

DISCIPLINARY DECISION



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|----------------|---------------------------------------|-------------|-----------------------------------|
| Match | British & Irish Lions v Cell C Sharks | | |
| Competition | British & Irish Lions Test Series | | |
| Date of match | 10 July 2021 | Match venue | Loftus Versveld Stadium, Pretoria |
| Rules to apply | Regulation 17 World Rugby Handbook. | | |

PARTICULARS OF OFFENCE

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| Player's surname | Hendrikse | Date of birth | 21 years of age |
| Forename(s) | Jayden | | |
| Player's Union | Cell C Sharks | | |
| Referee Name | Wayne Barnes | Plea | <input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not admitted |
| Offence | Breach of law 9.12 - <i>A player must not physically abuse anyone. Physical abuse includes, but is not limited to punching or striking with hand, arm (including stiff-arm tackle), elbow or shoulder.</i> | SELECT: Red card <input checked="" type="checkbox"/> Citing <input type="checkbox"/> Other <input type="checkbox"/> | If "Other" selected, please specify: n/a |
| Summary of Sanction | Three weeks (to be served as the following 3 matches given the Player's upcoming playing schedule): <ul style="list-style-type: none"> • Cell C Sharks v Pumas (16 July 2021); • Cell C Sharks v Bulls (21 July 2021); and • Cell C Sharks v Cheetahs (24 July 2021). | | |

HEARING DETAILS

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| Hearing date | 13 July 2021 | Hearing venue | Via Zoom Video Conference |
| Chairman/JO | Stephen Hardy, Australia | | |
| Other Members of Disciplinary Committee | John Langford (ex-international player), Australia David Croft (ex-international player), Australia | | |
| Appearance Player | YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | Appearance Union | YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> |
| Player's Representative(s) | Mr Marius Botha | Disciplinary Officer and/or other attendees | Mr Alistair Maclean (Designated Disciplinary Officer) Mr Trevor Barnes (Team Manager, Sharks) Mr Mandisi Tshonti (GM Player Affairs) Mr Sean Everitt (Coach, Cell C Sharks) Mr Christo Ferreira (SA Rugby Legal) Mr Michael Horak (Cell C Sharks High Performance Manager) Ms Joyce Hayes (World Rugby) |
| List of documents/materials | <ul style="list-style-type: none"> • Response to Directions, Submissions Hendrikse • Statement Liam Williams BIL 15 | | |

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| provided to Player in advance of hearing | <ul style="list-style-type: none"> • TMO Report RC Hendrikse • BIL Team Sheet • Cell C Sharks Team vs British and Irish Lions • Judicial Committee Standard Directions (July 2021) - Hendrikse (Sharks) • Referee Report RC Hendrikse • Video footage of the incident (Sharks v BIL 10 July) • Regulation 17 (1 July 2021 - post-Council May 2021) • Email from SA Rugby dated 13 July 2021 |
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SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE’S REPORT/INCIDENT FOOTAGE

The Referee’s Report was in the following terms:

“In the 5th minute of the second half, the TMO asked me to review potential foul play. I watched the big screen and saw Sharks 9 strike an opponent to the head / neck area with his elbow / forearm. I therefor issued a red card. At the end of the match, the Sharks number 9 approached me, shook my hand and apologised.”

The TMO’s report was in the following terms:

“Early in the second half, a scuffle ensued between players of both sides close to the touch line of the Sharks bench. In reviewing footage available to me, it was clear that an act of foul play had occurred in which the Sharks 9 had used his elbow to make contact with an oppositions [sic]. I informed the referee that I had a TMO referral for foul play, after which we worked with the director to put the video evidence on the screen for Wayne and his on field team to review. It was clear from the footage, agreed upon by all involved, that Sharks 9 had wilfully and intentionally used his forearm/elbow to make contact with an opposition players head in a dangerous manner.”

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

The Disciplinary Committee was informed via an email from Mr Alan Phillips (British & Irish Lions) that there was no available medical information as the relevant British & Irish Lions player was not injured as a result of the incident.

This was consistent with the evidence of the opponent player who gave evidence that:

“In regards to your email and the foul play committed against me last night. I had no idea I had been struck on the back of the head by Sharks number 9. I only realised it was me when it was shown on the big screen.”

SUMMARY OF PLAYER’S EVIDENCE

The Player admitted that he had breached Law 9.12. The Player accepted the Referee’s report to be a true and accurate account of the incident that resulted in his ordering off during the fixture. The Player's evidence was that he went in to tackle his opponent and, in the heat of the moment, while on top of the opponent on the ground, struck the opponent with his elbow / forearm at the back of his neck.

