

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

GPT 15/30

Respondent	Mr X
Attendees	<p>Mr XY (Father, Representing Respondent) Mrs Y (Mother, Support Person) Mr Z (Match Referee, by phone) Mr YZ (Match Assistant Referee, by phone)</p> <p>Mr XX (Witness) Mr A (Witness)</p> <p>Mr AB (Team Member, Witness, by phone) Mr C (Team Member, Witness, by phone) Mr ABC (Team Member, Witness, by phone) Mr B (Team Member, Witness, by phone)</p>
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	Unauthorised Entry to Field, Violent Conduct
Date of Hearing	16 September 2015
Date of Final Determination	23 September 2015
General Purposes Tribunal Members	<p>Mr Chris Gardiner (Chair) Mr Louis Fayd'herbe Mr Mendo Cklamovski</p> <p>Ms Courtney McLean (Observer)</p>

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 Purposes 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. NOTICES OF CHARGES

4. Football NSW issued a Notice of Charges against the Respondent dated 26 August 2015, alleging breaches of:
5. Sections 15.3 (b), (d), (e), (g) and/or (h) of the Football NSW Regulations, and/or parts (d), (e), and/or Parts (d) and/or (i) of the FFA Spectator Code of Behavior.
6. The conduct alleged in the Notice of Charges for the Respondent was as follows:

CHARGE 1: *During the Round 21 Match in the U16s Men's State League 1 (MSL1) competition between - on 15 August 2015, it is alleged that the Participant (X) jumped the perimeter fence and entered the field of play. Mr X is a Player registered with -, however, on this day, he attended the Match as a Spectator.*

CHARGE 2: *It is alleged that the Mr X then punched, with a closed fist, a - Player (Q). Mr Q required medical treatment as a result of the alleged assault.*

7. Football NSW issued a Notice of Suspension to the Respondent dated 26 August 2015, effective from that date.
8. The Respondent pleaded guilty to the first Charge and not guilty to the second Charge.

C. DECISION OF THE GPT

9. The Tribunal determined that Mr X serve a four (4) fixture suspension, inclusive of any suspension already served.

D. THE HEARING

10. The Hearing was held at Football NSW on 16 September 2015.
11. The Respondent was invited to make a submission as to the jurisdiction or competence of the Tribunal. No submission was made.
12. The Respondent was able to make opening and closing submissions.
13. The Match Officials who had provided statements and Witnesses for the Respondent participated in the hearing by phone.
14. The Respondent was advised of his rights to appeal.

E. EVIDENCE & SUBMISSIONS

15. The Tribunal accepted and relied on the following statements provided as Documents and Annexures to Notice of Charge and Notice of Response by Football NSW:
 - 15.1. A Match team sheet for the relevant fixture (Annexure 1)
 - 15.2. A Match Official incident report from the Referee, Mr Z (Annexure MO1)
 - 15.3. A Match Official incident report from the Assistant Referee, Mr YZ (Annexure MO2)
 - 15.4. Statements from S Q, A, and XX (Annexures C-E)
 - 15.5. A statement from the Respondent provided with the official Notice of Response dated 31 August 2015
 - 15.6. A statement from the Respondent's Club (Annexure 2)
 - 15.7. Statements from the Respondent's fellow Team members T, AB, B, C, and ABC
 - 15.8. A Statement from Mr XQ (Team Manager)
16. Mr X's father, XY, represented him at the hearing.
17. The Respondent admitted to entering the field of play without authorisation, but argued as mitigation that he was there as a non-playing team member with the knowledge and approval of his Club, and was not aware that he was technically a Spectator at the time. He acknowledged this was not acceptable.
18. The Respondent denied the Charge of violent conduct as particularised. He stated that he entered the field of play to assist a team member he perceived as under physical threat. He argued that the contact referred to in the Charge had been admitted in a statement by another player, B, and gave evidence that that he had witnessed that contact by Mr B.

F. CONSIDERATION & COMMENT

19. With regard to the first Charge, the Tribunal accepted that the Respondent had been on the player bench with the knowledge and approval of his Club and that he understood himself to be a player when he entered the field of play with other players in the incident.

20. The Tribunal found, and he accepted, that he had entered the field of play without authorisation and involved himself in a melee.
21. The Tribunal determined that he should be sanctioned for this misconduct but took into account his age and the fact that he was on the player bench with the approval of his Club.
22. The Tribunal relied on Schedule 3, Table C, Number 7 – 'other offences by players as specified in Match Official Reports' – in imposing a suspension of 4 fixtures inclusive of any suspension already served, as sanction for his misconduct.
23. The second Charge, as particularised by Football NSW, was that the Respondent had punched a player, Mr Q, with a closed fist, which resulted in medical treatment being needed.
24. The Tribunal notes that it was limited to making findings and a determination with regard to the Charge as particularised.
25. The Tribunal took oral evidence over the phone from the two Match Officials who had provided official incident reports.
26. The Tribunal notes with concern that the Referee could not confirm the details provided in his official report. He stated to the Tribunal that he had not in fact witnessed the alleged punch that injured the player, Mr Q, but had relied on what his Assistant Referee had told him.
27. The Assistant Referee was also unable to confirm with certainty the details he had provided in his official incident report. He stated that he knew the Respondent from school days and recognised him when he entered the field of play. He claimed that he saw the Respondent throw punches, but stated that he could not be certain, given his location and distance from the incident, that the punches made contact with Mr Q.
28. Two witnesses from Mr Q' club, Mr XX and Mr A, provided statements and attended the hearing. One witness claimed that he was able to identify Mr X as the person who punched Mr Q. The other was only able to testify that he had seen a person in a blue jacket hit the player.
29. The Tribunal confirmed with the Respondent that he had been wearing a blue jacket at the time of the incident.
30. Against the evidence from S XX and A, the Respondent drew the Tribunal's attention to statements from his team mates that denied he had punched the player, and in particular a statement from B that claimed he had hit the player.
31. The Respondent's direct evidence to the Tribunal was that he witnessed B hit Mr Q and that Mr Q had gone to the ground as a result.
32. Mr B gave oral evidence by phone. The Tribunal confirmed that he had a parent with him at the time he was giving evidence, and confirmed that he understood the term 'incriminating evidence'.
33. Mr B stated that he, not the Respondent, had hit Mr Q in the face.
34. Only one person claimed to be able to directly identify the Respondent as the person responsible for the punch to Mr Q that led to the required medical treatment. Against that testimony, the Tribunal had an admission by Mr B that he was the person who delivered that contact, that admission backed by evidence from the Respondent that he had witnessed that action. It

also had multiple player testimonies claiming that they had witnessed the incident and supporting the Respondent's account.

35. Whilst the Tribunal felt that, on the balance of probabilities, the Respondent had been involved in violent conduct in the incident, it could not be comfortably satisfied that he was guilty of the Charge as particularised, not least given another person's admission of guilt.
36. The Tribunal did not uphold the second Charge.
37. The Tribunal, having found the Respondent guilty of the first Charge, however, awarded the cost of the Tribunal process, as assessed by Football NSW, against him.

Chris Gardiner
Chairman
23 September 2015