RFU SHORT JUDGMENT FORM

Match	Newcastle Falcons	Vs	Wasps
Club's Level	1	Competition	Gallagher Premiership
Date of Match	19/03/2021	Match Venue	Newcastle

Particulars of Offence			
Player's Surname	Carreras	Date of Birth	17/12/1999
Forename(s)	Mateo	Plea	Admitted ☑ Not Admitted ☐
Club name	Newcastle Falcons RFC	RFU ID No.	2631427
Type of Offence	Citing		
Law 9 Offence	9.12- Intentional contact with the eye/eye area		
Sanction	9 week suspension		

Hearing Details			
Hearing Date	24/03/2021	Hearing venue	By Zoom Conference call
Chairmen/SJO	Charles Cuthbert	Panel Member 1	Daniel Weaver
Panel Member 2	Leon Lloyd	Panel Secretary	Rebecca Morgan
Appearance Player	Yes ☑ No ☐	Appearance Club	Yes ☑ No ☐

Player's Representative(s):	Other attendees:
Kingsley Hyland OBE,LL.B Dean Richards, DOR Newcastle Falcons RFC Jay Curts, Interpreter	Angus Hetherington, RFU Legal Counsel (Discipline) David Barnes, RFU Head of Discipline

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

Hearing bundle comprising:
1 Charge Sheet
2 20/03/2021- Report of JCP Sharp, the Citing Commissioner
3 Undated report of Wayne Falla, one of the ARs
4 20/03/2021- Witness statement of Jamie Hamment, the Wasps Senior Physiotherapist
5 23/03/2021- Witness statement of Josh Bassett, Wasps 11 (W11)
6 Undated questionnaire from the Citing Commissionaire
7 19/03/2021-email from D Bassett with answers from W11 to questionnaire
8 22/03/2021-Medical report from Ali James, Head of Medical Services at Wasps
9 23/03/21-Statement from Rob Miller,Wasps 15
10 Undated statement from Graham Hughes, the TMO
11 23/03/2021- Statement from Anthony Woodthorpe, the Referee
12 Undated response to Directions from Mr Hyland
13 Undated Account of the Player
14 Newcastle Falcons Fixtures List
15 23/03/2021-Email from Mr Hyland with list of mitigating factors
16 24/03/2021-RFU Written Submissions
17 24/03/2021-The Player's Submissions as to Sanction
A video recording of the incident

Summary of Essential Elements of Citing/Referee/s Report/Footage

The Citing Commissioner (Chris Sharp) cited the Player as follows:

"Wasps are in possession, in a dynamic movement, attacking the Newcastle goal line. The ball is passed wide to Wasps 11 (Josh Bassett), and he attempts to drive for the line. 2 Newcastle players are waiting to tackle him. Newcastle 15 makes a legal tackle, and is assisted by 11. Wasps 11 is brought legally to ground. Newcastle 14 (Matteo Carreras) then arrives, and goes to ground behind the tackle area, with his hands in the tackle. At this point, his right arm is below the body of W11. N14 then moves his right hand, and brings it up to his chest, he then pushes it into the tackle again and it can be seen moving slightly back and forwards. W11 then immediately rolls away, and looks to the AR (Wayne Falla) and points to his eyes.

The players then disperse, with W11 left on the floor, kneeling and again remonstrating to the AR and again pointing to his eyes. Play has been stopped by the referee (Anthony Woodthorpe), and a penalty is awarded in field. W11 is attended by his medic for a short time, before taking his place and continuing in the match. I requested all angles of this incident, and it can clearly be seen that there is contact between the right hand, using the fingers, to the right eye and eye area, of W11. It is also clear that this is not an attempt to play the ball, as the ball is a distance away, and also, the whistle has blown, stopping play, some time before this action. N14 also has his left hand around the ball, so it would seem that he is aware of where the ball is located. After the match, I requested a player statement which was supplied, and additional statements from the medic and AR, also supplied."