The Player admitted that the “red card threshold” had been met in relation to the incident and submitted that the offence was a mid-range offence. The Player's evidence was that he never had the intent to injure his opponent and the incident was not premeditated. The Player also submitted that the opposing player was not injured and seemed unaffected by the incident and was able to continue to play during the match. This is consistent with the evidence from the opponent player (Mr Williams) and of the British & Irish Lion's Mr Phillips.

The Player submitted that there were a number of mitigating factors to be considered in determining an appropriate sanction including:

- the Player’s age (21 years of age) and inexperience;
- the Player admitting his wrongdoing at the very earliest opportunity;
- the Player apologising to both the opponent player and the match Referee immediately after the game;
- the Player showing genuine remorse;
- the Player being of good character with an exemplary record (never having previously received a yellow or red card); and
- the Player facing an internal disciplinary process with the Sharks for breaching their “fines protocol 2021” where the Player faces a fine of R1,000 for every week suspended due to a red card.

The Player submitted that there were no aggravating features to the incident.

FINDINGS OF FACT

The Player’s offending was broadly consistent with that described by the match Referee. Namely, the Player struck an opponent to the head / neck area with his elbow / forearm. The video footage of the incident clearly identifies the act of foul play.

The offending met the red card threshold and was offending which, in the Disciplinary Committee’s view, whilst it may not have been “premeditated”, was found to have an element of deliberate intent and was, in all the circumstances, dangerous.

DECISION

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

ASSESSMENT OF SERIOUSNESS

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| Assessment of Intent – R 17.18.1(a)-(b) (or equivalent Tournament rule) | |
| Intentional <input checked="" type="checkbox"/> | Reckless <input type="checkbox"/> |
| State Reasons | |

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| The Disciplinary Committee found that the Player intentionally struck his opponent to the head / neck area using his elbow / forearm. The Player admitted to the act being in the "heat of the moment". |
| Nature of actions – R 17.18.1(c) (or equivalent Tournament rule) |
| The Player's offending was regarded by the Disciplinary Committee as being relatively serious (particularly from the point of view of using an elbow / forearm to strike the head / neck area of an opponent) and, although the strike was not a particularly forceful contact, it certainly placed the opposing player at risk of sustaining serious injury and with all other respects was significant enough of a strike to be considered mid-range offending. |
| Existence of provocation – R 17.18.1(d) (or equivalent Tournament rule) |
| There was no evidence of provocation before the Disciplinary Committee in this matter. |
| Whether player retaliated – R 17.18.1(e) (or equivalent Tournament rule) |
| There was no evidence of retaliation before the Disciplinary Committee in this matter. |
| Self-defence – R 17.18.1(f) (or equivalent Tournament rule) |
| There was no evidence of an act of self-defence before the Disciplinary Committee in this matter. |
| Effect on victim – R 17.18.1(g) (or equivalent Tournament rule) |
| The victim player gave evidence to the following effect (relevantly): <i>"In regards to your email and the foul play committed against me last night. I had no idea I had been struck on the back of the head by Sharks number 9. I only realised it was me when it was shown on the big screen."</i> This was consistent with the evidence before the Disciplinary Committee of Mr Alan Phillips which provided that there was no medical information as the victim player was not injured. |
| Effect on match – R 17.18.1(h) (or equivalent Tournament rule) |
| The evidence before the Disciplinary Committee was that the victim player continued to play throughout the remainder of the match. At the time of the incident the score was said to be level at 26 - 26. Following the ordering off of the Player, the Player submitted that <i>"all momentum shifted towards the Lions who ultimately won the match 73 - 31"</i> . The evidence before the Disciplinary Committee was that the ordering off of the Player had a significantly detrimental impact on the Cell C Sharks in the remainder of the fixture. |
| Vulnerability of victim – R 17.18.1(i) (or equivalent Tournament rule) |
| The victim was placed in a vulnerable position and at risk of injury. |
| Level of participation/premeditation – R 17.18.1(j) (or equivalent Tournament rule) |
| The Player was solely responsible for the offending. We accept the Player's submissions that the incident was not however premeditated. |
| Conduct completed/attempted – R 17.18.1(k) (or equivalent Tournament rule) |
| The conduct was completed. |
| Other features of player's conduct – R 17.18.1(l) (or equivalent Tournament rule) |
| Not applicable. |

