

DISCIPLINARY DECISION



Match	Leinster Rugby v Toyota Cheetahs		
Player's Club	Toyota Cheetahs	Competition	Guinness PRO14
Date of match	01/03/2019	Match venue	RDS Arena, Dublin
Rules to apply	Guinness PRO14 Disciplinary Rules		

PARTICULARS OF OFFENCE

Player's surname	Nche		
Forename(s)	Ox		
Referee Name	Nigel Owens	Plea	<input checked="" type="checkbox"/> Admitted <input checked="" type="checkbox"/> Not admitted Admitted a contravention of Law 9.25 and that committed a late, high and dangerous tackle. Did not accept that he made contact with the head or that the incident warranted a red card.
Offence	Law 9.12 - A Player must not physically abuse anyone. Physical abuse includes, but is not limited to: Striking with shoulder / hand or arm. Law 9.25 – A Player must not intentionally charge or obstruct an opponent who has just kicked the ball	SELECT: Red card <input type="checkbox"/> Citing <input checked="" type="checkbox"/> Other <input type="checkbox"/> If "Other" selected, please specify:	
Summary of Sanction	8 weeks		

HEARING DETAILS

Hearing date	06/02/2019	Hearing venue	Radisson Blu Hotel, The Royal Mile,
Chair	Sheriff Kathrine EC Mackie (Scotland)		
Other Members of Disciplinary Committee	Ian Douglas (Scotland) Roddy MacLeod (Scotland)		
Appearance Player	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	Appearance Club	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Player's Representative(s)	Marius Van Rensburg, Attorney, Horn & Van Rensburg, Bloemfontein	Disciplinary Officer and/or other attendees	Martin Malone, Tournament Executive, PRO14 Rugby; Ashwell Rafferty, Team Manager, Toyota Cheetahs
List of documents/materials provided to Player in advance of hearing	Hawk-Eye Footage Letter notifying the Player of complaint and hearing Player's response to Standing Directions Citing Commissioners Report Player Statement from Fergus McFadden, Leinster Rugby (audio clip) Medical Statements x 3, Professor Ryan, Team Doctor, Leinster Rugby Referee's Report Assistant Referee 1 Report Assistant Referee 2 Report TMO's Reports		

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

The Citing Commissioner, Eugene Ryan, stated that at 09.05 in the first half L9 collected a ball from a kick between his 22 and 10m lines. He passed to L11 who began a counter attack by running about 10m before kicking the ball over the approaching Cheetah opponents. After the kick C1 jumped leading with his left shoulder into L11. C1 made no attempt to grasp L11. Both players collided with force. C1's left shoulder made contact with the right side of L11's head/jaw. L11 fell to the ground. After receiving medical attention he continued to play. The Citing Commissioner cited C1 for "striking with the shoulder to the head/jaw area of L11 contrary to Law 9.12 and also for charging or obstructing an opponent who has just kicked the ball, contrary to Law 9.25".

The referee stated that in real time he saw a late tackle by C1. He issued a yellow card as he saw it as a shoulder to the body/shoulder area and late. He then noticed from a replay on the big screen that there may have been contact to the head area by the elbow after the initial contact.

He asked the TMO to look to see if there was any contact with the head. From the replays shown on screen he was unable to see any direct contact with the head. The TMO was unable to confirm this. In these circumstances the referee was not sure enough to issue a red card. This uncertainty taken together with the fact that the player continued to play without any need for a Head Injury Assessment or further treatment suggested to the referee that he should stay with the YC he had issued.

The TMO stated that he saw a late, high and dangerous tackle by C1 on his monitor at 9.05. He asked the technician to show all angles in order to review the footage and check for contact with the head. The referee requested that he check for clear contact with the head. The technician started to bring up angles which he reviewed in slow motion and freeze frame. Two angles focused on were put on the big screen for the referee to review in slow motion and one angle was freeze framed. The referee communicated what he saw from those angles. The TMO did not feel he had clear evidence to contradict him.

Neither AR saw the incident or where contact was made and their reports do not add to the picture of what occurred.

The Discipline Committee viewed the video footage, comprising a number of camera angles, and in particular cameras 2, 4, 5 and 8, on numerous occasions at full speed, half speed, quarter speed and frame by frame. In the opinion of the Discipline Committee this showed the following:-

- L9 receives a kick from C12 between his 22 and 10m lines and passes inside to L11.
- L11 counterattacks by running diagonally through his teammates towards his 10m line.
- As L11 approaches a line of Cheetah players he kicks the ball over them. The ball passes over C1's head. One of the Cheetah players, positioned to the right of C1, raises his hands as if to charge down the ball.
- After L11 has kicked the ball and taken two strides forward C1 jumps off the ground twisting his body with his left side towards L11. L11 has his right foot planted on the ground. C1 does not use his arms to attempt to grasp hold of L11 nor does he raise and extend his arms to attempt to charge down the ball which has already passed over his head.
- As he jumps C1's left shoulder is at a higher level than L11's right shoulder. C1 dips his left shoulder and strikes L11's head on the right side.
- L11's head is knocked violently to the left and he falls to the ground. He immediately wraps his left arm over his head and right ear and holds that arm into the right side of his head with his right arm. He remains lying in that position.
- C1 lands on his feet and then falls to the ground. He remains on the ground for a few seconds before getting to his feet and walking away from L11.
- The referee is heard to blow his whistle immediately and puts his hand into his pocket.

