

RUGBY FOOTBALL UNION DISCIPLINARY PANEL

JUDGMENT

Governing Body: Rugby Football Union (“**the RFU**”)
Player: Jordan Onojaife (“**the Player**”)
Player’s Club: Bedford Blues RFC (“**the Club**”)
Panel: Matthew O’Grady
Becky Essex
Guy Lovgreen
Secretary: Rebecca Morgan-Scott
Match: Ealing Trailfinders RFC v Bedford Blues RFC (“**the match**”)
Match Date: Saturday 10 December 2022

HEARING

Date: Tuesday 13 December 2022
Venue: Zoom
Attending: Angus Hetherington (RFU Counsel)
David Barnes (RFU Head of Discipline)
Mike Rayer (Bedford Blues RFC Director of Rugby)
David Owen (Bedford Blues RFC Board Member)
Available material: Footage
Charge sheet
Citing Commissioner’s signed interview record of Carlo Tizzano
8 Colour photographs
RFU Sanctions Table
Email from Mike Rayer
Written summary of the Player’s case
Ealing Trailfinders medical report (with two colour photographs appended)

PRELIMINARY MATTERS

1. This citing complaint was one of two made against the Player arising from events in the final minutes of the match. The Panel heard this citing complaint second. In the first citing, having heard the Player’s evidence,

the Panel was persuaded the offence first cited did not meet the Red Card test and dismissed that citing against the player.

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

THE CHARGE

3. The Player was charged with a single offence of Physical Abuse contrary to Law 9.12 (“**the Charge**”).
4. The particulars alleged were that the Player physically abused Ealing 7 (Carlo Tizzano) by biting his finger.
5. The Player denied the charge and denied committing any act of foul play.

THE CITING COMPLAINT

6. The Citing Commissioner’s report stated:

‘Following the last play of the game a melee erupts towards the touchline where multiple players from each team are involved. Blue 5 is within the epicentre of the melee.

Green 7 runs into the edge of the confrontation and joins in with the pushing, shoving and verbal altercations. He is partly dragged out by blue 21 but shrugs him off to re-enter the fray. In doing so he pushes an outstretched hand toward the direction of the face of blue 5 with his fingers slightly splayed.

Green 7’s ring finger of his left hand appears to push on blue 5’s gumshield – as he withdraws his hand the finger is stuck momentarily in the grip of blue 5’s mouth and teeth. He then pulls away immediately and looks directly at the finger for damage.

The melee dissipates and eventually blue 5 is given a yellow card for a previous incident. The final whistle is blown and then after teams shaking hands green 7 can be seen approach the referee and show him his injured finger.

I note that the referee had no way of seeing the incident as he was behind the situation. The AR was much closer but with so much happening involving the melee he was trying to stop other from

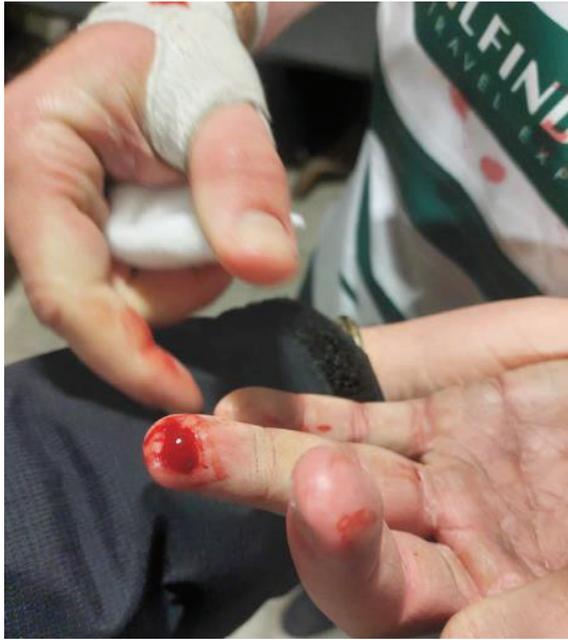
entering it is not surprising the incident was missed. Green 7 has given a written statement following the match and provided pictures of his injured finger.