Josh Bassett W11 provided a written statement on 23rd March 2021 in which he stated:
"1. I am making this statement in connection to the citing of Mateo Carreras for an offence contrary to Law 9.12 and intentionally making contact to the eye(s) or in the alternative recklessly making contact to the eye(s).
2. I received a long pass from Jimmy Gopperth carried the ball in my left arm into two Newcastle players which held me up over line.
3. The ref then blew the whistle signalling no try and held up. After the whistle, I had one Newcastle player underneath me with my head on their shoulder with space in front of my face. 5 seconds later I then felt a hand reach to the top of my head originally, I thought it was a wasps player tapping me on the head but the hand started to move down on to my fringe/forehead area moving down toward my right eye as I felt this I closed my eye tightly. The movement of the hand felt as if it was searching.
4. Then two fingers applied considerable pressure down onto my eye and dragged across my right eye socket in a pulling motion.
5. The ball at this point was still in my left hand close to my stomach in between a Newcastle players legs. I did not feel the hand moving down in an attempt to get to the ball or towards the ball.
6. After the tackle I did not try to get up but awaited other players to move off me. As this happened the players on top of me started to move which allowed me to get up.
7. I then stated to the AR that there had be contact to my eye and that I had felt I had been gouged. He then asked me was it contact or a gouge, I stated it was gouge which he then spoke to ref saying a player had requested to check for a gouge. The ref then replied saying we can't take player requests.
8. I believed the contact to be a deliberate attempt to gouge me and stated this to my physio when he approached me to check I was ok.

Brief statements were provided by the assistant referee Wayne Fella, and, at the request of the Disciplinary Panel, by the referee Anthony Woodthorpe and the TMO Graham Hughes.

The assistant referee stated:
"Once the ball was called held up over the tryline by the referee, the players were all looking to get up when the Wasps player said to me he's gouged me. I asked the player if he was sure it was a gouge and not just been pocked in the eye by accident and he said no he's definitely gouged me.
I then reported it to the referee over the comms so the TMO could look at it in the background, but nothing was found."

The referee stated:
"Wasps were held up over the line, so went back for an advantage for not rolling away. After a pause as we waited for a ball as Wasps had chosen to take a shot at goal, my AR mentioned over the comms that the Wasps 11 had said he had been gouged. I clarified whether the incident was on the goal line and then told my AR that if anything was clear the TMO would come in knowing that the whole match official team was listening to our conversation so was aware what we were referring to. Wasps were successful with their shot at goal and we continued with the game. I did not have a view of the incident."

The TMO stated;
"I was the TMO at the above game and my attention was drawn to an incident following a potential grounding by Josh Bassett (Wasps #11) when a comment was made to the AR regarding potential contact to the eye.
Under the current pandemic situation, the main EVS operators and the Director for the TV programme are in Wycombe, so, in the OB truck, we are provided with a screen divided into 4 sections (20 cm x 10 cm) on which to view potential incidents from the EVS operators on an informal basis.
I looked at the angles being offered for clarification of the grounding or not, as well as any images of contact with the eye, but could not determine any specific view that showed any clear incidence of direct contact to the eye, except for one, which hinted at some contact. However, as the referee had deemed the grounding unsuccessful and had indicated a penalty to Wasps, no formal review was requested by the on-field officials and, as I had no clear camera view to show the incident on the screen in the ground, I didn't request a formal review either. I did, however, ask the assistant next to me to mark the time of the incident in case there was to be any follow-up by the Citing Commissioner, so that we could provide the necessary angles. [This was overheard by the Director who informed the commentary team that the player would be put "on report" after the game, which they duly relayed to the watching public, causing additional confusion!]
Sometime after play had resumed, it became apparent from other replay angles then being shown, that there was clear contact to Josh Bassett's eye made by Mateo Carreras (Newcastle #14), especially when this was highlighted with a zoomed-in view of the action added to the view from behind, where a definite act of moving his arm towards the player's face is clearly evident. However, under the current World Rugby TMO Protocol, the time had elapsed for any formal review to take place with a view to issuing a sanction to the player involved during the match.
After the match, all relevant camera angles, including the zoom view, were supplied to the Citing Commissioner, in order for him to deal with the incident."

Essential Elements of Other Evidence (e.g. medical reports)

Jamie Hamment, the Wasps Senior Physiotherapist stated:
"I was present at Premiership Rugby fixture between Newcastle & Wasps (Mar 19th) in the capacity of match-day physio.
I attended to Wasps' player Josh Bassett during the first-half for an on-field assessment. I entered the field-of-play having seen Josh's reaction towards an opposition player in the aftermath of a tackle event which saw him held-up over the try line.
He appeared to be in a degree of discomfort, holding, rubbing and gesturing towards his right eye.
On my arrival, Josh reported to me that whilst being held on the ground, he'd felt an opponent's finger in his eye. He added it was after play had stopped/moved on, and it was his impression that this was a deliberate act, accounting for his reaction.
Josh was clearly upset by what he felt had happened, first recounting the event to me, and then in my presence to the assistant referee (far-side). The assistant referee was clear to confirm the nature of Josh's allegations with him, before then alerting the match referee to the situation via his radio mic.
On initial examination, Josh's right eye appeared irritated (reddened & watery). Whilst he described some associated blurred vision – this was transient & cleared within approx. 30 seconds whilst I was in attendance. No further structural or functional issues were described or identified on field. The player was happy and deemed medically fit to continue to play and went on to finish the match."

