

BRITISH & IRISH LIONS TOUR OF NEW ZEALAND 2017

DECISION OF INDEPENDENT JUDICIAL COMMITTEE

Hearing held at 5.00pm on Sunday, 2 July 2017 at NZ Rugby House, Wellington, New Zealand in the Jock Hobbs Room.

In respect of **Sonny Bill Williams (“the Player”)**

Judicial Committee appointed to hear the case:

Adam Casselden SC (Chair)

David Croft (Ex-Australian and Queensland Reds player)

John Langford (Ex-Australian, Brumbies and Munster player)

Decision of the Judicial Committee:

- (i) The Judicial Committee upheld the Red Card issued to the Player.
- (ii) The Player is suspended for four weeks from all forms of rugby up to and including 19 August 2017. The Player is free to resume playing on 20 August 2017.

Introduction

1. The Judicial Committee convened a hearing to consider the Ordering Off of the Player in a Test match played between the All Blacks and the British & Irish Lions (“BIL”) on Saturday, 1 July 2017 at Westpac Stadium, Wellington, New Zealand.
2. Mr Jerome Garces of France was the referee appointed to this Test match and in the 24th minute of the first half issued the Player with a Red Card (Ordering Off) for offending under Law 10.4(e) or Law 10.4(g).
3. The Player admitted that he committed an act of Foul Play in breach of Law 10.4(g). Whilst the referee cited alternative offences under the Laws of the Game the Judicial Committee determined, for reasons that follow, that the more appropriate offence was under Law 10.4(g) for dangerous charging.
4. The following persons were present at the hearing:
 - The Player
 - Mr Stephen Cottrell (Player’s counsel)
 - Mr Ian Foster (Assistant Coach, All Blacks)
 - Mr Keith Binnie (NZRU, Judicial Presenter)
5. At the hearing the Player, through his counsel, confirmed that there was no challenge by the Player to the referee’s decision to issue the Red Card. It was contended by the Player that the only issue for determination by the Judicial Committee was what, if any, sanction should be imposed upon the Player. For reasons that follow the Judicial Committee found that the offending was deemed to be reckless and warranted a mid-range entry level.

Evidence

6. The Judicial Committee admitted into evidence the following material:
 - 6.1 The Referee Report prepared by Mr Jerome Garces;
 - 6.2 A medical report from Dr Eanna Falvey in respect of Mr Anthony Watson (BIL #14) dated 2 July 2017;
 - 6.3 A Head Injury Assessment Form in respect of Mr Watson;
 - 6.4 Video camera footage showing various angles of the incident that gave rise to the Red Card;
 - 6.5 The Player's response to the Standard Directions issued by the Judicial Committee; and
 - 6.6 Directions issued by the Judicial Committee on 2 July and 10 July 2017 and the Player's responses thereto received on 6 July and 12 July 2017 respectively.
7. The Player gave evidence explaining his actions. The Player was considered to be a frank and candid witness by the Judicial Committee. The Player accepted at the outset that the contact by his shoulder to Mr Watson's head warranted a Red Card.
8. The Player's oral evidence was broadly consistent with his response to the Standard Directions issued by the Judicial Committee. He said that the lead up to the incident begins with him chasing his own kick and making a tackle. At that point he was focussed on his next job, which was to press forward and close down the attacking space. The Player stated that as Mr Watson ran into his channel Mr Naholo (All Blacks #14) commenced to tackle him. The Player stated that he made contact to the head of Mr Watson as he braced himself for the collision.

9. The Player stated that he had no intent to carry out a shoulder charge. He said that he was “sloppy” and ended up in a position brought about by him over striding and misreading the speed of things which resulted in him bracing for contact with Mr Watson which was, unfortunately, to Mr Watson’s head. He said his initial intention was to enter a tackle but because of the dynamics involved and the evolving positions of Mr Watson (the tackled player) and the tackler, Mr Naholo (All Blacks #14) he changed his intention to one of jackal (a pilferer of the ball) and then to tackle assist. This, he said, resulted in him getting off balance and over striding.