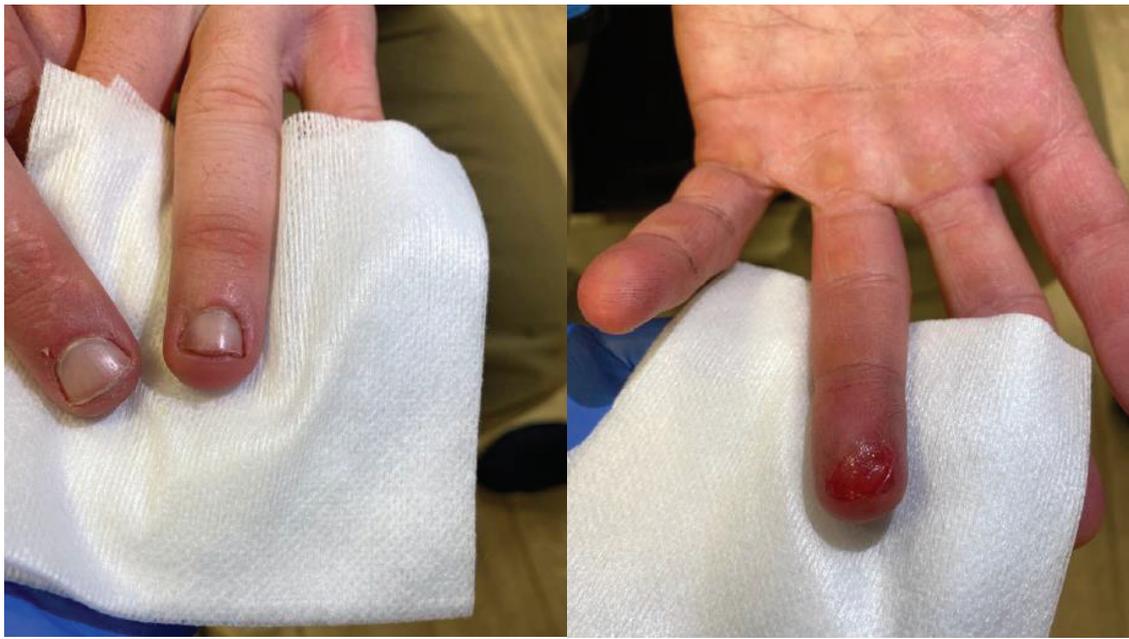
It is clear that the finger did touch the gumshield area of blue 5 and there is a clear grasp of the finger as the player tries to withdraw his hand following the alleged bite.

This is a breach of law 9.12. A player must not physically or verbally abuse anyone. Physical abuse includes, but is not limited to, biting, punching, contact with the eye or eye area, striking with any part of the arm, shoulder, head or knee(s), stamping, trampling, tripping or kicking.'

THE RFU'S CASE

7. The RFU relied upon the signed note of the Citing Commissioner's questions of Mr Tizzano as well as Mr Tizzano's oral evidence given at the hearing.
8. The Citing Commissioner's note of interview records that Mr Tizzano's left ring finger was bitten. The pressure was with a 'clamp'. Mr Tizzano identified the person responsible as being, "Bedford 2nd rower that got yellow carded. Player had mouth guard in ...'. Mr Tizzano reported his skin was broken with 'lots of blood and bruising'. The wound was cleaned and Mr Tizzano is taking antibiotics. Mr Tizzano is noted to have reported the incident to the Referee and Mr Tizaano was advised to report the alleged offence.
9. The following photographs accompanied the record of questions.





Carlo Tizzano (Ealing 7)

10. Mr Tizzano gave oral evidence. Mr Tizzano said he ran into a melee of players to break players up in his "role to deescalate situations". He said he went to push the Player away with his hand near the top of the Player's jersey. He said he was pulled from behind by another player and that led his hand to go up. Mr Tizzano did not know in that moment his finger was in the Player's mouth. He said the Player turned his head, bit him and smiled. Mr Tizzano said it was upsetting. He had never seen anything like it before.

