake at the right eye and push in my eye for a few seconds. It felt as though the fingers were trying to push in and scrap at my eyes.

My head tape was also dislodged during the incident. My vision was left effected for several minutes afterwards and I had to seek medical attention from our New Zealand team doctor.

I acknowledge my recollection on the event above is true and accurate.”

Noah Whitehead, the New Zealand Team Doctor stated in report dated 14th June to the DDO:-

“Regarding Asafo Aumua, he approached me early in the first half complaining of pain and blurry vision from his right eye following the incident he described. On assessment there was redness/ irritation of the sclera (white of his eye) and surrounding the eye. His eye was watering and he had blurred vision from the right eye which he says was impairing his performance. The blurriness persisted until post game and visual acuity moderately reduced when tested in the changing rooms.

The following day his pain had settled and vision returned to normal. There was slight persisting redness around the eye only. There was no scratching of the eye itself. He will train normally and I expect him to be fit to play in the final.”

FINDINGS OF FACT

1. The Player tackles NZ2 who eventually goes to ground.
2. The Player stands over NZ2 to anchor himself and grasps hold of NZ2’s shirt with his left hand. He moves his left hand under NZ2’s face and pulls upwards with his hand open palmed/flat. The path of the hand is from the right hand side of NZ2’s chin to NZ2’s right hand hairline which causes the scratch injury adjacent to NZ2’s right eye shown in the photograph of NZ2 attached to the hearing papers. This action takes less than a second.
3. NZ2 is correct that his head tape was dislodged in the incident but this was not as a result of the Player’s actions. The DVD clearly shows that his head tape shifted its position on his head when his head

first made contact with the ground during the tackle not during the Player's act of Foul Play. NZ2 does pull the head tape off whilst he is still on the ground and throws it away.

3. I am in difficulties with regards to the claim from NZ2 that "... I felt a hand and fingers push in my eye for a few seconds" Whilst I have no doubt that NZ2 is sincere in his views that this took place, I believe that he is mistaken in this respect and that there was no "push in (his) eye for a few seconds". The incident lasted less than a second and NZ2 would have raised more complaint at the time had he had one or more fingers in his eye for that length of time. He would also have sought medical attention there and then.

4. There was contact with the eye area on NZ2 by the Player.

DECISION

Breach admitted <input checked="" type="checkbox"/>	Proven <input type="checkbox"/>	Not proven <input type="checkbox"/>	Other disposal (please state) <input type="checkbox"/>
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SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 17.19.2(a)-(b) (or equivalent Tournament rule)	
Intentional/deliberate <input checked="" type="checkbox"/> Reckless <input type="checkbox"/>	
State Reasons	
Although the Player claimed he had been reckless, the evidence did not support this. He could have released his grasp of the face of NZ2 without running his hand over NZ2's face.	
Gravity of player's actions – R 17.19.2(c) (or equivalent Tournament rule)	Nature of actions – R 17.19.2(d) (or equivalent Tournament rule)
All contact with the eye area is potentially serious and dangerous.	An open handed swipe across the face of NZ2
Existence of provocation – R 17.19.2(e) (or equivalent Tournament rule)	Whether player retaliated – R 17.19.2(f) (or equivalent Tournament rule)
None	No
Self-defence – R 17.19.2(g) (or equivalent Tournament rule)	Effect on victim – R 17.19.2(h) (or equivalent Tournament rule)
No	NZ2 suffered a scratch to the side of his right eye area and is available to train and play immediately
Effect on match – R 17.19.2(i) (or equivalent Tournament rule)	Vulnerability of victim – R 17.19.2(j) (or equivalent Tournament rule)

None	NZ2 was particularly vulnerable as he was unable to move to avoid the action of the Player
Level of participation/premeditation – R 17.19.2(k) (or equivalent Tournament rule)	Conduct completed/attempted – R 17.19.2(l) (or equivalent Tournament rule)
Full participation but no premeditation	Conduct completed
Other features of player’s conduct – R 17.19.2(m) (or equivalent Tournament rule)	
None	

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point					
<u>Top end*</u>	<u>Weeks</u>	<u>Mid-range</u>	<u>Weeks</u>	<u>Low-end</u>	4 <u>Weeks</u>
<input type="checkbox"/>		<input type="checkbox"/>		<input checked="" type="checkbox"/>	

*If Top End, the JO or Panel should identify, if appropriate, an entry point between the Top End and the maximum sanction and provide the reasons for selecting this entry point, below.

