

EPCR SHORT JUDGMENT FORM

Match	Connacht	Vs	Stade Toulouse
Club's Country	France	Competition	Heineken Champions Cup
Date of match	11/01/2020	Match venue	The Sportsground, Galway
Rules to apply	EPCR Disciplinary Rules 2019/20		

PARTICULARS OF OFFENCE

Player's surname	Holmes	Date of birth	30/05/1990
Forename(s)	Zack	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Stade Toulouse		
SELECT: Red card <input checked="" type="checkbox"/>	Citing <input type="checkbox"/> Other (specify) <input type="checkbox"/>		
Offence	9.13 Dangerous Tackle		
Summary of Sanction	4 weeks and costs of €750		

HEARING DETAILS

Hearing date	15/01/2020	Hearing venue	Offices of Bird & Bird, London
Chairman/JO	Jennifer Donovan (Ireland)	Panel member 1	Nigel H. Williams (Wales)
Panel member 2	Anthony Wheat (England)	Disciplinary Officer	Liam McTiernan
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):

Other attendees:

Jerome Cazalbou – Performance Director
Jean-Luc Brumont – Administrator Director
Neil Robertson – Legal Representative

Maria Gyorcsos – Governance & Regulation Executive, EPRC

List of documents/materials provided to player in advance of hearing:

Match Footage.
Notice of Hearing.
Red Card Report of Referee, Luke Pearce ("the Referee")
Statement of Karl Dickenson, Assistant Referee ("A.R. 1").
Statement of Simon McConnell, Assistant Referee ("A.R. 2").
Statement of Rowan Kitt, Television Match Official ("T.M.O.")
Statement from Tiernan O'Halloran, Connacht ("the victim player").
Medical Statement from John J. O'Donnell, Consultant in Emergency Medicine.

Documents received from / on behalf of Player:

Replies to Standing Directions.
Statement of Zack Holmes ("the Player").
Emails from Neil Robertson referencing match footage and attaching copy decisions in the cases of Leiatou, Gargalic and Holmes.
Player's Playing Schedule.

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

The Referee reported that the incident giving rise to the sending off occurred at minute 73.00 of the match. The away team were leading on a score of 7 – 21 at the time. The referee's report described the incident as follows:-

"As a Connacht ball carrier ran in to contact the above player was involved in a collision with a fellow Toulouse player. After the TMO initiated review it was decided that:

- a) Foul play had occurred as there was no effort to grasp
- b) Contact was direct to the neck / head area
- c) This was a red card offence.

It should be noted that the player was extremely apologetic after the game to the officials".

A.R. 1 reported that he was positioned on the side closest to the incident. He communicated to the Referee that he had seen a high tackle and that there was a need to establish points of contact and height. During the review process he reported that he had asked the referee to check the images a further time to check if the tackle had been dangerous and whether it had been a passive tackle or an offensive one. On viewing the footage again A.R.1 reported that he had agreed with the Referees decision to issue a red card.

A.R. 2 confirmed that having reviewed the footage with the other officials he agreed that the tackle was a dangerous one and warranted a red card.

The T.M.O. reported that he had provided the footage required by the referee for review and pointed the referee to the fact that the player was the main player involved in the incident. The T.M.O. reported that he was asked for clarification as to whether or not the ball carrier had dipped significantly at the point of impact. The T.M.O. provided a further replay of the incident after which he reported that the referee decided that there was direct contact to the head/neck, that there was no mitigation and that a red card was warranted.

The video clips made available showed the incident from a number of angles and in real time and slow motion. Footage showed the victim player in possession of the ball and being tackled by the player and by Stade Toulouse No. 21. All three players go to ground and a ruck ensues. The referee immediately raises his arm to signal a penalty advantage.

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

A statement was received from the victim player in the following terms:

"Regarding the red card incident at the weekend, I just carried the ball back on a counter attack and tried to accelerate into contact. In fairness I didn't feel any direct contact to my face/head in the moment and don't think there was any intent by Zach to do any damage. He just looked like he was trying to put in a big hit. I have had no ill effects after and was able to play on fine".

The Connacht doctor confirmed in his statement that he had checked the victim player after the incident that he had no neck or head symptoms.

SUMMARY OF PLAYER'S EVIDENCE

Replies to standing directions were received which confirmed that the player would not seek to raise any preliminary matters, that he had committed an act of foul play which warranted a red card and that he would not try to show that the referee's decision was wrong. The replies indicated that the player accepted that the Official Report was a true and accurate account of the incident but that (a) He did not share the referee's view that there was no mitigation, (b) that in the player's opinion the initial and main impact was at the level of the victim player's shoulder and (c) that he had made a clear effort to grasp the victim player, contrary to the referee's report.