Ali James, Head of Medical Services at Wasps stated inter alia in his medical report dated 23rd March 2021:
"Post match evaluation confirmed that there was no evidence of any residual functional or structural injury to the eye and Josh remains unrestricted and in full training."

The match footage was reviewed, with Mr Richards talking the Panel through the incident from the Player's perspective which was consistent with the Citing Commissioner's narrative as set out above.

Summary of Player's Evidence

Mr Hyland confirmed at the start of the hearing that there were no objections to the composition of the Panel but asked to address the Panel on other matters.
He explained at length the difficulties that the Player, his club and he himself faced with regards to the hearing in that the Player spoke little English although Mr Kurts was acting his interpreter today and had been involved earlier in explaining the legalities of the process to the Player. He didn't therefore need everything said at the hearing to be translated today but that he had told the Player that if he was at any time during the course of the hearing he felt uncomfortable and needed clarification via the interpreter that he should make that clear.
He also explained that the Player accepted placing his hand in the face of W11 and that it was a deliberate intentional act. He did not initially set out with the intent to injure but to cause annoyance and to buy time in terms of slowing the game down. He accepted and always had done that there was eye contact and that the eye contact in the circumstances was an inevitable consequence of his deliberate act and on that basis he maintained his intent to plead guilty and had been advised that on that basis the overwhelming likelihood was that he would be deemed to be guilty in any event. To the extent that this plea was equivocal he accepted that the Panel had to proceed on the basis that it was unequivocal and approach sanction on that basis, subject to any further submissions as to mitigation. Part of problem arose out of use of term gouge which did not feature in the charge but was used by a number of witnesses. The Player seemed disproportionately concerned by that because even on the height of what was being alleged here, this was not a gouge. Websters Dictionary defines a gouging as forcing out an eye with the thumb or to thrust a thumb into the eye . He wanted to make clear that this is not being alleged here.

He then requested that the charge be split into two in that he considered that the charge, as it stood, was duplicitous . If this was done, the Player would enter a guilty plea to the intentional contact charge and the second charge could be dismissed.

Mr Hetherington confirmed that if the Player entered a guilty plea to the intentional contact charge, the RFU was content with that course of action, but without accepting that the charge was duplicitous; it simply contained an alternative charge. He also stated that with regards to the use of the term gouge , this had come from witnesses evidence. The RFU accepted that in using that language, the witnesses may not have had in mind the definition of gouge and may have been using the term loosely in the circumstances. The charge was intentional contact with the eye, so the RFU was not seeking to push the term gouge in any way.

The Chair confirmed that the Panel was content to agree that if the Player accepted the primary charge of making intentional contact with the eye of W11 that the alternative charge could be dismissed. Mr Hyland confirmed that the Player accepted that position.

The Chair asked Mr Kurts to explain to the Player the discussions that had just taken place with regards to amending the charges. The Player responded by apologising for not being able to speak in English and that he understood the changes in the charges. The Chair then explained to the Player that he had been cited for an act of Foul Play worthy of a red card, namely a breach of Law 9.12. He then put the primary charge to the Player through Mr Kurts namely that the Player had made intentional contact with the eye contrary to Law 9.12 and asked the Player whether he formally accepted that he committed the offence. The Player through Mr Kurts accepted the charge.

The Chair asked Mr Hyland whether in view of the Player's guilty plea, they were prepared to accept that all statements and reports already produced by persons other than the Player were agreed. Mr Hyland confirmed that they accepted the statements and reports to the extent that they were relevant. Some aspects of statements from "peripheral players" such as the Wasps Physio and Doctor contained passages which were irrelevant but there was no issue with regards to the lack of significant injury.

The Panel then viewed the footage with commentary from Mr Richards. In summary Mr Richards stated inter alia that:
1. there was a likelihood of a quick tap penalty being taken and that that was one of the reasons the Player was holding onto the ball with his left hand.
2. the Player leaned back slightly and had a split second view of W11's face
3. the Player would swear he wasn t looking at the face at that time but looking at the ball which was 6-8 inches away from where W11 s face was
4. the Player's fingers were near the eye area. There was no contention from the Player that his fingers would have or did connect with W11's eye but that wasn t his intention to hurt W11.

