

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

GPT 15/15

Respondent	Mr Dean WRIGHT (Referee)
Attendees	Mr Derek Meechan (President, Macarthur District Football Referees Association, Representing Mr Wright) Mr Shane Hudson (Assistant Referee) Master X (Sydney United 58 Player) Mr XY (Witness, Support Person) Master Y (Sydney United 58 Player) Mr YZ (Witness, Support Person) Mr XX (Witness, Support Person) Mr Z (Sydney United 58 Player)
The basis upon which the matter is before the General Purposes Tribunal	Grievance and Disciplinary Regulations Sections 8.2 and 15.3

Key Words/Phrases	Bringing the Game into Disrepute
Date of Hearing	9 July 2015
Date of Final Determination	13 July 2015
General Purposes Tribunal Members	Mr Chris Gardiner (Chair) Mr Andrew Barnes Mr Louis Fayd'herbe

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 two Charges against Mr Dean Wright dated 18 June 2015, alleging breaches of:

Section 15.3 (b), (e) and/or (g) of the Football NSW Regulations, and/or Clauses 2.1 and 2.2(c) of the FFA Code of Conduct

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

During the U/12 Grade Match in the National Premier League 1 (NPL1) between Sydney United 58 FC and Mount Druitt Town Rangers it is alleged that the Match Official (Dean Wright) used offensive and/or insulting language towards a Sydney United Player (X). The incident took place on the field of play,

and

During the U/15 Grade Match in the National Premier League 1 (NPL1) between Sydney United 58 FC and Mount Druitt Town Rangers it is alleged that the Match Official (Dean Wright) used offensive and/or insulting language towards a Sydney United Player's parent (XX) The incident took place on the field of play.

6. Mr Wright pleaded not guilty in a Notice of Response dated 26 June 2015.

C. DECISIONS OF THE GPT

7. The Tribunal determined that the Charges against Mr Wright could not be upheld and dismissed the Charges
8. The Tribunal determined that the costs of the Tribunal processes be met by Football NSW.

D. THE HEARING

9. The Hearing was held at Football NSW on 9 July 2015.
10. All witnesses were cautioned on the need for accurate and honest testimony.
11. Mr Wright was invited to make submissions on jurisdiction and competence. No submission was made.
12. In the absence of a Club Official to act as a support person for its young players when giving evidence, the Tribunal allowed the parents present to act in that role, notwithstanding that each parent was also a witness. Each parent was advised of the constraints on the role of a support person.
13. The Tribunal advised Mr Wright of his rights to appeal at the conclusion of the hearing.

E. EVIDENCE & SUBMISSIONS

14. The Tribunal accepted as evidence a set of statements submitted by Football NSW with the Notice of Charges that included:
 - 14.1. Statement by X
 - 14.2. Statement by XY
 - 14.3. Statement by XX
 - 14.4. Statement by Z
 - 14.5. Statement by Y
 - 14.6. Statement by YZ dated 15 April 2015
 - 14.7. Statement by YZ dated 19 May 2015
 - 14.8. Email from YZ dated 09 June 2015
 - 14.9. Statement by A
 - 14.10. Statement by XX dated 19 June 2015
15. The Tribunal accepted as evidence two documents attached to the Notice of Response from the Respondent titled "Official response" and "Official Response Charge 2", and a statement from Mr Shane Hudson headed "NPL Incident Report".

16. The Tribunal accepted a statement submitted by Football NSW from Mr Kris Griffith-Jones, Referees Manager, in an email dated 9 July 2015.
17. The Tribunal accepted video evidence of the send off of Y in the relevant game submitted by Football NSW with the Notice of Charges, and video evidence from the game in question submitted with the Respondent's Notice of Response.
18. A, Club President and who had provided a statement with regard to the second Charge was available to participate by phone, but was not called for further evidence.
19. The Respondent's submission via his representative Mr Meechan with regard to the first Charge, involving alleged offensive language towards X, was in two parts.
20. The first was that evidence from Y could not be accepted, as video evidence showed that his distance from the alleged incident was so great as to mean he could not have heard what he said he recalled hearing.
21. The second was that Mr Wright's account of the alleged incident should be preferred over X's.
22. The Respondent's submission with regard to the second Charge, involving alleged offensive language towards XX, was that Mr Hudson's evidence corroborating the Respondent's account should be preferred over the evidence from XX and Z.

