

**IN THE MATTER OF ██████████**

**JUDGMENT**

Hearing date: Monday 27 June 2022

Venue: Remote

Panel: Tom Gilbart (Chair); Guy Lovgreen; Carl Bradshaw

**Allegation**

The allegation in this case was that the player ██████████ (██████) was guilty of conduct prejudicial to the interests of the union and the game, contrary to RFU Rule 5.12.

The RFU's case was that he had "verbally abused another player, contrary to law 9.12 by stating 'it's like watching a n\*\*\*\*\* run from their mum'".

It was alleged that this comment was made by ████████ during the course of a match between Ely RFC and St Neots RUFC on 30 April 2022. ████████ was playing for Ely at the time.

**Material considered**

In advance of the hearing, the panel was provided with:

- The charge sheet
- The citing complaint document
- Various pieces of correspondence about the procedure for the complaint
- A brief statement from ████████
- Brief statements from ██████████ and ██████████
- Emails from the match referee and various Ely RFC players which set out that (having been asked by ██████████ the Ely Director of Rugby) they had not heard the alleged comments

During the hearing the panel heard:

- Submissions from Angus Hetherington on behalf of the RFU
- Evidence from ██████████ and ██████████
- Evidence from ██████████ and ██████████
- Submissions from ██████████

At the end of the hearing, the panel gave a short ex tempore judgment and said that brief written reasons would follow. These are the reasons.

### Relevant Agreed Matters

1. The RFU bears the burden of proving the allegation
2. The standard of proof is the balance of probabilities
3. On 30<sup>th</sup> April, an Ely RFC XV played a St Neots XV. The game was one-sided.
4. St Neots had been short of players and so had members of Mildenhall Red Lodge RFC playing for them.
5. ██████████ was a MRLRFC player but, in the relevant part of the match (during the 2<sup>nd</sup> half), was spectating from the side lines.
6. ██████████ (██████████ MRLRUFC) was in the vicinity of the match. During the second half, ██████████ approached her and made a complaint that “the Ely number █ was walking back to their end of the pitch with two team mates and he said ‘it’s like watching a n\*\*\*\*\* run from his mum’.
7. █ was the Ely Number █. He was removed from the pitch shortly after ██████████ complaint and before the end of the match.
8. No other player; spectator or official has said that they heard this language (or this type of language) being used.

On the day of the match and in his written statement, █ had stated that he could not remember/did not recall making the alleged comment. During the course of the hearing, █ was asked directly whether this amounted to a denial. █ confirmed that he denied that he had made the alleged comments or anything similar.

### Relevant findings and decision

The panel reached the following conclusions:

1. ██████████ was a helpful witness who – despite his nerves - was clearly doing his best to assist the panel.
2. The panel were satisfied that ██████████ sought to give an honest account of what he thought he had seen and heard.
3. The panel was satisfied that ██████████ genuinely thought that he heard █ make those comments. This was apparent not only from the tenor of his evidence before the panel but also his actions on the day (an immediate

complaint) and his willingness to appear as a witness before the panel despite his anxiety about the process.

4. What the panel was required to decide, however, was not whether ██████ thought he heard the comments but whether the comments were in fact made.
5. There was no evidence to support the account of ██████. No other player or official or spectator heard the comments or anything like them (and on ██████ account there were two players in close proximity to ██████ when he made the comments).
6. The panel asked itself whether - in circumstances where there would have been ample opportunity for others to hear the comments - the charge could be made out on the unsubstantiated evidence of a single witness.
7. After a good deal of debate and reflection, the panel determined that it could not be satisfied on the balance of probabilities that the words were used.
8. The charge was not proven.

The panel wishes to express its thanks to those who acted quickly on 30 April to take these allegations seriously; those who investigated the allegation (especially ██████) and – most importantly – ██████

29 June 2022