The player submitted a statement pre-hearing which set out his recollection of the incident and his explanation of what had occurred. In it he accepted that the tackle was high but said that it had not been his intention to tackle high, that he had intended to tackle the ball. He said that he arrived to the tackle at speed and that the victim player had changed direction at the last minute, making it difficult for him (the player) to change his body height into the contact. He expressed his regret for what had happened, offered his apologies and indicated that he would continue to work on his tackle technique in order to prevent a recurrence.

In his evidence at the hearing the player re-iterated the above. He said that as he approached the tackle he believed that he would be the assistant tackler and that the victim player would attack the Toulouse 21. The victim player changed direction, stepping off of his left foot and the player said that he reacted by trying to block the ball in a wrap tackle to prevent the offload. The player said that the main and initial impact was shoulder to shoulder and he did not feel contact with the head of the victim player. When questioned he admitted that there was secondary contact with the neck of the victim player. The player again apologised and confirmed that he had apologised to both the victim player and the match officials.

Mr. Robertson made reference to an extended clip of the circumstances of the incident, having received permission to submit it. This clip included the footage of the discussions between the match officials (viewed without sound), of the awarding of the red card and of the player leaving the pitch. Mr. Robertson made reference to the length of time taken by the officials to reach a decision and also pointed to the fact that there was another player involved in the tackle. He noted that the footage showed the interaction between the player and the victim player as the player left the pitch.

Mr. Robertson stated that the player is 1.72m and the victim player is 1.88m. He and the player stood to demonstrate the mechanics of the tackle. He submitted that the victim player had dipped substantially going in to contact and had also slipped slightly meaning that he was very low going in to the contact. He said that the Toulouse No. 21 had his arm at the level of the neck of the victim player which exacerbated the situation. It was submitted that the main contact was between the shoulders of the two players but that secondary contact was made with the neck of the victim player as he went down. He said that there was, at no stage, contact with the head of the victim player. It was acknowledged however that the tackle was one they considered to be high and deserving of a red card hence the matter was not being contested.

In terms of the assessment of the seriousness of the offending and the entry point for sanction, Mr. Robertson made reference to the decisions in the cases of Manu Leiatuau (17/10/2018), Maxim Gargalic (24/01/2019) and the player himself (31/03/2019). He submitted that these cases demonstrated that contact with the neck was to be considered differently to contact with the head. He suggested that the committee were entitled to consider a low end entry point in this case and he invited them to do so. He submitted that whilst the initial contact between the players was significant, the contact with the neck of the victim player was secondary and glancing.

The Disciplinary Officer, Mr. McTiernan, was asked for his response. Mr. McTiernan explained that there had been an amendment to the wording of the World Rugby Sanction table. The wording previously was that "Any act of foul play which results in contact with the head shall result in at least a mid-range entry point". That is also the wording included at Appendix Three of the tournament Disciplinary Rules 2019/20. The amended wording states that "Any act of foul play which results in contact with the head and /or neck shall result in at least a mid-range sanction. That amendment had not been sanctioned by World Rugby, he said, at the date of publication of the tournament Disciplinary Rules and had therefore not been included. He submitted however that the committee were obliged to determine sanction in accordance with the current and most recent version of the World Rugby Sanctions which would provide for a sanction of at least mid-range.

It was submitted on behalf of the player that he had a very good disciplinary record. He had received a suspension of one week following a sending off for a dangerous tackle in April, 2019.

The player's playing schedule was submitted which included a match against Gloucester on the 19th January, Bordeaux on the 26th January, a Super Rugby 7's match on the 1st February, Racing on the 16th February and Montpellier on the 22nd February. On enquiry, the player's representatives confirmed that the player has been named in the club's squad for the 7's competition and that the competition had been sanctioned by the FFR.

FINDINGS OF FACT

Having considered all of the evidence before it, the committee found :

1. That the player had tackled the victim player in a dangerous manner and had committed an act of foul play contrary to Law 9.13, as was admitted by the player
2. That the initial impact was between the shoulder of the player at the level of the shoulder of the victim player but that subsequent contact was made with the neck of the victim player, as was admitted by the player.
3. That there was no resulting injury to the victim player.