ASSESSMENT OF SERIOUSNESS CONTINUED

| Entry point | | | | | |
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| <u>Top end*</u> | <u>Weeks/Matches</u> | <u>Mid-range</u> | 6 <u>Weeks/Matches</u> | <u>Low-end</u> | <u>Weeks/Matches</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 17.18.1(a), 17.18.1(g), and 17.18.1(h) or the equivalent provisions within the Tournament Rules referred to above.

| Reasons for selecting Entry Point above Top End |
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| Not applicable. |

RELEVANT OFF-FIELD MITIGATING FACTORS

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| <p>Acknowledgement of guilt and timing – R 17.19.1(a) (or equivalent Tournament rule)</p> <p>The Player acknowledged his guilt at the first available opportunity to the match Referee, the victim player and to the Disciplinary Committee.</p> | <p>Player’s disciplinary record/good character – R 17.19.1(b) (or equivalent Tournament rule)</p> <p>The Player has an exemplary disciplinary playing record. The evidence put to the Disciplinary Committee is that this is the Player’s first red or yellow card offence in the Player’s career which commenced when the Player was 8 years old.</p> <p>The Player submits that he has represented the following teams since the age of 18:</p> <ul style="list-style-type: none"> 2018 - Natal Sharks Craven Week and SA Schools; 2019 - Natal Sharks u21 and Junior Springboks; 2020 - Natal Sharks - Currie Cup, Rainbow Cup; 2021 - Natal Sharks - Currie Cup, Rainbow Cup. |
| <p>Youth and inexperience of player – R 17.19.1(c) (or equivalent Tournament rule)</p> <p>It is submitted, and we accept, the Player is relatively young (21 years of age) and relatively inexperienced.</p> | <p>Conduct prior to and at hearing – R 17.19.1(d) (or equivalent Tournament rule)</p> <p>The Player’s conduct was exemplary during the hearing. The Player was found to be open, honest and transparent in his dealing with the Disciplinary Committee.</p> |
| <p>Remorse and timing of remorse – R 17.19.1(e) (or equivalent Tournament rule)</p> <p>The Player showed genuine remorse for his conduct. The Player submits that he apologised to both the Lions player as well as the match official immediately after the game. This is consistent with the evidence received by the Disciplinary Committee from the match Referee and the opposing player.</p> <p>The Player submitted that the offending was out of character and although he cannot change what happened, he can learn from it. The Disciplinary Committee accepts this evidence.</p> | <p>Other off-field mitigation – R 17.19.1(f) (or equivalent Tournament rule)</p> <p>Not applicable.</p> |

Number of weeks/matches deducted:

3

Summary of reason for number of weeks/matches deducted:

Having regard to the range of mitigating factors referred to above, including the Player's clear and genuine remorse, early acknowledge of culpability, apology given directly to the opponent player and match Referee and exemplary disciplinary record to date, the Disciplinary Committee determined that it would be appropriate in all of the circumstances for the six-week entry point suspension to be reduced by 50% to a period of 3 weeks.

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player's status as an offender of the Laws of the Game – R 17.20.1(a) (or equivalent Tournament rule)

The Player has an exemplary disciplinary record. This being the first red card (or yellow card) offence since commencing playing rugby at the age of 8.

Need for deterrence – R 17.20.1(b) (or equivalent Tournament rule)

Not applicable.

Any other off-field aggravating factors – R 17.20.1(c) (or equivalent Tournament rule)

None.

Number of additional weeks/matches:

NIL

SANCTION

NOTE: PLAYERS ORDERED OFF OR CITED BY A CITING COMMISSIONER ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING – R 17.12.5(f) / 17.13.7 (or equivalent Tournament rule)

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| Total sanction | 3 weeks (to be served as 3 matches given the Player's upcoming playing schedule) | Sending off sufficient <input type="checkbox"/> |
| Sanction commences | 13 July 2021 | |
| Sanction concludes | The Player is free to resume playing rugby on Sunday 25 July 2021 | |
| Matches/tournaments included in sanction | The three week suspension will comprise the following three matches: <ul style="list-style-type: none">Cell C Sharks v Pumas (16 July 2021); | |

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| | <ul style="list-style-type: none"> • Cell C Sharks v Bulls (21 July 2021); and • Cell C Sharks v Cheetahs (24 July 2021). |
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| Costs | Not applicable |
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| Signature (JO or Chairman) |  | Date | 14 July 2021 |
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NOTE: YOU HAVE 48 HOURS FROM NOTIFICATION OF THE DECISION OF THE CHAIRMAN/JO TO LODGE AN APPEAL WITH THE TOURNAMENT DIRECTOR – R 17.24.2(a) (or equivalent Tournament rule)

[Standard Appeal Directions to appear on this page]