11. Mr Tizzano said the bite was hard, "hard enough for [Mr Tizzano] to rip [his] finger out straight away because it hurt". Mr Tizzano went to the Referee and showed what he alleged the Player had done. Mr Tizzano firmly denied the Player's case that Mr Tizzano tried to "fish hook" the Player's mouth. He denied being a dirty player.
12. We were told that Mr Tizzano had bruising on his nail and a cut. He held his finger to the camera to demonstrate that. Mr Tizzano said he saw a lot of blood for a while. He is on antibiotics to prevent infection.
13. Mr Tizzano has not received any expression of remorse, regret or apology from the Player or from anyone on the Player's behalf.
14. Mr Tizzano came across as an uncomplicated and straightforward witness. When Mr Tizzano's evidence concluded it was not anticipated he would be required to further participate in the hearing. However, as the Player's case developed during the hearing it was necessary to request Mr Tizzano return to provide further evidence. This will be explained later in this judgment.

Medical Evidence

15. Dr Gruff Parsons provided the Panel an extract of his clinical notes on Mr Tizzano. The extract contains notes following examination by Dr Dominicka Goroszenuk on matchday, which were added into the notes by Dr Paraons and Dr Parsons' own more recent review.
16. The clinical notes read:

'Subjective:

Player complained of laceration to ring finger from a reported bite. Player reviewed in medical room at ETSP.

Objective:

Wound cleaned with sterile fluid and gauze. Jellonet applied and dressing applied. Prescription of Co-Amoxiclav given to patient to prevent risk of further infection.

Plan

The plan was for review in the coming days to monitor for infection.

END

Based on my subjective and objective review this morning, notes as follows:

Subjective:

Player feeling some irritation in finger, has remained in dressing since. Side effect from Abx of diarrhoea, therefore new script given to him of different ABs.

Objective:

On observation, laceration to anterior aspect of ring finger healing with no clear signs of infection.

Bruising to superficial aspect of posterior ring finger on edge of nail bed visible but mild.

No issue with ROM or strength of finger. Some irritation on grip strength.

No other abnormalities observed.

Analysis:

No clear signs of infection, wound healing. This to be handed back over to DG.

Plan:

Review in 2/7 time.'

17. The first of the images appended to the clinical notes is titled 'haematoma' and is of what was reported to be a bruise.

THE PLAYER'S CASE

18. The Player denied the charge. He provided a very brief written bullet point summary of his case prior to the hearing. It was contended that:

- a. Mr Tizzano ran from a distance to 'attack' the Player;
- b. Mr Tizzano attempted to 'fish hook' the Player;
- c. The events happen in split seconds and there was insufficient time for the Player to bite down on Mr Tizzano; and
- d. Mr Tizzano hurt himself by pulling his finger out of the Player's mouth and catching it on the bottom row of the Player's teeth.

19. It did not form any part of the Player's case in writing that Mr Tizzano or anyone at Ealing Trailfinders RFC had (or may have) deliberately cut or injured Mr Tizzano after he had left the field of play nor that the Panel was provided with false photographs from a time other than when they were reported to have been taken.

20. The Player gave oral evidence. He wished us to watch the footage at full-speed first (before commenting), which we duly did. The Player said he was in the melee and at some point he 'found Ealing 7s fingers in my

mouth.' He then moved from his factual account of the incident to tell the Panel that this hearing 'transcends rugby' because he has a professional career outside rugby and he 'cannot stand for these allegations'. We were told that a bite is premeditated and deliberate. The Player said that he was restrained within the melee and 'the boy' (a reference to Mr Tizzano) put his hands in the Player's mouth.

21. The Player said to us that, '*If that is how [Mr Tizzano] cut his hand that is his responsibility. He's a grown man and for reasons only known to him he decided to put his hand in [the Player's] mouth*' (emphasis added).
22. It was suggested by the Player that the RFU's case was 'nonsensical' and that anything played frame-by-frame shows a different story to watching it at live speed. The Player said the allegations are 'extremely serious', returned to him having a career outside rugby and told us:

'I cannot let, kind of, slander like this go because it has huge consequences. I'm obviously emotionally charged because I have not intentionally or unintentionally bitten anyone. You know, the boy's hand ... finger's been in my mouth. Only he knows why he did that and only I know if I bit him and I'm telling you categorically I have not bitten that boy. So, sitting here, it's kind of a hard one. For me also, I've just had the boy on ... contradicting himself. It doesn't make any sense. You know I hoped someone would come on ... In such a case ... These allegations are huge. You can't contradict yourself. You know, it's a tough one to sit here.'

