



NOTTINGHAMSHIRE, LINCOLNSHIRE & DERBYSHIRE
RUGBY FOOTBALL UNION

DISCIPLINARY DECISION

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JUDGMENT OF THE PANEL

Venue: Newark RUFC

Date: Thursday 24 October, 2019

The Player: Adam Loveday ('the Player')

Club: Sleaford RFC

Match: Sleaford RFC 1st XV v Gainsborough RFC 1st XV

Match Date: Saturday 28th September, 2019

Panel: Matthew O'Grady, Chairman
Andy Stout, Vice Chairman
Tim Bembridge

Secretary: Andrew Statham, NLD Disciplinary Secretary

Attending: The Player (by telephone)
Dan Mackie, 1st Team Manager

Decision of the Panel

- (i) **The Player failed to prove the Referee was wrong to send him off for a dangerous tackle.**
- (ii) **The Player be suspended for a period of 5 weeks.**

Preliminary Issues

1. There was no objection to the composition of the Panel.
2. We reminded those present of the contents of Reg 19.11.1, that the burden was on the Player to prove that the Referee's decision to send off the Player was wrong. The standard of proof is the simple balance of probabilities. That is to say, it is more likely than not that the Referee was wrong. If the Panel considers that neither event is as likely as the other (essentially a 50-50 position), then the standard is not met, the burden is not discharged and the Referee's decision is treated as not being wrong.
3. Arranging this hearing has been delayed due to the Player's availability. He attended this hearing by telephone due to his work commitments. The Player participated fully and no criticism is made of him for not being able to attend in person.

Charge and Pleas

4. The Player was sent off tackling an opponent dangerously contrary to Law 9.13.
5. The charge was put to the Player and he denied the offence. The Player accepted he has failed to grasp his opponent, but denied making any contact with his head and therefore denied the Red Card test was met.

The Evidence

The Referee

6. Mr. Andrew Osmond (**'the Referee'**) prepared a written Red Card report. The alleged offence happened 36 minutes into the second half of the match. The Referee reported he was 5m away and what he saw was:

“Following a breakdown ... the ball was shipped out to Gainsborough's Ben Watch (black 22 playing a number 8). Black 22 moved forward between the breakdown and myself and an attempt was made by one of the Sleaford players to tackle him in line with the previous breakdown. The slowed him but he did not show any clear and obvious changes in line or height. At the same time Sleaford's Adam Loveday (yellow 6 and playing a number 8 at the time) came from further infield, made direct contact with the left side of black 22's head using his left shoulder with reasonable momentum and without attempting to wrap either arm which were both behind his contact shoulder despite having a clear line of sight and with time to alter his actions.”

7. The Referee gave evidence by telephone and was asked questions by the Panel and on behalf of the Player by Mr. Mackie. The Player was given an opportunity to privately provide instructions to Mr. Mackie before he asked questions of the Referee.
8. The Referee told us he saw clear contact with the Gainsborough 22's head. There was no significant height difference between the two players. The Referee could not recall

what happened to Gainsborough 22 immediately after the contact, but did recall seeing him being treated. The Referee did not accept the case put to him on the Player's behalf that the Red Card was issued because the Referee had been influenced by an earlier refereeing error or omission. The Red Card was given, he said, in isolation and on its own merits.

The Player

9. We had the benefit of considering a written statement provided by the Player in advance of the hearing and his oral evidence.
10. The Player told us that before he made contact with Gainsborough 22 a teammate tackled Gainsborough 22 around his legs. That "skewed" the timing of his tackle and resulted in contact with Gainsborough 22 being made before he was in an appropriate tackling position. The Player accepted that he failed to grasp and therefore effected a reckless and illegal challenge on his opponent. The Player denied making contact with Gainsborough 22's head.
11. In his oral evidence the Player said that he went high into the tackle, to hit the chest or ball. When asked why he did not attempt to grasp, the Player said that he "did not quite see the Player come in and that changed the point of impact." He said he had intended to make contact with the chest area. He did not accept that he could have ridden up and made contact with Gainsborough 22's head in the process of this tackle. The Player was asked whether he was in control of himself in the tackle. He said he "definitely" was, although that did not marry comfortably with the reckless and illegal challenge he accepted making on Gainsborough 22. The Player said that Gainsborough 22 did not receive treatment after the tackle.

Dan Mackie

12. Mr. Mackie did not see the incident clearly, but he told us he saw the force of the Player's tackle knock Gainsborough 22 backwards to the ground and that he did receive treatment.