In making this assessment, the JO/Committee should consider World Rugby Regulations 17.19.2(a), 17.19.2(h), and 17.19.2(i) or the equivalent provisions within the Tournament Rules referred to above.

Reasons for selecting Entry Point above Top End

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player’s status as an offender of the Laws of the Game – R 17.19.4(a) (or equivalent Tournament rule)
None
Need for deterrence – R 17.19.4(b) (or equivalent Tournament rule)

None
Any other off-field aggravating factors – R 17.19.4(c) (or equivalent Tournament rule)
None

Number of additional weeks:

RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 17.19.5(a) (or equivalent Tournament rule)	Player’s disciplinary record/good character – R 17.19.5(b) (or equivalent Tournament rule)
The Player stated prior to the hearing and confirmed at an early stage in the hearing that he accepted the citing and had committed the offence	He has had no disciplinary record since attaining the age of 18
Youth and inexperience of player – R 17.19.5(c) (or equivalent Tournament rule)	Conduct prior to and at hearing – R 17.19.5(d) (or equivalent Tournament rule)
He is 20 years of age and has been playing for 14 years. He is to play for Biarritz next season	He was polite and respectful during the hearing, He spoke well when questioned by me
Remorse and timing of remorse – R 17.19.5(e) (or equivalent Tournament rule)	Other off-field mitigation – R 17.19.5(f) (or equivalent Tournament rule)
He explained that he shook hands with NZ2 afterwards but because he hadn’t realised he had injured him, he had not apologised then. He will seek NZ2 out at the finals on Sunday and apologise.	None

Number of weeks deducted:

Summary of reason for number of weeks deducted:
 Having considered the evidence given by the Player as above and based on my own observations of him, I give the Player full credit (50% discount). Although it was not raised by the Player or the Manager, I drew their attention to Clause 12.10.3 (c) of the Terms of Participation which reads:-
 “In cases involving offending which has been classified as lower end offending, where:
 (i) “there are off field mitigating factors; and
 (ii) where the Judicial Officer considers the sanction would be wholly disproportionate to the level and type of offending involved;
 the judicial officer may apply sanctions less than 50% of the lower end entry sanctions in Appendix 3 including in appropriate cases no sanction. “
 However I then explained that I could not reduce the suspension further as I did not consider that a two week ban was “wholly disproportionate to the level and type of offending involved.”

SANCTION

NOTE: PLAYERS ORDERED OFF ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING – R 17.14.5(f)

Total sanction	2 weeks	Sending off sufficient <input type="checkbox"/>
Sanction commences	15 th June 2017	
Sanction concludes	21st August 2017	
Matches/tournaments included in sanction	<p>The sanction is to cover 2 matches, the first of which is the 3rd/4th Playoff match v South Africa on Sunday 18th June 2017. The Player's season then ends until he has two "friendly" matches for his club, Biarritz on 4th August and 10th August with the French Championship starting on 19th August. He could not give details as to the two "friendly" fixtures at the hearing and therefore I could not rule on whether either match would have a "meaningful playing consequence" for the Player at the hearing. I therefore decided the suspension will include Biarritz's first Championship match on 19th August or 20th August with the suspension to end at midnight on 20th August.</p> <p>This decision is final and the time within which to appeal commences on delivery of it to the Player.</p> <p>However the Player may make further submissions to ben.rutherford@worldrugby.org with full details of the "friendly" matches. I will then reconsider whether any such scheduled pre-season and/or so called friendly matches have a meaningful playing consequence for the Player and adjust the dates if appropriate.</p>	

Costs	None
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Signature JO		Date	15 th June 2017
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NOTE: YOU HAVE 48 HOURS FROM NOTIFICATION OF THE DECISION OF THE JO TO LODGE AN APPEAL WITH THE TOURNAMENT DIRECTOR – R 17.22.2(a) (or equivalent Tournament rule)