23. Mr Hetherington questioned the Player. He gave the Player an opportunity to take an 'off ramp' to avoid a more serious interpretation of the allegation (i.e. a deliberate bite intending to injure). It was not one the Player elected to take:

'Q. ... the charge is quite emotive ... if I were to put to you that this was a heat of the moment, a split second decision where the finger came in the mouth when you simply decided to clamp down – almost cheekily to do so – without the intention of [causing] injury, if I put that to you, would you accept that was a possibility?

A. I would 100% deny that and also deny, his finger did not come near my mouth. He put his finger in my mouth.'

24. Notwithstanding the Player's written case that Mr Tizzano did in fact sustain an injury in the Player's mouth, but that Mr Tizzano caused the injury to himself by catching his finger on the Player's teeth, during the Panel's

questions of the Player it became very apparent the Player did not in fact genuinely accept Mr Tizzano's finger was injured in his mouth. He said:

'... and I say *if* he injured it in that act that's obviously, if he's caught his finger on my mouth that's his responsibility because he put his finger in my mouth. And also, in terms of evidence I've got to be frank I have no evidence that he has injured his finger in that way. Anything could have happened and I don't think I'm kind of silly in suggesting that because there's many scandals in professional sport. There have been a few in rugby. I have no idea how he injured his finger. The picture wasn't taken on the pitch. He said he's reported it straight away. I can see him in the video erm still amongst it ... so *anything* could have happened there. That's for me is such a serious allegation with no evidence. It's kind of, it's, the potential ramifications it's nonsensical and it far transcends rugby.'

25. It was obvious that the Player resiled from his written case that Mr Tizzano's finger was injured in his mouth. Indeed, by referring to 'scandals' and doubting the circumstances in which the photographs were taken, a plain inference of the Player's evidence was that he doubted the integrity of the evidence against him. At no point prior to this was it suggested that Mr Tizzano's finger was injured in any other way. Nor was there any question that the photographs were taken shortly after the match and that they were photographs of the resultant injury (howsoever it was caused). In light of the Player's evidence, the Panel requested Mr Tizzano be contacted and requested to re-join the hearing so that these issues could be explored with him.

26. Whilst Mr Tizzano was contacted, the Player continued his evidence. He said he applied no downwards pressure 'whatsoever' onto Mr Tizzano's finger.

27. The Panel noted the following exchange between the Chair and the Player:

'Q. If it's right that – and this would be a finding for us to make – that he sustained a bruise to the upper part of his finger as a result of what happened, how do you square that – sustaining a bruise – with your case that it's a fish hook and it's him applying downwards pressure without any pressure from you?

A. As I said before, I'm not here in all honesty to prove what happened to his finger. I'm here to categorically tell you I have not bitten that boy and as I keep saying, we need to be careful. This far transcends rugby and the ramifications so ...

Q. Jordan, I'm asking you the question because it's at the front of my mind and I want to give you, make sure I've given you, a fair opportunity to explain something that might trouble me in the evidence so that I've heard and given you an opportunity to answer. If that's going to be your answer, then that's your answer, but I want to make sure you've had an opportunity to answer the question I've got.

So, if it's right, and this is an assumption, I'm assuming – hypothetically, if it's right that as a result, as you say, of him putting his finger into your mouth he sustained a bruise to the upper part of his finger, how do you square that with the action being, there being no downwards pressure from you?

A. That's with whatever angle he's pulled his finger out my mouth. He also mentioned he was being pulled by people, you know. Teeth ... I don't really like having to explain this because as I've told you I have not bitten that boy. You know so, there is no evidence to suggest I have and that's, it doesn't get clearer than that 'cus these are very serious matters, you know. As I keep saying this far transcends rugby, so that's where we're sitting here.'

28. At the conclusion of the Chair's questions of the Player, the Player was asked if there was any other evidence he wished the Panel to consider. The Player said:

'I'd like the evidence of the time the picture was taken because as I mentioned, the picture was not taken on the pitch. I have no knowing (sic) of what happened in the changing room. You know, so, what time was the picture taken? How long afterwards was it? These are all important things for a huge allegation.'