Other Written Evidence

13. The Panel was provided with an email from Stephen Cockcroft. He was a spectator and described himself being stood on the touchline approximately 10m from the tackle. He said his view was not obstructed and he saw the tackle make contact with the Gainsborough player's chest and not his head. Mr. Cockcroft does not identify in his email that the tackle was in fact illegal (there being no attempt to grasp), which was common ground between the Player and the Referee.
14. We had an email from Edwards Money, who is the Chairman of Sleaford RUFC and was a spectator at the match. Mr. Money describes being at a different angle to the Referee and he "did not think there was any contact to the head". The email refers to Mr. Cockcroft speaking to the Referee after the match and that the Referee "clearly saw it differently from the opposition angle."

Findings, Conclusion & Decision of the Panel

15. It was conceded by the Player that he tackled his opponent illegally and recklessly. The question for us was whether in doing so he made contact with his opponent's head. We had regard to the World Rugby Decision Making Framework for High Tackles.
16. We considered all the evidence and gave appropriate weight to it. As there is no video footage of the incident our decision turns on our assessment of the evidence we have heard and read, which is informed by our own experience in the game.
17. The clear evidence of the Referee was that there was contact by the Player with his opponent's head. He blew his whistle and his immediate view was that a Red Card was justified. He was within 5m of the tackle and was charged with officiating foul play in the match.
18. On the other hand, there is the evidence of the Player and those who submitted emails to support his position. The Player was in a compromised position (affected by the change in timing of his tackle) and a participant in a dynamic tackling situation. By his own admission he effected an illegal act and, we find, was obviously not in control of his tackling technique.
19. We carefully considered the written evidence that supported the Player's position. Although it was written evidence, we were prepared to give it weight as if it was oral evidence. Even then, we found that evidence unreliable and significantly less persuasive than the Referee's. First, they were spectators and were not charged with officiating foul play or alert waiting to penalise it. Second, they were further away from the play than the Referee. Third, they did not have the critical angle the Referee had. It is likely both witnesses are truthful that they did not see contact with the head, but as video replays on televised matches show, there is sometimes only one angle which clearly shows the offence. In this case, these spectators did not have that angle.
20. Overall, we prefer the evidence of the Referee. He was far better placed than the spectators and we accept he saw contact with the head. That the spectators did not see contact with the head is simply a feature of the fact they did not have the same view point as the Referee. As between the evidence of the Player and the Referee, it is more likely the Referee's recollection as an observer is correct than that of the Player who was actively participating in the dynamic tackle situation.
21. Our findings are as follows:
 - a) The Gainsborough player ran towards the Player.
 - b) A Sleaford player (not *the* Player) tackled the Gainsborough player in a legal position and at a low point.
 - c) The Player attempted to effect a tackle.
 - d) The Player went into the tackle in a high position.

- e) The Player was not in control of his actions and his tackling technique was poor.
 - f) The Player failed to grasp, led with his shoulder and in doing so tackled dangerously and illegally.
 - g) The Player's shoulder made forceful contact with his opponent's head
 - h) The force in the tackle was sufficient to knock the Gainsborough player backwards and to the ground.
 - i) The Gainsborough player had to be treated as a result of the tackle.
 - j) The Player's actions were not deliberate and he did not intend to cause any injury. His actions were reckless.
 - k) The combination of force and the contact created a high degree of danger.
 - l) There were no clear and obvious mitigating features.
22. It follows that the Panel finds that there was an act of foul play and the Red Card test is met.

Sanctions

23. Having determined that the Player's actions were reckless, the Panel assessed the factors set out at regulation 19.11.8 and concluded that this incident warranted no more than the mandatory Mid-Range entry point of 6 weeks. This conclusion took account of the fact that there was no effect on the victim or the game and that the actions were not deliberate, but the Player got his tackle technique wrong
24. There were no off-field aggravating factors.
25. Although the Player has a good record there were very few other mitigating features present. The Player has not expressed or demonstrated any remorse at any stage. He has not apologised for his actions at any time, either immediately after the match or otherwise. We have rejected his case at this hearing. The Player is experienced, he has been playing the game for 15 years. He participated appropriately during the hearing. The fact he made himself available was to his credit.
26. We were not able to give the Player the maximum discount of 50% because he denied the charge and he lacked any meaningful remorse. For what mitigation was present 1 week was deducted.
27. The Player is therefore suspended for a period of 5 weeks. The Player is prohibited from playing until the end of Saturday 9th November 2019 and is free to resume playing on Sunday 10th October 2019.

Costs

28. Costs of £30 to be paid to the NLD RFU.

Appeal

29. There is a right to appeal against this decision. Any such appeal must be made within 14 days of this judgment being sent.

Matthew O'Grady
Chairman, for and on behalf of the Panel

Thursday 30th October, 2019