

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

Venue: Remote via Zoom

Date: 17th June 2021

JUDGMENT

Player: Tom Youngs
Club: Leicester Tigers

Match Leicester Tigers v Bristol Rugby
Match Date 5th June 2021
Match Venue Welford Road

Panel: Ian Unsworth QC (Chair), Gareth Graham and Chris Skaife

Secretary Rebecca Morgan.

Attending:

For the RFU

Angus Hetherington, Counsel for the RFU

David Barnes, Head of Discipline RFU

For the Player

Tom Youngs

Richard Smith QC, Counsel for Mr Youngs

Observing

Andrea Pinchin, CEO Leicester Tigers

Leigh Jones, Team Manager

Decision

1. The Player pleaded guilty to the offence of Conduct Prejudicial to The Interests Of The Union And The Game, Contrary To RFU Rule 5.12.
2. The Panel determined that the Player should be suspended from playing for a period of 2 weeks with one week suspended for one season.
3. The Player had already had a Club imposed one-game suspension on the 12th June 2021. The second game of the suspension will be suspended until the end of season 2021/22.
4. By the 28th February 2022, the Player is required to complete the RFU's England Rugby Referee award course and then subsequently referee two age grade games.
5. In the event of these requirements not being completed, or if the Player reoffends (on or off the pitch), then the suspended element of this sanction will be activated.

Preliminary Matters

6. There was no objection to the composition of the Panel.

Charge and Plea

7. The Player was charged with Conduct Prejudicial to The Interests Of The Union And The Game, Contrary To RFU Rule 5.12.

8. It was alleged that on the 5th June 2021 after the final whistle in the game between Leicester Tigers and Bristol Rugby, the Player used foul language at and disrespected the match official.
9. Mr Youngs admitted the charge. This is something that he had indicated in advance of the hearing.

The Incident

10. This was a closely contested game between Leicester Tigers and Bristol. The final score was 23-26. The end of the game has attracted wide-spread publicity. There was a significant delay to the conclusion of the game following a yellow card being shown to a Bristol player.
11. Tom Youngs, the Leicester Tigers captain was not on the field of play at the time. He had been replaced and was sitting on the bench. He was not far from an area where discussions were taking place between the referee Ian Tempest and coaching/management staff from both clubs. Television cameras were broadcasting events and it is clear, from any objective standpoint, that these were difficult and unusual events. Emotions were running very high.
12. After the resumption of play, Leicester were unable to score and the game ended which was accompanied by animated scenes between a lot of the players.
13. Mr Youngs had by now gone on to the pitch. Some players appeared to be fighting; there was a lot of shouting and the scene was one of general chaos.
14. Mr Tempest and his fellow match officials had positioned themselves away from the general melee and some players were approaching them. Some can be seen discussing matters, some shook

hands. Mr Youngs approached Mr Tempest. We accepted that this was initially to shake hands with him.

15. However, in what was a plainly out of character series of remarks, this conversation took place (picked up on the referee audio):

TY: "What you did mate, fucking not strong enough, for fucking not giving the penalty try"

IT: "On which one?"

TY: "And you get a fuckin fight like that"

IT: "On which one?"

TY: "Mate, all of them"

IT: "Ok, ok"

TY: "On fuckin all of them. You know, Ian. Watch it back, Ian"

16. The language used by Mr Youngs was wholly unacceptable. The suggestion that the referee was not strong enough was equally unacceptable. Mr Youngs told us that he was embarrassed by his words, had telephoned Mr Tempest to apologise and was clearly deeply remorseful that he had let himself down in this way.

17. Mr Tempest did not report the matter.

18. In a very helpful statement to the Panel, he said,

I would like to place on record that whilst I don't condone the actions of Tom Youngs it was an unusual and highly emotional ending to the match for both teams, considering the way that the last 10 minutes of the match was played out. During the conversation that took place on the field immediately at the end of the match with Tom Youngs, I never once felt threatened or intimidated by his actions

Tom Youngs has apologised and I didn't expect the matter to be taken any further or I would have reported it to the RFU discipline department.

19. Mr Tempest added that following Mr Youngs' apology, a few days after the game, he had considered the matter closed.
20. The RFU subsequently reviewed the matter and the charge was brought. It is important to note that this was not an allegation of match abuse but was framed as a 5.12 offence. As a consequence, the Panel has a wide discretion and whilst Regulation 19 is a very useful comparative tool, we are not required to adopt it.

The RFU's case

21. In helpful submissions, Mr Hetherington indicated that the RFU regarded this as a serious matter and by way of comparative analysis this could be regarded as a top-end offence. He highlighted the foul and abusive nature of the language used, that the player in question was the captain who should be setting an example of leadership and that he had sought out the referee to say this. He asked us to approach cautiously Mr Tempest's ability to withstand the abuse, but rather look at the matter objectively. He reminded us of the work that has been done to uphold Rugby's values and in particular, in the context of this case to ensure that referees are not subject to such attacks. We were referred to relevant caselaw and correspondence in that regard.
22. In equally helpful submissions, Mr Barnes addressed us as to the work the RFU has done, and from a player's perspective, that perhaps more work could be done to provide them with an insight as to the demands and pressures upon referees.

23. He and his team had looked carefully at this case and, as a result, the RFU positively suggested that part of any sanction might be suspended in order that the Player could undertake a refereeing course. This could be complimented by him refereeing age-grade rugby games.