Submissions

10. Consistent with the Player’s oral evidence the Player’s counsel submitted that the Player had no intention of hurting Mr Watson or committing Foul Play. The Player, through his counsel, accepted, at the first opportunity, that he had committed an act of Foul Play in breach of Law 10.4(g), namely, that he charged or knocked down an opponent carrying the ball without trying to grasp that player.
11. It was contended by the Player’s counsel, that the contact by the Player’s shoulder with Mr Watson’s head was the result of three factors:
 - 11.1 First, by changing his decision from entering a tackle, to a jackal, to a tackle assist resulted in the Player getting off-balance and over striding;
 - 11.2 Secondly, the position of Mr Naholo (All Blacks #14) is the reason why the Player does not use his right arm until late; and
 - 11.3 Thirdly, Mr Watson dips late just prior to contact by the Player.
12. It was also submitted that immediately after contact with Mr Watson the Player bounces off Mr Watson in the opposite direction which was said, to be indicative of, or consistent with, a player who was not intending to drive into

someone with force.

Judicial Committee's decision

13. The Player admitted committing an offence under Law 10.4(g). Law 10.4(g) provides as follows:

"Dangerous charging. A player must not charge or knock down an opponent carrying the ball without trying to grasp that player."

14. A breach of Law 10.4(g) falls under the rubric of dangerous play which is Foul Play within the meaning of that term contained in the introductory section of Law 10 of the Laws of the Game.
15. The Judicial Committee watched the video footage in real time and in slow motion numerous times. The video footage clearly shows forceful contact with the Player's right shoulder (and perhaps his right elbow) to Mr Watson's face and head. As the Player has readily conceded he made no attempt to grasp Mr Watson in the action. The Player's actions, as viewed on the video footage, amounted to a shoulder charge under Law 10.4(g) resulting in Mr Watson being knocked down. Accordingly, the more appropriate offence was for a breach of Law 10.4(g) and not for a breach of Law 10.4(e) (Dangerous tackling) as cited in the alternative by the referee in his report.
16. When reaching that conclusion, the Judicial Committee had regard to whether the Player's conduct was intentional or reckless. The Judicial Committee found that the Player's actions were unintentional but were nonetheless reckless in circumstances where the Player knew or ought to have known that there was a risk of committing Foul Play by the way in which he approached the collision with Mr Watson. In our opinion, the Player had sufficient time and space to have taken preventative steps in an attempt to avoid his shoulder coming into contact with Mr Watson's head.
17. Whilst, for present purposes, it is unnecessary for the Judicial Committee to

express a view on the issuing of the Red Card we are of the opinion that the referee was correct to have issued a Red Card to the Player. Accordingly, the Judicial Committee agrees with the Player that the necessary elements of the offence under Law 10.4(g) have been made out.

Assessment of sanction

18. On behalf of the Player it was submitted that his offending was low-end. For the reasons that follow the Judicial Committee did not accede to this submission.

19. In assessing the seriousness of the offending the Judicial Committee had regard to clause 17.19.2 of World Rugby Regulation 17 and found, relevantly, as follows:

19.1 The offending was reckless (cl. 17.19.2(b)). See our reasons above.

19.2 The gravity of the offence was high. The actions of the Player were dangerous and could have resulted in a serious injury to Mr Watson (cl. 17.19.2(c)).

19.3 The nature of the action was the forceful use of the Player's right shoulder into Mr Watson's head (cl. 17.19.2(d)).

19.4 There was no provocation, retaliation or self-defence involved (cl. 17.19.2(e), (f) and (g)).

19.5 The effect of the Player's actions on the victim player (cl. 17.19.2(h)). Mr Watson was taken from the field of play for a Head Injury Assessment. Following that assessment he returned to the field of play and continued to play out the match. The medical evidence from Dr Flavey was that Mr Watson suffered no significant injury in the incident and he imagines he will be available for selection in the next Test match.