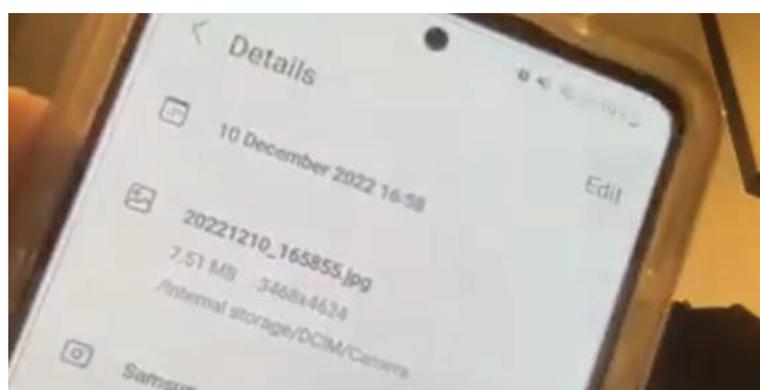
29. This served to reinforce that, at the very least, the Player questioned the integrity of the evidence against him and hinted at foul play behind closed doors. This was the first the RFU heard of this aspect to the Player's challenge to the evidence.

30. We recognise that the charge the Player faced was deeply emotive for him. We understand he perceived there was much on the line for him personally and professionally. We acknowledge that giving evidence is a very difficult exercise. We readily accept that giving evidence over the internet is an unusual experience and much can be lost in that format. We make full allowances for those circumstances. Even giving the Player the maximum allowances for the circumstances he faced, we regret to conclude that he was an unsatisfactory

witness. At times he presented as dismissive of concerning parts of the evidence. On occasions, he repeatedly emphasised what he perceived to be at stake, rather than directly engaging with difficult aspects of the evidence that were not consistent with his case. There was a sense in which the repeated references to 'ramifications' and matters 'transcending rugby' were a distraction from the facts at hand. His questioning of the integrity of the evidence in the way he did, such that the Panel had to view individual photograph metadata, strained credulity.

RESUMPTION OF THE RFU'S CASE

31. Mr Tizzano re-joined the hearing. He was accompanied by Jamie Evans, who is the Ealing Trailfinders RFC Team Manager.
32. Mr Tizzano said there was no bruising, laceration or cut to his finger prior to the alleged bite. The Player confirmed, having gone through each photograph individually, the photographs were of his finger and that they were taken in the changing room after the match. The photographs of the bloodied finger were taken about 10 minutes after the final whistle. They were taken by Jamie Evans. The photographs of the cleaned finger were taken in the doctor's room after he had showered and changed, some 30-40 minutes after the final whistle.
33. Mr Tizzano denied that he or anybody else cut or injured his finger in the changing room prior to the photographs being taken.
34. Mr Evans held his mobile phone to the camera and showed the metadata to the photographs he took. It confirmed they were taken on 10 December 2022 at 16:58.



35. Consistent with his doubts about the integrity of the evidence and the passing reference to 'scandals', the Player asked Mr Tizzano whether there was any time from leaving the pitch to entering the changing room he was by himself. Mr Tizzano said he was not alone.

SUBMISSIONS

36. It was submitted on behalf of the RFU that Mr Tizzano's evidence should be preferred. It was argued that Mr Tizzano's evidence was corroborated by the footage, the immediate reaction of the field of play, the photographs and the bruise on the dorsal side of the finger.
37. It was submitted by the Player personally, "The boy has put his fingers in my mouth whilst I am restrained, and I have not bitten him." The Player submitted the injuries were not consistent with the alleged mechanism. He once again said, "This is a serious allegation and goes much higher than this." On his behalf, Mr Rayer submitted that the Panel should consider: 1) the action was very quick; 2) the presence of tearing, rather than bite marks; and 3) that the marking on the nail was consistent with the colouring of Mr Tizzano's other nails.