F. CONSIDERATION & COMMENT

23. The Tribunal first commends the young players who attended the hearing for their decision to give evidence before such a Tribunal and for their conduct at the hearing.
24. The Tribunal notes with regret the failure of the Club to provide an Official to support the young players and their parents at the hearing.
25. The Tribunal notes that it can often be the case that the recall of an incident – what was heard, what was seen, who was involved, the timing of elements of the incident, distances of the individuals involved – is faulty and constructed unconsciously from both memory of the actual incident and information received and affective after the incident.
26. The fact that witnesses provide contradictory evidence does not necessarily mean one or more are not being truthful, and it can be the case, as it was at this hearing, that witnesses provide evidence with confidence and in good faith that a Tribunal does not ultimately accept in its final determination.
27. With regard to the first Charge, Y provided evidence corroborating the allegation by X in his statement. This evidence was that he had heard the words reported by X as he (Y) left the field of play. He stated at the Tribunal that he thought he had been no more than 5 metres away at the time.

28. Video evidence of the send-off of YZ showed that at the moment of the exchange between Mr Wright and X, Y was so far away from the incident (on the side of the penalty area approximately 9 metres from the goal line) as to be out of the video shot, approximately 40-50 metres away (towards the halfway point).
29. The Tribunal concluded that it was unlikely that Y had in fact heard the words between Mr Wright and X.
30. Discounting Y's evidence meant that the Tribunal had to determine which of the two accounts – by Mr Wright and by X – it favored.
31. The Tribunal noted that the video evidence showed that at least one other of X's team-mates was close enough to him and Mr Wright to have heard what X alleged was said. Given the seriousness of what it is alleged was said, the Tribunal could not detect in the video any reaction from other players, indeed from X, and no player proximate to the incident provided a supporting statement.
32. Mr Wright has no previous conduct issues, and strongly denied that he had used offensive language.
33. Given the seriousness of the Charge – bringing the game into disrepute – the Tribunal must be comfortably satisfied that it should rely on X's evidence over Mr Wright's and conclude that Mr Wright did in fact direct offensive language towards X in the exchange between the two. The Tribunal was not satisfied that it could make that determination.
34. The second Charge related to allegations made by Mr XX that the Respondent, had, in a brief stoppage in the U/15s game he was refereeing, directed offensive language towards him.
35. The only corroborating evidence submitted by XX came from his son, a player on the field. Z's statement is brief and closely matches that by his father.
36. The Committee notes that Z's statement, like his father's formal statement, was provided some 7-8 weeks after the alleged incident.
37. Notwithstanding that he stated that there were other spectators proximate to him at the time of this alleged incident, neither he nor his Club provided an additional spectator as a witness. No other player reported or made a statement on the alleged incident or language.
38. XX's account is not only denied by Mr Wright, but directly contradicted by the Assistant Referee at the game, Mr Shane Hudson.
39. Mr Hudson provided evidence that he witnessed and heard the full exchange. His evidence corroborated Mr Wright's, with Mr Hudson denying any offensive language from Mr Wright.
40. Mr Hudson's evidence included his statement that when XX apparently stated to proximate spectators that the referee had sworn at him, at least one challenged him that the referee had not.

41. It is possible that XX heard offensive words at the time of his exchange with Mr Wright, but the Tribunal gave weight to Mr Hudson's evidence corroborating Mr Wright and did not feel comfortably satisfied that the evidence supported a finding against Mr Wright, again given the seriousness of that Charge.
42. The Tribunal determined that evidence before it did not allow it to uphold the Charges against Mr Wright.
43. The Tribunal determined that the two Charges be dismissed.

Chris Gardiner
Chairman
13 July 2015