19.6 The Player's actions had a substantial effect on the game. The Player was issued with his Red Card in the 24th minute of the first half. For

essentially 55 minutes of the game the All Blacks were reduced to 14 men and ultimately lost the Test match (cl. 17.19.2(i)).

19.7 Mr Watson was undoubtedly placed in a vulnerable position by reason of the actions of the Player. He had neither time nor any ability to protect or defend himself from the Player's actions. Mr Watson was clearly placed in a vulnerable position where a real risk existed for him to suffer a serious neck or head injury (cl. 17.19.2(j)).

19.8 Level of participation in offending/premeditation (cl. 17.19.2(k)). These did not apply.

19.9 Attempted or completed (cl. 17.19.2 (l)). The actions of the Player were completed.

19.10 Any other features (cl. 17.19.2(m)). No other features were applicable.

20. Accordingly, the Judicial Committee regarded the Player's level of culpability for an offence of this type to be in the mid-range of the scale of seriousness. A mid-range offence under Law 10.4(g) for dangerous charging carries an entry point of 6 weeks on the World Rugby Sanction Table. In this regard the Judicial Committee notes that it was accepted by the Player that there is a typographical error in the Sanction Table. The relevant section in the Sanction Table which relates to sanctions for a breach of Law 10.4(g) incorrectly refers to Law 10.4(k) not Law 10.4(g).
21. The Judicial Committee then considered whether any aggravating factors applied under clause 17.19.4 of World Rugby Regulation 17. The Player candidly disclosed that he had previously been suspended for foul play whilst he was playing professional rugby league in Australia in the National Rugby League Competition ("NRL").
22. The Player informed the Judicial Committee that he received, in 2007 and 2013, two game suspensions for careless high tackles and a three game suspension in 2014 for a further careless high tackle. The Player said that the suspensions in 2013 and 2014 were for shoulder charges.

23. The Judicial Committee considered whether these earlier suspensions in another sport should be taken into account as an aggravating factor. The Judicial Committee came to the conclusion that the Player had a reasonably unblemished record in rugby and that it would be unsafe, as well as unfair to the Player, based on the scant evidence before the Judicial Committee, to take these matters into account in circumstances where the Judicial Committee had not seen any video footage of these earlier incidents nor had it had an opportunity to consider the sanctioning remarks of the relevant disciplinary body. The only evidence before the Judicial Committee was the oral evidence from the Player, which in the circumstances, was of limited assistance. Accordingly, the Judicial Committee found that there was insufficient evidence to warrant any uplift on the mid-range entry level.
24. The Judicial Committee took into account the following mitigating factors under clause 17.19.5 of World Rugby Regulation 17.
- 24.1 The Player admitted the offence at the first opportunity. His remorse and contrition for the offence is reflected in his early admission and apology to Mr Watson.
- 24.2 The Player is 31 years of age and is in his thirteenth year of having played both professional rugby union and rugby league. He has played 38 Test matches for the All Blacks, 49 Super Rugby matches (Crusaders, Chiefs and Blues), 6 Sevens matches for New Zealand, 12 rugby league Test matches for New Zealand and 118 NRL games. The Player has also played professional rugby union in France and Japan. Apart from one yellow card in France in 2008 (shoulder charge) and a citing commissioner's warning in 2015 (shoulder charge) the Player's rugby union disciplinary record is otherwise unblemished.
- 24.3 The Player conducted himself respectfully and appropriately as one might expect from a player of his standing and experience.
- 24.4 The Player's good character, his leadership qualities, his integrity and his community and charity work attested to by Mr Foster.