ANALYSIS & FINDINGS

38. The Panel considered all the evidence and submissions. Our failure to refer to any particular aspect of the evidence or submissions does not reflect a failure on our part to consider the evidence. We considered all the evidence heard, written and recorded carefully.
39. Under Reg 19.5.7 the Player bears the burden of showing that the Citing Commissioner was wrong. The standard of proof is the simple balance of probabilities.
40. The Player failed to show the Citing Commissioner was wrong. However, this was not a case where the Player simply fell short of meeting his burden on the balance of probabilities. After considering all the evidence holistically, the Panel was sure the Citing Commissioner was right to cite the Player and that the Player did indeed bite Mr Tizzano. In the Panel's judgment, the case against the Player was overwhelming.
41. The Panel placed little weight on *how* the witnesses gave their evidence and substantial weight on the content of the evidence and the extent to which it was corroborated or not by other evidence. In the Panel's judgment the evidence overall overwhelmingly supported Mr Tizzano's account that he was bitten by the Player:
- a. The footage shows a bite;
 - b. The footage shows Mr Tizzano immediately react to being bitten;
 - c. Mr Tizzano promptly reported he had been bitten to the Match Official and then his team management;

- d. The injuries reported by medical doctors are consistent with the mechanism of a bite followed by an instinctive recoil of the hand by Mr Tizzano; and
 - e. The existence of the injuries is supported by contemporaneous photographs.
42. Whilst the Panel has little doubt Mr Tizzano embellished his role as a 'de-escalator', his credibility was not undermined. In our judgment he gave an honest account of being bitten.
43. The Player's suggestion that he did not bite Mr Tizzano was contra-indicated by the wider canvas of evidence. First, the bruising to the dorsal side of the finger was inconsistent with the Player's evidence that he applied no downwards pressure onto the finger whatsoever. No persuasive explanation for this aspect of the evidence was forthcoming. Secondly, the Player's postulated mechanism for the laceration (self-injury by scraping the finger on teeth without *any* downwards pressure by the Player) was quite implausible.
44. The Panel does not accept the Player's case that the events, as shown in the real-time footage, occurred too fast for the Player to bite Mr Tizzano. A hard bite would have taken a mere moment to inflict. The Panel also rejects the Player's suggestion that there was / is no bruising and that the discolouration to Mr Tizzano's nail was similar to the colour of his other nails. The existence of bruising is supported by the opinion in the medical evidence and, having studied the photographs ourselves, we consider it shows bruising that is distinct from the other nails.
45. Sadly, the Player's explanations in the face of a strong *prima facie* case lacked credibility. The hint that this might be part of a 'scandal' or that there were some other actions taken to undermine the integrity of the evidence were unimpressive. At times the Player appeared to avoid dealing with difficult parts of the evidence.
46. We find as follows on the balance of probabilities:
- a. The Player knocked the ball on in front of the opposition technical area. He was goaded by his opponents. He was frustrated and annoyed.



- b. The Player was antagonised by being pushed in the back, off the ball, by an opponent.



- c. After the whistle had gone, the Player charged at an opponent with his arm tucked, an offence for which he received a Yellow Card (the citing was dismissed by this Panel).



- d. The Player's initial foul play triggered a melee of players, which Mr Tizzano got himself involved in.



- e. Mr Tizzano moved his hand around the Player's neckline.



- f. Whilst Mr Tizzano was pulled back by Bedford Blues 21, Mr Tizzano pushed his hand in the direction of the Player's mouth.





- g. Mr Tizzano's finger went into the Player's mouth. The Player knew the finger was in his mouth. The Player deliberately bit down hard on the finger and gave a quick movement of his head whilst biting. The extended finger shown in the footage is a mechanism inconsistent with a 'fish hook'. Mr Tizzano reactively pulled his finger back when the Player bit down hard, which caused the skin tear. There was visible resistance to the finger becoming free.





- h. Moments after being bitten Mr Tizzano splayed his hand and looked down at his fingers.



- i. Mr Tizzano walked up to the Referee, holding his hand out and reported the bite whilst he was on the field on play (the Referee had earlier removed his communication equipment).



- j. The bite caused bruising to the dorsal side of the finger under the nail. The laceration was a result of Mr Tizzano pulling his finger back whilst the Player bit down. That laceration injury was a foreseeable consequence of the Player's bite and an injury for which the Player is culpable.