9.8.1 to amend the offence at any stage provided that such amendment did not cause injustice had the circumstances warranted it. However, the Discipline Committee did not consider that any amendment of the offence was justified nor was any amendment proposed.

It was acknowledged on behalf of the player that the principal issue was whether there had been contact with L11's head. The player, by reference to repeated viewing of various camera angles, claimed that his initial intention had been to tackle L11. He saw him kick the ball and tried to charge the ball down. He realised he was late and braced himself for the contact. He said that his left shoulder/bicep made contact with the right shoulder of L11 and then as L11 fell down his shoulder slipped down to make contact with his chest/collar bone.

The player's representative drew attention to the reaction of L11 after the incident which he submitted was not indicative of an injury to his head or jaw. He did not touch the area which he submitted would have been a natural reaction. He was attended by the team's medical staff and was assessed as not having suffered injury. He played on for the rest of the match. He submitted that the medical reports should be treated with caution having been produced by someone who was "emotionally connected" to L11. The injury could have been sustained at any time in the match. He did not offer any comment on the statement of L11 but observed that there had been no opportunity to cross-examine him. However, no request was made on behalf of the player to have L11 available at the hearing. While it was accepted that the referee had not seen all the camera angles the TMO had. It was submitted that there was insufficient evidence that there had been contact with L11's head or jaw. It was accepted that if there had been contact with the head the act of foul play would have warranted the issue of a red card.

DECISION

Breach admitted <input type="checkbox"/>	Proven <input checked="" 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
The player admitted that he intentionally charged L11 contrary to Law 9.25. The Discipline Committee were satisfied on balance of probabilities that his jump into the air, twisting his body and dipping his shoulder so that he made contact with L11's head was also intentional. It was not a tackle or attempted tackle executed recklessly. The player made a decision to jump into the air and turn his body so that he collided with L11. Had he intended to "brace for contact" realising that he was "late" as he claimed he had no need to jump as he did. His action was a cynical attempt to prevent L11 following up his kick ahead.
Gravity of player's actions – R 17.19.2(c) (or equivalent Tournament rule)
The contact between the player's shoulder and L11's head was forceful with the potential for serious injury.
Nature of actions – R 17.19.2(d) (or equivalent Tournament rule)
Strike with the shoulder on the head
Existence of provocation – R 17.19.2(e) (or equivalent Tournament rule)
None
Whether player retaliated – R 17.19.2(f) (or equivalent Tournament rule)
N/A
Self-defence – R 17.19.2(g) (or equivalent Tournament rule)
N/A

Effect on victim – R 17.19.2(h) (or equivalent Tournament rule)
The victim player required medical attention on the field. He was assessed as able to continue to play. Subsequently he was diagnosed as having suffered a perforated eardrum. The current prognosis is for full recovery in 4-6 weeks. He is assessed as able to continue to train and play. He requires to plug his ear when showering to prevent water ingress to the middle ear.
Effect on match – R 17.19.2(i) (or equivalent Tournament rule)
None
Vulnerability of victim – R 17.19.2(j) (or equivalent Tournament rule)
L11 was vulnerable. Having kicked ball away he had no reason to expect such a collision. He had no opportunity to protect himself.
Level of participation/premeditation – R 17.19.2(k) (or equivalent Tournament rule)
The player was the only one involved in the incident.
Conduct completed/attempted – R 17.19.2(l) (or equivalent Tournament rule)
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>Mid-range</u>	<u>Low-end</u>	<u>Weeks</u>
<u>Weeks 10</u>	<u>Weeks</u>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<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
The Discipline Committee determined not to select entry point above Top End in view of prognosis for full recovery.

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)
N/A
Need for deterrence – R 17.19.4(b) (or equivalent Tournament rule)
N/A
Any other off-field aggravating factors – R 17.19.4(c) (or equivalent Tournament rule)
N/A

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)
While the player accepted he had committed an act of foul play he did not fully admit a contravention of Law 9.12 or that there had been contact with the head	Clean record.

or that the act warranted a red card. The player's position was untenable in light of the video evidence.	
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)
While the player is only 23 years of age he was not said to be inexperienced.	Acceptable
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)
No remorse evident and none shown at time. The video shows him walking away from a player apparently injured in a collision with himself without a backward glance.	None

Number of weeks deducted:

Summary of reason for number of weeks deducted:
 The Discipline Committee considered that a deduction should be made to reflect the player's clean disciplinary record and his acceptable conduct at the hearing. There were no other mitigating factors which the Discipline Committee considered merited a deduction.

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	[insert] 8 weeks	Sending off sufficient <input type="checkbox"/>
Sanction commences	From conclusion of hearing	
Sanction concludes	Midnight on Sunday 19/5/2019	
Matches/tournaments included in sanction	8 matches	

Costs	N/A
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Signature (Chair)	<u> <i>Kathrine EC Mackie</i> </u>	Date	<u> 8 March 2019 </u>
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NOTE: YOU HAVE 48 HOURS FROM NOTIFICATION OF THE DECISION OF THE CHAIR TO LODGE AN APPEAL WITH THE TOURNAMENT DIRECTOR – DISCIPLINARY RULES 8.1 (PAGE 4-32)

[Standard Appeal Directions to appear on this page]