25. Accordingly, taking into account the above factors we reduced the 6-week mid-range entry recommended sanction by 2 weeks bringing the total sanction down to 4 weeks. In the circumstances, we did not consider it appropriate given the Player's age, experience and his history of receiving a yellow card and citing commissioner's warning for shoulder charges to reduce the 6-week mid-range entry by fifty percent.

Finding as to Sanction

26. The Player was suspended for four weeks. One week equates to one match and all rugby matches are treated equally provided they are meaningful and have a meaningful playing consequence for the player. The Player's suspension took effect immediately from 2 July 2017.
27. As required by World Rugby Regulation 17 the Judicial Committee requested information as to the Player's upcoming schedule of matches. The Judicial Committee was informed that the Player was scheduled to play for the All Blacks in the final Test match against the British & Irish Lions on 8 July 2017, for the Blues in their final Super Rugby match against the Sunwolves on 15 July 2017 and for Counties Manukau as part of their preparations before the start of the Mitre 10 Cup on 29 July and 5 August 2017 respectively. The Mitre 10 Cup is the premier inter-provincial competition in New Zealand.
28. Mr Foster informed the Judicial Committee that the Player was scheduled to play for Counties Manukau in two pre-competition Mitre 10 Cup matches first, against North Harbour on 29 July 2017 and secondly, involving a Counties Manukau's B Team on 5 August 2017. North Harbour play in the Mitre 10 Cup. Mr Foster informed the Judicial Committee that the Player was scheduled to play these matches because the Player needed additional game time before the commencement of The Rugby Championship as he had only recently returned to the Super Rugby Competition and to the All Blacks following a significant injury playing Sevens for New Zealand in the 2016 Olympic Games.
29. The Judicial Committee accepted this evidence and that the pre-competition Mitre 10 Cup match against North Harbour on 29 July 2017 was a match that

would have had a meaningful playing consequence for the Player. Although this match could be characterised as a pre-season match it was an important match leading into New Zealand's premier inter-provincial competition. Undoubtedly the final Test match against the British & Irish Lions on 8 July 2017 and the last Super Rugby match against the Sunwolves on 15 July 2017 were meaningful matches under Regulation 17.

30. At the hearing, the Judicial Committee expressed some reservations in respect of the pre-competition Mitre 10 Cup match scheduled to be played between the A and B Teams from Counties Manukau. Unfortunately the Player, his counsel and Mr Foster were unable to provide certain information in respect of this match at the hearing which resulted in the Judicial Committee directing the Player to provide further information setting out the reasons why the Player contended that the match scheduled to be played between Counties Manukau's A and B Teams on 5 August 2017 was a meaningful match within Regulation 17.19.10 and 17.19.11 and why it would have a meaningful playing consequence for the Player. As part of that direction the Player's counsel was referred to the decision of Mr Quinlan QC in *Schalk Brits* for helpful guidance.
31. Given the uncertainty surrounding the Player's schedule of matches the Judicial Committee was therefore unable to fix an end date for the Player's suspension at the conclusion of the hearing on 2 July 2017. On 6 July 2017, the Judicial Committee received some further information from the Player in response to our request on 2 July 2017. Following receipt of that information the Judicial Committee sought further information from the Player on 10 July 2017. On 12 July 2017, the Judicial Committee received a response from the Player. The additional information provided by the Player was received into evidence by the Judicial Committee.
32. Based on the totality of the information before the Judicial Committee we were not satisfied that the match scheduled to be played between Counties Manukau's A and B Teams on 5 August 2017 was a meaningful match within Regulation 17.19.10 and 17.19.11 and would not, in our opinion, have had a meaningful playing consequence for the Player. The Judicial Committee came to that conclusion for the following reasons:

