

DISCIPLINARY DECISION



| | | | |
|----------------|------------------------------------|-------------|---|
| Match | NAMIBIA v SOUTHERN KINGS | | |
| Player's Union | NAMIBIA | Competition | RWC WARM UP MATCH |
| Date of match | 7 SEPTEMBER 2019 | Match venue | WALVIS BAY PRIVATE HIGH SCHOOL, WALVIS BAY, NAMIBIA |
| Rules to apply | Regulation 17 World Rugby Handbook | | |

PARTICULARS OF OFFENCE

| | | | |
|---------------------|--|---|--|
| Player's surname | VAN LILL | Date of birth | 4 DECEMBER 1983 |
| Forename(s) | PIETER-JAN | | |
| Referee Name | QUINTON IMMELMAN (SOUTH AFRICA) | Plea | <input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not admitted |
| Offence | <p>STRIKING – BREACH OF LAW 9.12: A player must not physically or verbally abuse anyone. Physical abuse includes, but is not limited to, biting, punching, contact with the eye or eye area, striking with any part of the arm (including stiff-arm tackles), shoulder, head or knee(s), stamping, trampling, tripping or kicking.</p> | <p>SELECT: Red card <input checked="" type="checkbox"/> Citing <input type="checkbox"/> Other <input type="checkbox"/></p> | |
| Summary of Sanction | <p>Mid-Range Entry Point (6 weeks) as a result of the striking being to the head area, wherein Regulation 17 Appendix 1 it states that "Any act of foul play which results in contact with the head and/or the neck shall result in at least a mid-range sanction". Sanction was subsequently reduced to 3 weeks after the maximum mitigation permissible was applied. Player is free to play again on 7 October 2019.</p> | | |

HEARING DETAILS

| | | | |
|--|---|---|---|
| Hearing date | 7 September 2019 | Hearing venue | Pelican Bay Hotel, Walvis Bay, Namibia |
| Chairman/JO | BONGAI ZAMCHIYA (ZIMBABWE) | | |
| Other Members of Disciplinary Committee | SARAH SMITH (SCOTLAND) (via SKYPE) VAL TOMA (ROMANIA) (via SKYPE) | | |
| Appearance Player | YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | Appearance Union | YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> |
| Player's Representative(s) | PHIL DAVIES (HEAD COACH) IRVIN NEWMAN (MANAGER) | Disciplinary Officer and/or other attendees | QUINTON IMMELMAN (REFEREE – SOUTH AFRICA) YVONNE NOLAN (WORLD RUGBY) (via SKYPE) |
| List of documents/materials provided to Player in advance of hearing | <ul style="list-style-type: none"> • REFEREE REPORT • TWO VIDEO CLIPS OF INCIDENT | | |

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

In a RWC 2019 Warm up match played at Walvis Bay Private High School on Saturday 7 September 2019, between Namibia (N) and the Southern Kings (SK), the referee of the match – Quinton Immelman issued two red cards after 53 minutes and 26 seconds had elapsed in the game. The referee's report indicated a breach of law 9.12 (striking). The referee stated that:

"The players, Namibian number 4 and the EP Kings 20 were on the ground when both players started punching each other in the face. I stopped play and issued both the Kings 20 and the Namibian 4 with a red card".

Pursuant to Regulation 18, Appendix 1 clause 3.12 this hearing was held at the same time as the hearing of Thembelani Bholi (Southern Kings). The players and their representatives confirmed that they were happy for the hearings to proceed at the same time.

In view of the expedited manner of the hearings, the parties were provided additional time to consider the evidence presented and were thereafter satisfied for the hearings to proceed.

The video clips provided indicate the following:

Five metres outside the 22 metre line of the Southern Kings, N19 takes the ball forward and is held by SK20. N4 takes possession of the ball after providing support to N19 in the resulting maul. SK20 contests for the ball and appears to grab N4 by the neck and both players end up on the ground. SK20 continues to hold N4 by the neck while both players are on the ground. There is a subsequent exchange of blows between SK20 and N4, with N4 appearing to initiate the exchange.

The referee had no additional evidence to add and indicated that his sending off report was descriptive of the incident.

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

No other evidence was provided.

SUMMARY OF PLAYER'S EVIDENCE

The player stated that he was grabbed around the neck and felt faint. In the ensuing confusion he struck out to break the hold of the offending player. His actions were as a result of panic as he felt that he was passing out. The player was unsure where he struck the victim player as he was striking out for the hold to be broken and believed that he may have even struck a player who was behind him. In the subsequent exchange of blows, he indicated that he was struck in the face. The player at the outset accepted the referee's report and that he had committed an act of foul play which met the red card threshold. The player was asked on more than one occasion whether he had accepted that he had committed an act of foul play that warranted a red card. The player repeatedly acknowledged his actions warranted a red card.

FINDINGS OF FACT

The Player admitted the act of foul play alleged and that it reached the red card threshold. The player did not seek to show that the referee's decision was wrong. Both players were struck on the face.