After Mr Richards had given his evidence, the Chair expressed concern that, based on what Mr Richards had said, there was a possibility that the Player did not intend to make contact and asked Mr Hyland to confirm that the Player intended to continue with his plea of guilty. Mr Hyland confirmed that the Player accepted that there was eye contact as a result of his deliberate act. He was comfortable to the extent that he was comfortable with this at all that the Player could safely admit to making intentional contact with the eye whilst making absolutely clear that it was never his intention to cause injury.

Summary of Player's Evidence

Mr Hyland was content that he didn't need to talk the Player through the footage. The Panel questioned the Player through Mr Kurts namely:

Q When he lifted his right arm and placed his right hand into the ruck, what was he trying to do?
A When I moved my right hand, my objective was to bother the player
Q It has been accepted on your behalf that you intentionally made contact with your fingers and that that contact was with the eye area of Mr Bassett. What were you intending by putting your finger on the eye area of Mr Bassett?
A My intentions touching the Player on the face were to annoy him, to gain time and prevent a quick play
Q Do you accept by touching his eye/eye area you ran a risk of causing significant injury?
A Yes. I am aware it could have caused an injury. I am glad to hear that no such injury was caused and I am sorry for my actions. In a further response he indicated that it did not cross his mind that an injury could happen.

The Player was then asked about his statement and what happened when Mr Richards had called Wasps to apologise. The Player said he was not aware of the result of the request. Mr Richards confirmed that he contacted Lee Blackett the following morning and passed on the Player's apologies, which he was told by Mr Blackett that he then passed on to W11. He was led to believe that W11 was "still a little bit upset" but accepted the apology.

Mr Hyland was then asked to make his submissions as to the assessment of seriousness and sanctions. He wanted to emphasise that the change of position for the plea came from the Player himself without pressure from Mr Richards or himself-it was the Player's decision to plead to the intentional contact charge. Mr Hyland didn't wish to repeat all the points from his written submissions but wished to emphasise that:

1. The Player made an early guilty plea and warranted maximum credit for that
2. There were significant inconsistencies between W11's account to the Citing Commissioner and his subsequent written account in particular with regards to the nature of discomfort caused
3. There is a particular stigma attached to certain types of offence, biting, spitting, racist abuse and a huge stigma attached to contact with the eye and it takes considerable courage to plead guilty knowing the likely reputational damage that will result
4. Exemplary character
5. Conduct at hearing
6. Demonstration of remorse-the Player asked Mr Richards to make contact. He didn't do it direct as there was no point unless W11 was fluent in Spanish

There was no justification for starting above low end, no aggravating factors and full mitigating factors. Mr Hyland also asked the Panel to consider the sentence handed out in the Willemse hearing yesterday and that if the Panel handed out a sentence any longer than two weeks (being the suspension given to Mr Willemse) then "something is not quite right here."

Mr Hetherington was asked if he had any further submissions. He drew the Panel's attention to the apparent disparity between the the Player and W11 as to the length of the eye contact. With regards to injury, the reason that there was no serious injury was because W11 had braced himself as he stated in his statement.

Findings of Fact

The Panel had reviewed the video footage, read all of the documents provided and listened to the explanations of the incident.

In short, the Panel considered that the match footage was consistent with the Citing Commissioner's narrative and finds that:
1. The Player joined two of his teammates legally in trying to hold up the ball and prevent W11 from scoring.
2. The Referee clearly stopped play by blowing his whistle and indicated a penalty back in front of the Newcastle posts
3. As the other players walk back for the penalty, the Player moves his right arm from its position under the body of W11 and inserts his hand into the gap between W15's upper left arm/shoulder which is on W11's back and N11's upper right arm
4. The Player looks down and pushes his hooked fingers across the forehead of W11. He then pushes one or more of his fingers onto the eye of W11 for a period of seconds, removes his hand and sits up and puts his right hand on the ball to join his left hand.
5. W11 immediately feels his right eye and addresses both the Player and then the AR. He receives medical attention but no injury was sustained

Decision			
Breach admitted ✔	Proven ☐	Not Proven ☐	Other Disposal (please state below) ☐

SANCTIONING PROCESS

Assessment of Seriousness		
Assessment of intent - Ref 19.11.8		
PLEASE TICK APPROPRIATE BOX	19.11.8(a) Intentional/deliberate ☐	19.11.8(b) Reckless ☐
Reasons for finding as to intent:		
The Panel was invited by the RFU to make no assessment under these sections as the charge accepted by the Player was "Intentional Contact"		
Gravity of player's actions - Reg 19.11.8(c)		
The actions of the Player were grave-he pressed one or more fingers into W11's right eye for a period of seconds. Fortunately W11 saw the fingers coming towards him and closed his eyelid which prevented serious injury.		