- 32.1 There is likely to be more than 23 players selected for the A team, perhaps 26. The Player would have been selected for the A Team;
- 32.2 The possibility exists for the Counties Manukau coach to, at his discretion, elect to run some set plays in the second half;
- 32.3 This match is effectively being utilised as an internal club trial in circumstances where Counties Manukau were scheduled to play Samoa A on 5 August 2017 as part of their Mitre 10 Cup preparations but Samoa A pulled out on short notice making it difficult for Counties Manukau to arrange another team from a Provincial Union to play; and
- 32.4 It is likely that the playing quality of the B Team is far less than the playing quality of another team from a Provincial Union such as North Harbour.
33. Having reached that conclusion the Judicial Committee had to give consideration to the Player's next scheduled match and determine whether it was a meaningful match within Regulation 17.19.10 and 17.19.11 and whether it would have a meaningful playing consequence for the Player.
34. The Player was next scheduled to play for the All Blacks on 11 August 2017 in a warm-up match involving three segments. The first 40-minute segment is to be played between the All Blacks and Counties Manukau. The second 40-minute segment is to be played between the All Blacks and Taranaki. The third 40-minute segment involves Counties Manukau playing against Taranaki. Both of these teams participate in the Mitre 10 Cup and this match will no doubt form part of their preparations for the Mitre 10 Cup Competition.
35. Historically this match is played in front of a large domestic crowd. Last year over 9,000 people attended the match. The game will not utilise rolling substitutions. Whilst the All Blacks' squad may be larger than 23 players it will not exceed 26 players. The match is refereed by national level officials and a citing commissioner liaison officer attends the match with players subject to judicial sanction. The match is considered by the All Blacks' coaching staff as an

important match as it is played the week before the start of The Rugby Championship. It was submitted that the match is to be played under the Laws of the Game.

36. Regulations 17.19.10 and 17.19.11 concern decisions on sanctions and the imposition of suspensions on players under Regulation 17. Throughout those two regulations reference is made to “Matches” and the need for “Matches” to be meaningful and to have a meaningful playing consequence for the player.
37. “Match” is defined in World Rugby Regulation 1 (Definitions) to mean “*a Game in which two teams compete against each other.*” “Game” is defined in World Rugby Regulation 1 to mean “*rugby football played in accordance with the Laws of the Game.*” The Object set out in the Playing Charter of the Laws of the Game provides that “*The object of the Game is that two teams, each with fifteen players, observing fair play, according to the Laws and in a sporting spirit should, by carrying, passing, kicking and grounding the ball, score as many points as possible.*”
38. Law 5 of the Laws of the Game concerns “Time”. Law 5.1 concerns the “Duration of a Match” and provides that a match is divided into two halves each of not more than forty minutes playing time. Law 5.2 concerns “Half Time” and provides that after half-time the teams change ends.
39. Properly construed the use of the word “Matches” in Regulations 17.19.10 and 17.19.11 must mean a match that is divided into two halves (not three segments), with a half-time and at the end of half-time the same two teams of fifteen players change ends. The introduction of a new team of fifteen players in a match after half-time cannot, in our opinion, amount to a match or game played in accordance with the Laws of the Game and therefore cannot be a meaningful match within the terms of Regulations 17.19.10 and 17.19.11.
40. Further, although the match scheduled for 11 August 2017 has some of the indicia which might be supportive of a finding that it is a meaningful match, when viewed objectively it is, in our opinion, a training match or, as was referred to by the Player’s counsel, a warm-up game and therefore, in our opinion, does not

meet the necessary requirements within Regulations 17.19.10 and 17.19.11 in any event.

41. The Player's next scheduled match is on 19 August 2017 when the All Blacks play Australia at the start of The Rugby Championship. This clearly is a match that will have meaningful playing consequences for the Player.
42. Accordingly, the Player is suspended from all forms of rugby up to and including 19 August 2017. The Player is free to resume playing on 20 August 2017.

Right of Appeal

43. The Player has 48 hours to appeal our decision on whether the Player's four week suspension should end on a date earlier than 20 August 2017.

**Adam Casselden SC
(Chair)**

David Croft

John Langford

Dated: 26 July 2017