

**GENERAL PURPOSES TRIBUNAL
OF FOOTBALL NEW SOUTH WALES
FINAL DETERMINATION
IN THE FOLLOWING MATTER:**

GPT 15/05

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| Parties | Mr X (Player, Fraser Park FC) |
| Attendees | Ms XX (Parent) Mr XY (Player, Fraser Park FC, Witness) Ms YY (Parent) AB (Spirit FC Official, Witness) Mr ABC (Spirit FC Official, Witness – By Phone) Mr AA (Spirit FC Official, Witness) Mr BB (Spirit FC Official, Witness) Mr CC (Spirit FC Official, Witness) |
| The basis upon which the matter is before the General Purposes Tribunal | Grievance and Disciplinary Regulations Sections 8.2 and 15.3 |

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| Key Words/Phrases | Offensive Behaviour, Unprofessional Conduct |
| Date of Hearing | 18 May 2015 |
| Date of Final Determination | 25 May 2015 |
| General Purposes Tribunal Members | Mr Chris Gardiner (Chair) Mr Louis Fayd'herbe Mr Ray Lovat |

A. INTRODUCTION

1. Football NSW has established this General Purposes Tribunal pursuant to Section 5 of the Football NSW Grievance and Disciplinary Regulations 2014 ("Regulations").
2. A General Purposed Tribunal (GPT) is responsible for hearing and determining:
 - 2.1. Breaches of Misconduct and Disrepute as set out in Section 8.2 of the Regulations;
 - 2.2. Grievances between Members as set out in Section 8.3 of the Regulations;
 - 2.3. Matters referred by Football NSW's Disciplinary Committee as set out in Section 8.4 of the Regulations;
 - 2.4. Any other matter Football NSW considers important to the interests of football in the State, at its absolute discretion, as set out in Section 8.1 (a) (iii).
3. The GPT makes determinations as set out in Section 8.5 of the Regulations.

B. NOTICE OF CHARGE

4. Football NSW issued a Notice of Charge against Mr X dated 12 May 2015, alleging breaches of:

Sections 15.3(b), (e) and/or (g) of the Football NSW Grievance and Disciplinary Regulations; and/or

Section 15.3 (d) of the Football NSW Grievance and Disciplinary Regulations, Schedule 3, Table B, Number 1; and/or

Clauses 2.1, 2.2(c) of the Football Federation Australia Code of Conduct

5. The conduct alleged in the Notice was as follows:

At the completion of the Round 2 Match of the National Premier League 2 (NPL2) in the U16s grade between Spirit FC and Fraser Park FC on Saturday 28 March 2015, it is alleged that the Participant spat on a Spirit FC Team Official (AB).

6. Mr X pleaded not guilty in a Notice of Response dated 14 May 2015.

C. DECISIONS OF THE GPT

7. The Tribunal determined that X was guilty of the charge of breaching FFA Code of Conduct Section 2.2(c) and Section 15.3 (e) of the Football NSW Regulations;
8. The Tribunal determined that X serve a suspension of 10 fixtures as a player, this suspension to be inclusive of fixtures already served

9. The Tribunal determined that Mr X pay the costs of the Tribunal processes as assessed by Football NSW.

D. THE HEARING

10. The Hearing was held at Football NSW on 18 May 2015.
11. Mr X was represented by his mother, Ms XX.
12. Ms XX was invited to make submissions on jurisdiction and competence. No submission was made.
13. Mr X and the witnesses were cautioned on the need for accurate and honest testimony.
14. Ms XX confirmed that she and Mr X had received copies of two previous Determinations dealing with alleged spitting by a player.
15. The Tribunal advised Mr X of his rights to appeal at the conclusion of the hearing.

E. EVIDENCE & SUBMISSIONS

16. The Tribunal accepted statements to Football NSW and oral evidence from AB and Mr ABC.
17. Mr ABC participated in the hearing by telephone.
18. Both AB and Mr ABC reiterated evidence submitted in their statements.
19. Mr ABC was clear and unshaken in his testimony that he had had an unobstructed view of the incident from 20-30 meters and had seen Mr X spit at AB.
20. Mr X's evidence was that he had participated in the game whilst suffering flu, and that at the end of the game he had cleared his mouth of spittle, inadvertently and unintentionally hitting an adult he was passing and whom he did not know, or identify as an official. He claimed that he had not interacted or apologized in that moment as he had not understood the situation at the time.
21. Mr XY attended and gave oral evidence in defence of Mr X . He disputed accounts that suggested that there had been other players or officials involved in ushering Mr X away from the incident, stating that he had observed only Mr X present.

F. CONSIDERATION & COMMENT

22. That Mr X had, in the moments after his game, discharged spittle that had made contact with AB was not in dispute.

23. Mr X claimed the spittle hitting AB was accidental. He claimed that he had looked down and spat towards the ground and did not know how the spittle had made contact with AB.
24. Mr X stated that he thought the distance between himself and AB at the time was approximately 3 metres. His understanding of what that distance involved physically was confirmed to the Tribunal by him describing to them such a distance between himself and the witnesses present.
25. Mr X's estimate of the distance between him and AB was consistent with evidence from both Mr ABC and AB.
26. Based on his and their evidence related to this distance, the Tribunal was forced to conclude that for the spittle to have travelled in a direction and manner and across the relevant distance to have hit AB, it would have had to have been directed towards him. It could not accept that Mr X looked down and spat towards the ground. It did not accept that his action in spitting and hitting AB was inadvertent. This conclusion is consistent with the direct evidence from Mr ABC that he saw Mr X spit at AB.
27. The Tribunal notes the Determination in GPT 14/19, and in particular section 41 which reads:

The Tribunal takes the view that spitting at a player is a totally reprehensible act and totally unacceptable in football. In concluding that, as this instance was deliberate ... it did not believe the minimum sanction of 6 weeks was sufficient.
28. Spitting at a player, Match Official, a spectator, or, in this instance a Club official who has entered the field after the match, indeed spitting at anyone before, during or after a game of football, is offensive and unprofessional.
29. As in GPT 14/19, the Tribunal determined that a suspension of ten (10) fixtures be imposed, including any fixtures already served.
30. And likewise, given the age and maturity of Mr X, the Tribunal believed that imposing a sanction of ten (10) competition fixtures for this offence was sufficient to signal the significance of the behavior to the young player and to deter such behavior into the future.

Chris Gardiner
Chairman
25 May 2015