Player's Case

24. Although Mr Youngs has been the subject of disciplinary findings, we accepted from Mr Smith QC that these were for on-field incidents and there were no relevant matters for us to take into account.
25. Mr Youngs is in his 16th season. He has played over 200 games for Leicester and over 100 at Championship level. He has 28 caps for his country. Rugby is a huge part of his life and that of his family. We accepted fully that he has made a huge contribution to the greater game, both on the field and off it. We accepted without hesitation that his actions were wholly out of character
26. The Player addressed us. He was remorseful and apologetic. He explained that he had seen “the red mist” and had a burning sense of injustice as to what had occurred. Nevertheless, consistent with the values that he had learned from his father he felt as club captain he should, of course, shake hands with a referee and in his words “just get on with it”. At the time that he approached Mr Tempest, there was still a melee and general disorder on the pitch and it was then, set against that background, that he said the words that he did. He did not accept the RFU contention that he had deliberately sought out the referee to do this and nor did he accept that he simply walked away. A close analysis of the video shows that he had already walked some distance from Mr Tempest at the time Mr Tempest beckoned Mr Youngs to return.

27. Tellingly, Mr Youngs revealed that after he had spoken with Mr Tempest he had a much better insight as to Mr Tempest's thought processes, and also the very real pressures that a referee will be under at a time such as that. He indicated that he had a much better understanding, and it was clear that he deeply regretted his words and actions.
28. Mr Smith QC made a number of valid submissions. These included:
- (i) The context had to be considered. This was a case far removed from others which have, for example, involved deliberate words being offered in post-match interviews;
 - (ii) The language was foul and unacceptable, but it was not foul language directed at the referee in a targeted or descriptive way. Rather this could be characterised as expletive laden language; and
 - (iii) This was not a case of the referee's integrity being questioned. This had to be distinguished from those cases where there has been a direct attack on the referee's integrity or honesty.
29. Mr Smith QC invited us to reject the RFU submission, by way of comparative analysis that this might be a "top end" case, but was rather at the lower end of the spectrum. Correctly, he reminded us that this was not a case which required us to adopt a mechanistic approach by comparison to regulation 19. Rather we could pay due regard to it, but approach this case looking at the overall and perhaps wholly unique circumstances.

Sanction

30. We carefully considered the competing submissions.
31. It was clear and accepted by all that the language used was wholly and totally unacceptable. The captain is in a unique position. He is able to speak to the referee. That privilege cannot be abused.
32. The referee, or any match official, should never be subject to such language or his/her strength of character or decision-making be questioned. Mr Youngs accepted all of that. His remorse was palpable.
33. In our judgement Mr Tempest's analysis that this was a highly unusual and emotional event goes to the very heart of what has happened in this case.
34. We accepted Mr Smith's submission that rather than consider whether this was "deliberate or reckless" as per the language of regulation 19, what a panel in this position should do is look at the context. Mr Hetherington quite properly accepted this proposition.
35. The context was therefore important in our analysis. It does not excuse Mr Youngs' behaviour, but it goes some way to explaining it.
36. We were not persuaded this case fell into the upper category of such offences, but nor did we feel it was in the very lower category of such offences.
37. We did perform a comparative analysis by way of regulation 19 but ultimately, we had to consider what was a fair and proportionate sanction set against these highly unusual circumstances and a player who has made such a vast and significant contribution for many years.
38. In RFU v Steve Diamond (16.11.17), the Panel said,

“... The game is built upon respect. There must be respect for officials.

Rugby’s Core Values are not empty words or slogans which can be signed up to and then ignored. They are not to be treated as useful bolt-ons dreamt up by a marketing team. They are integral to the game and are what make the game special.

Referees are vital to the sport. Without them there would be no games. They deserve respect and they must be respected.”

39. Those words are as true today as they were then. Referees are vital to the sport. Mr Youngs appreciates that, and it is clear that he had the utmost respect for Mr Tempest and all referees.

40. Social media is flooded with comments about referees. Often wildly differing views will be canvassed. Often foul language and abuse is used. Whilst such behaviour might be the privilege of armchair and often anonymous critics, this has no place on the field of play, either before the final whistle or afterwards.

41. Referees must and will be respected. That must come from all players whether they are at the very highest level of the game or not, but professional players must be expected to set the example for all to follow.

42. We felt that there was much force in the suggestion advanced by Mr Barnes on behalf of the RFU to consider a refereeing course. We feel that the suggestion he has made is a positive one and one that could be deployed in other cases at all levels of the game. Any improvement

to the insight of players as to the peculiar demands and pressures placed upon referees can only be a good and positive move.

43. Mr Youngs responded to the suggestion positively. He has a great love and affinity with the community game. He enjoys being at his local club with his family with all the positive aspects that such can bring.

44. Mr Youngs has rugby running through his veins and it is because of that perhaps that he feels not only deeply remorseful about his actions, but was also very enthusiastic about learning more about the refereeing side of matters and also putting something back into the game that has given him so much.

45. Having due regard to all submissions, both orally and in writing, it was our judgement that this offence after a contested hearing would have resulted in a sanction of a four-match ban.

46. In our judgement because of all relevant mitigating features we saw no reason not to do anything other than reduce the sanction by 50%.

47. That therefore resulted in a sanction of two weeks.

48. Having due regard to everything that we have said regarding the RFU proposal and Mr Youngs' willingness to engage with that, we took the decision to suspend the second game of the suspension for a period of one season on the condition that Mr Youngs attends the England Rugby Refereeing Award course and referees two age-grade rugby games by the 28th of February 2022.

49. We made an order for costs of £500. The Player has 14 days in which to appeal.

50. We would wish to commend the RFU for their submissions and approach to this highly unusual case. We would also wish to commend Leicester Tigers for the immediate decision not to allow Mr Youngs to play on the 12th of June. Further we would wish to place on record our thanks to Mr Smith QC for his helpful submissions in this unusual case.

Ian Unsworth QC
Chairman

18th June 2021