CONCLUSIONS ON SANCTION

47. The Panel assessed the seriousness of the offence and the mitigation against the well-known contents of Regs 19.11.8 and 19.11.10. There were no aggravating features.
48. This was a deliberate bite of an opponent. The bite was hard. Given the force used, we conclude that the Player intended to inflict momentary pain. It was not prolonged and rather took place over moments. As the Player repeatedly acknowledged in his own evidence, the action alleged was serious. The Player did not seek out his opponent to bite him, but took the opportunity that presented itself. Whilst the Player formed an intention to bite his opponent before he did so, that intention was formed momentarily before the bite took place. Although in that sense there was *some* premeditation, it was very proximate to the bite.
49. We acknowledge the Player was pushed and grabbed. Whilst in the moment the Player may have been frustrated or antagonised, we do not accept the bite was an act of retaliation to his opponent's actions. Being generous to the Player, it is arguable the bite could loosely be described as having been provoked – but it must be noted there was nothing offered in the Player's own evidence to support that being his state of mind. The action was not in self-defence.
50. Mr Tizzano was not vulnerable. He ran to join the melee and he pushed his hand in the direction of the Player's mouth. The Player's actions were completed and he was the sole participant.
51. The effects on Mr Tizzano are notable:
- a. The Player caused momentary pain;

- b. The force the Player used bruised Mr Tizzano;
 - c. The skin was broken (a result of the recoil for which the Player is culpable);
 - d. The breaking of the skin carries inevitable risk of infection;
 - e. Mr Tizzano has had to be prescribed antibiotics; and
 - f. Mr Tizzano has experienced side effects of the antibiotics as described in the clinical notes
52. Mr Tizzano remains fit and free to play rugby. There is presently no evidence of infection.
53. Having regard to all these circumstances the Panel judged the appropriate Entry Point to be Mid-Range (**18 weeks**). The factors that weighed most heavily in the balance of seriousness were: the intentional nature of the foul play, the intention (although formed momentarily) to cause pain and the described effects on Mr Tizzano.
54. We turn to consider the available mitigation.
55. The Player is experienced. He has played rugby from a young age and professional rugby for 10 years. He has played in approximately 85 fixtures for Bedford Blues. He has played in the Premiership and represented England at all Age Grade levels up to U20. He competed for England in the 2014 Junior Rugby World Cup in New Zealand. The Player coaches junior rugby.
56. We had regard to the strong character reference offered by Mr Rayer. The Player is a highly respected senior member of the group and upstanding member of the team. The Player has a professional career outside rugby. We acknowledge there is stigma associated with conduct of this kind that could result in quasi extra-curial consequences for the Player.
57. Sadly, there were features that anchored the mitigation available to the Player.
58. The Player did not accept committing an act of foul play. There was no contrition or remorse *of any kind* and he has not apologised for his actions. Even short of apologising, he has not expressed any regret for the consequences experienced by Mr Tizzano. The Player speculated that there could possibly be a 'scandal'. He doubted the authenticity of the photographs. He asked Mr Tizzano whether he was ever alone (i.e. did he have the opportunity to injure himself outside of the view of others). The necessary inference of the Player's evidence was that he called Mr Tizzano's integrity into question. That served to starkly underline the absence of remorse.
59. The Player does not have a clean disciplinary record. He received a 3 week suspension for what the Club described as 'punching' on 20 November 2021.

60. The Player's conduct at the hearing was acceptable.

61. The Panel judged the maximum mitigation justified in the circumstances was 15%: **3 weeks**.

SANCTIONS AND COSTS

1. The Player is suspended immediately for 15 meaningful weeks as follows:

- a. Jersey Reds (17/12/22)
- b. Ampthill (26/12/22)
- c. London Scottish (14/01/23)
- d. Cornish Pirates (21/01/23)
- e. Caldy (28/01/23)
- f. London Scottish (03/02/23)
- g. Coventry (11/02/23)
- h. Doncaster Knights (18/02/23)
- i. Doncaster Knights (03/03/23)
- j. Hartpury University (11/02/23)
- k. Richmond (17/03/23)
- l. Nottingham (26/03/23)
- m. Ealing Trailfinders (01/04/23)
- n. Jersey Reds (15/04/23)
- o. Ampthill (22/04/23)

2. The period of suspension will be automatically extended if any of these fixtures are postponed or do not take place.

3. Subject to any of these fixtures not taking place, the Player will be free to resume playing from Monday 24 April 2023.

4. Costs of £250 payable in accordance with RFU Regulation 19, Appendix 3.

APPEAL

The Player has a right to appeal our findings of fact and our conclusions on sanction within 24 hours of this judgment being sent.

Matthew O'Grady

On behalf of the Panel

18 December 2022