Nature of actions - Reg 19.11.8(d)
See (c) above
Existence of provocation - Reg 19.11.8(e)
None
Whether player retaliated - Reg 19.11.8(f)
Not applicable
Self-defence - Reg 19.11.8(g)
Not applicable
Effect on victim - Reg 19.11.8(h)
See (c) above
Effect on match - Reg 19.11.8(i)
None
Vulnerability of victim - Reg 19.11.8(j)
W11 on his back looking up was in a vulnerable position
Level of participation/premeditation - Reg 19.11.8(k)
Full participation/no premeditation

Conduct completed/attempted - Reg 19.11.8(l)
Conduct completed
Other features of player's conduct - Reg 19.11.8(m)
None

Assessment of Seriousness Continued					
Entry point					
Low-end	Weeks	Mid-range	Weeks	Top-end*	Weeks
☐		☑	18 weeks	☐	

*If Top End, the JO or Panel should identify, if apropriate, 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 be consider RFU Regulation 19

Reasons for selecting entry point:
The Panel carefully considered all of the matters set out above at Regulation 19.11.8 and concluded that this matter fell into the mid range entry point. The Panel considered that the most significant features were that this was a deliberate and intentional act, at a time when the referee had already blown his whistle and to a player who was vulnerable and therefore unable to protect himself.

Additional Relevant Off-Field Aggravating Factors - Reg 19.11.10
Player's status as an offender of the laws of the game - Reg 19.11.10 (a)
Not applicable
Need for deterrent to combat a pattern of offending - Reg 19.11.10(b)
There are currently no World Rugby memoranda outstanding regarding deterrent of specific offences

Any other off-field aggravating factor that the disciplinary panel considers relevant and appropriate - Reg 19.11.10 (c)
None

Number of additional weeks: 0 weeks

Relevant Off-Field Mitgating Factors	
Acknowledgement of guilt and timing - Reg 19.11.11(a)	Player's disciplinary record/good character - Reg 19.11.11(b)
The Panel considered that the Player acknowledged his guilt at the earliest possible opportunity once the offences had been explained to him	No previous offences recorded against the Player
Youth and inexperience of player - Reg 19.11.11(c)	Conduct prior to and at hearing - Reg 19.11.11(d)
He is 21 years old but has been playing professional rugby since he was 18 years old	He was fully respectful of and compliant with the process despite requiring the assistance of a translator
Remorse and timing of Remorse - Reg 19.11.11(e)	Other off-field mitigation - Reg 19.11.11(f)
The Panel accepted that the Player asked Mr Richards to apologise on his behalf although it felt that this could have been sooner	None

Number of weeks deducted: 9 weeks

Summary of reason for number of weeks deducted:
Given his clear record and his plea in particular, the Player was entitled to receive the maximum 50% credit for the mitigation that was available to him.

Games for meaningful sanctions:
1. 28.03 v Leicester 2. 03.04 v Ospreys 3. 10.04 EPCR ¼ Final v Leicester Tigers 4. 17.04 v Bristol 5. 24.04 v Gloucester 6. 01.05 v England U20 (Friendly) 8. 08.05 v L. Irish 9. 17.05 v Northampton Saints 10. 30.05 v Exeter Amended 14.04.2021 - Newcastle Falcons reached the Challenge Cup Quarter Final and that fixture on the 10th April is included in this suspension. The Semi Final and Final in May were not counted as meaningful weeks as Newcastle lost to Leicester Tigers in the Quarters. As such, the games on the weekend of the 28/20/30 May v Exeter and 04/05/06 June v Worcester will be included in the suspension. Further amended 29.04.2021 - Newcastle played a friendly game against England U20's on the 1 May. Upon receipt of detailed submissions from the Club, the Chairman of the Panel determined that the match would have been meaningful for the Player and, as such, was included in the period of suspension. The full list of games now included in the 9 week suspension are above. The Player is suspended until the 31 May and is free to play on the 1 June 2021.

Sanction

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

Total sanction	9 weeks	Sending off sufficient	
Sanction commences	23.03.2021		
Sanctions concludes	31.05.2021		
Free to play	01.06.2021		
Final date to lodge appeal	30.03.2021		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£500		

Signature (JO or Chairman)	Charles Cuthbert	Date	29/03/21

NOTE: YOU HAVE THE RIGHT OF APPEAL AGAINST THIS DECISION AS SET OUT IN REGULATION 19.12 OF THE DISCIPLINARY REGULATIONS. YOUR ATTENTION IS SPECIFICALLY DRAWN TO THE TIME LIMIT AND DIRECTIONS/REQUIREMENTS RELATING TO AN APPEAL SET OUT IN REGULATION 19.12.9