DECISION

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

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 |
| The action was clearly deliberate and more than one punch was thrown. |
| Gravity of player's actions – R 17.19.2(c) (or equivalent Tournament rule) |
| The committee did not consider the player's actions to be serious. The players were in close proximity and it was not clear that the striking was done with much force. |
| Nature of actions – R 17.19.2(d) (or equivalent Tournament rule) |
| The player struck the victim player more than once. |
| Existence of provocation – R 17.19.2(e) (or equivalent Tournament rule) |
| The committee accepted the player's position that the temporary choke hold was provocation and the offending action was as an immediate result of the provocation. |
| Whether player retaliated – R 17.19.2(f) (or equivalent Tournament rule) |
| The act of striking was not as a result of retaliation. |
| Self-defence – R 17.19.2(g) (or equivalent Tournament rule) |
| The committee found that it could be plausible that the actions of the player were in self-defence. |
| Effect on victim – R 17.19.2(h) (or equivalent Tournament rule) |
| The committee was not aware of any injury to the victim player. As the hearing was held concurrently with that of the victim player, the victim player was present and indicated that he suffered no harm. No evidence to the contrary was adduced at the hearing. |
| Effect on match – R 17.19.2(i) (or equivalent Tournament rule) |
| The actions of the player on the victim player had no effect on the match. The match continued as normal after both players were issued red cards by the referee. |
| Vulnerability of victim – R 17.19.2(j) (or equivalent Tournament rule) |
| Both the player and the victim player were on the ground. The committee found that the victim player was not vulnerable. |
| Level of participation/premeditation – R 17.19.2(k) (or equivalent Tournament rule) |
| There was no premeditation by the player as the matter clearly happened in the heat of the moment. |
| Conduct completed/attempted – R 17.19.2(l) (or equivalent Tournament rule) |
| The conduct was completed by the player. |
| Other features of player's conduct – R 17.19.2(m) (or equivalent Tournament rule) |
| No other features were considered by the committee. |

ASSESSMENT OF SERIOUSNESS CONTINUED

| Entry point | | | | | |
|--------------------------|--------------|-------------------------------------|--------------|--------------------------|--------------|
| <u>Top end*</u> | <u>Weeks</u> | <u>Mid-range</u> | <u>Weeks</u> | <u>Low-end</u> | <u>Weeks</u> |
| <input type="checkbox"/> | | <input checked="" type="checkbox"/> | 6 | <input 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 |
|---|
| Not applicable. |

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) The committee was not aware of the negative disciplinary record in respect of the player. |
| Need for deterrence – R 17.19.4(b) (or equivalent Tournament rule) The committee was not aware nor did it consider any need to impose a deterrence in respect of the act of foul play committed by the player. |
| Any other off-field aggravating factors – R 17.19.4(c) (or equivalent Tournament rule) The committee found no other off-field aggravating factors. |

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 acknowledged his guilt at the first opportunity presented to him; thereby ensuring that the hearing proceed quickly. | The Committee was informed that this was the player’s first red card and indeed first hearing. The committee accepted this assertion as presented by the player’s representative. |
| 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) |
| The player is 35 years of age and has 50 national caps; and is therefore an experienced senior player. | The player has conducted himself in a wholly appropriate manner prior to and throughout the hearing. |
| 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) |
| It is clear from the video evidence provided that both the victim player and player shook hands immediately prior to their dismissal by the referee. No fisticuffs continued after the referee blew his whistle as the players immediately stopped. | The committee was not aware of nor did it consider any other off-field mitigating factors. |

Number of weeks deducted:

| |
|---|
| 3 |
|---|


Summary of reason for number of weeks deducted: The player has met criteria that warrants application of the maximum mitigation of 50%. The player’s conduct prior to and during the hearing was impeccable. He acknowledged his guilt immediately along with showing remorse on the field of play. Finally, the committee was informed and accepted that the player has had no previous red cards nor has he appeared in front of disciplinary committee prior to this hearing.

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) (or equivalent Tournament rule)

| | | |
|--|---|---|
| Total sanction | 3 WEEKS | Sending off sufficient <input type="checkbox"/> |
| Sanction commences | 7 SEPTEMBER | |
| Sanction concludes | 7 OCTOBER 2019 | |
| Matches/tournaments included in sanction | <ul style="list-style-type: none"> ● NAMBIA v ITALY (RWC 2019) (22/09/2019) ● NAMBIA v SOUTH AFRICA (RWC 2019) (29/09/2019) ● NAMBIA v NEW ZEALAND (RWC 2019) (06/10/2019) | |

| | |
|-------|--|
| Costs | Parties shall bear their own costs, as no award to costs was made. |
|-------|--|

| | | | |
|----------------------------|---|------|-------------------|
| Signature (JO or Chairman) |  | Date | 7 SEPTEMBER, 2019 |
|----------------------------|---|------|-------------------|

NOTE: YOU HAVE 48 HOURS FROM NOTIFICATION OF THE DECISION OF THE CHAIRMAN/JO TO LODGE AN APPEAL WITH THE TOURNAMENT DIRECTOR – R 17.22.2(a)