DECISION

Breach admitted <input checked="" type="checkbox"/>	Proven <input type="checkbox"/> Not proven <input type="checkbox"/> Other disposal (please state below) <input type="checkbox"/>
	<p>In determining entry point for sanction, the committee had been invited to consider a low end entry point as the player had made contact with the neck but not the head of the victim player.</p> <p>Clause 7.8.31 of the tournament Disciplinary Rules provides that in exercising it's sanctioning power against a player a Disciplinary Committee shall apply World Rugby's Sanctions for foul play as set out in the World Rugby Regulations and as amended from time to time. Clause 7.8.31 goes on to provide that whilst the version of World Rugby's sanctions for foul play included in the Disciplinary Rules is the version in force as at the 1st January, 2019, any amendments by World Rugby to it's sanctions will take immediate effect in the Tournament.</p> <p>Therefore the committee determined that it was obliged to select any entry point for sanction of not less than mid-range.</p> <p>The committee noted the decisions referred to on behalf of the player but noted that same all pre-dated the amendment to World Rugby's table of sanctions.</p>

SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 7.8.32 (a)-(b)
PLEASE TICK APPROPRIATE BOX Intentional/deliberate <input type="checkbox"/> Reckless <input checked="" type="checkbox"/>
State reasons
The committee accepted the evidence of the player that the action was reckless rather than deliberate.
Gravity of player's actions – R 7.8.32 (c)
Grave in that contact was made with the neck of the victim player
Nature of actions – R 7.8.32 (d)
High tackle involving contact between the shoulder of the player and neck of the victim player, although contact was initially made with the shoulder of the victim player.
Existence of provocation – R 7.8.32 (e)
N/a
Whether player retaliated – R 7.8.32 (f)
N/a
Self-defence – R 7.8.32 (g)
N/a
Effect on victim – R 7.8.32 (h)
The victim player was uninjured and resumed play.
Effect on match – R 7.8.32 (i)
Nil
Vulnerability of victim – R 7.8.32 (j)
The victim player was not in a vulnerable position at the outset of the tackle.
Level of participation/premeditation – R 7.8.32 (k)
The player fully participated in the tackle but it was accepted that there was no premeditation involved in relation to the offending.
Conduct completed/attempted – R 7.8.32 (l)
The tackle was completed.
Other features of player's conduct – R 7.8.32 (m)
Nothing of relevance.

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point

<u>Top end*</u> <input type="checkbox"/>	<u>Weeks</u>	<u>Mid-range</u> <input checked="" type="checkbox"/>	6	<u>Weeks</u>	<u>Low-end</u> <input type="checkbox"/>	<u>Weeks</u>
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*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 7.8.34 (a)
The player had one previously disciplinary matter but the committee were of the opinion that this did not warrant an increase to the sanction.
Need for deterrence – R 7.8.34 (b)
N/a
Any other off-field aggravating factors – R 7.8.34 (c)
N/a

Number of additional weeks: 0

RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 7.8.35(a) The player accepted that he was guilty of the offence in his replies to Standing Directions which were furnished in advance of the hearing	Player’s disciplinary record/good character – R7.8.35 (b) The player had a previous red card for a dangerous tackle in April, 2019 for which he received a one week suspension.
Youth and inexperience of player – R 7.8.35 (c) The player is 29 years old and has been playing rugby professionally since 2012	Conduct prior to and at hearing – R 7.8.35 (d) The player and his representatives were courteous and polite throughout the hearing.
Remorse and timing of remorse – R 7.8.35 (e) The player apologised to the victim player and the match officials immediately.	Other off-field mitigation – R 7.8.35 (f) N/a

Number of weeks deducted:

Summary of reason for number of weeks deducted: 2
The committee determined that the player was entitled to partial but not full mitigation. There was an early acceptance of guilt and an early apology by the player and he did not seek to contest the matter. However the player had received a red card for a similar offence in April, 2019 and therefore did not have a unblemished disciplinary record. The committee were of the view that a reduction of two weeks was appropriate in the circumstances.

SANCTION

NOTE: PLAYERS ORDERED OFF ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING – R 7.2.5

Total sanction (weeks)	4 weeks	Sending off sufficient <input type="checkbox"/>	
Sanction commences	11/01/2020	Costs	750 Euro
Sanction concludes	Midnight, Sunday the 16 th February, 2020		
Free to play	Monday, 17 th February, 2020		

Signature (JO or Chairman)	Jennifer Donovan	Date	15/01/2020
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NOTE: YOU HAVE THE RIGHT OF APPEAL AGAINST THIS DECISION AS SET OUT IN REGULATION 8.1 AND 8.2 OF THE EPCR DISCIPLINARY REGULATIONS. YOUR ATTENTION IS SPECIFICALLY DRAWN TO THE TIME LIMIT AND

DIRECTIONS/REQUIREMENTS RELATING TO AN APPEAL SET OUT IN REGULATION 8.2.1 TO 8.2.4 OF THE REGULATIONS