

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

GPT 15/43

Respondent	Mrs Kathy Notarangelo
Attendees	<p>Mr Chester Brown (Representing Mrs Notarangelo) Mr Leo Notarangelo (Support Person) Mr Michael Debari (Witness, by phone) Mr Steve Pusenjak (Witness, by phone) Ms Yolande Schilt-Smith (Character Referee)</p> <p>Mr X (Referee) Mr Y (Assistant Referee) Mr Z (Assistant Referee) Mr Geoff Leverton (Referee Association Support) Mrs A (Referee Parent, Support) Mr B and Mrs C (A/Referee Parents, Support) Mr D (A/Referee Parent, Support)</p> <p>Mr Lorenzo Crepaldi (FNSW) Mr Shane Merry (FNSW)</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	Respect a Referee's Decision, Standard of Proof
Date of Hearing	12 October 2015
Date of Final Determination	19 October 2015
General Purposes Tribunal Members	<p>Mr Chris Gardiner (Chair) Mr Alex Brown Mr Louis Fayd'herbe</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 6 October 2015, alleging breaches of:
 - CHARGE 1:** Sections 15.3 (b), and/or (d) Schedule 3 Table B Number 1, and/or (e), of the Football NSW Regulations, and/or parts (d), (e), and/or Parts (a) and/or (e) of the FFA Spectator Code of Behavior.
 - CHARGE 2:** Sections 15.3 (b), and/or (d) Schedule 3 Table B Number 7, and/or (e), of the Football NSW Regulations, and/or parts (d), (e), and/or Parts (a) and/or (e) of the FFA Spectator Code of Behavior.
5. The conduct alleged in the Notice of Charges for the Respondent was as follows:
 - CHARGE 1:** *In the 61st minute of play in the U/15s Regional League match between Inter Lions SC and Hawkesbury FC held on Sunday, 2 August 2015 at The Crest, Bass Hill, the Inter Lions SC Player (Luke Notarangelo) received a Yellow Card for unsporting behavior (Y1). At the completion of the match it is alleged the Participant (Kathy Notarangelo), the mother of the abovementioned Player, threatened the Match Officials by shouting at them words to the effect of "you may be laughing now but I'll be waiting here for when you get out". All three Match Officials involved were minors.*
 - CHARGE 2:** *The Respondents then used offensive language by shouting at the Match Officials, "how much are they paying you?".*
6. The Respondent pleaded not guilty to the Charges in a Notice of Response dated 9 October 2015.

C. DECISION OF THE GPT

7. The Tribunal determined that Ms Notarangelo was guilty of a breach of Part (a) of the FFA Spectator Code of Behaviour and, to that extent, a breach of Section 15.3(b) of FNSW Regulations.
8. The Tribunal determined that Ms Notarangelo serve a four (4) fixture suspension from Football activities.
9. The Tribunal determined that the costs of the Tribunal processes as assessed by Football NSW be met by Mrs Notarangelo.

D. THE HEARING

10. The Hearing was held at Football NSW on 12 October 2015.
11. The Respondent was represented by Mr Chester Brown.
12. Mr Brown was invited to make a submission as to the jurisdiction or competence of the Tribunal. He made no submission.
13. Mr Brown was able to make opening and closing submissions for the Respondent and to have questions put to all witnesses.
14. The Tribunal gave leave ahead of the Hearing for witnesses for the Respondent to attend the hearing and give evidence by phone. Two witnesses – Mr Debari and Mr Pusenjak did so, a third, Mrs Nancy Murdica was not available when the tribunal attempted phone contact.
15. The Respondent was advised of rights to appeal under the Regulations.
16. The Respondent and all witnesses were cautioned regarding the need for accurate and honest testimony.

E. EVIDENCE & SUBMISSIONS

17. 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:
 - A Match team sheet for the relevant fixture (Annexure 1)
 - A Match Official incident report from the Referee, Mr X , dated 3 October 2015 (Annexure MO1)
 - A Match Official incident report from the Assistant Referee, Mr Y , dated 4 August 2015(Annexure MO2)
 - A Match Official incident report from the Assistant Referee, Mr Z , dated 4 August 2015 (Annexure MO3)
 - A statement from the Respondent dated 9 October 2015, with associated Exhibits A-D and X
 - A statement from Mr Michael Debari indicating a date of "17/9/16"
 - A statement from Mr Steve Pusenjak dated 17 September 2015
 - A statement from Ms Nancy Murdica dated 17 September 2015

- Character references for the Respondent from Ms Yolande Schilt-Smith and Ms Janelle Buckley
 - A certificate from a Dr Eleanor Brumby relating to a hand injury the Respondent had at the time of the incident
 - A letter of Apology from the Respondent addressed to the Referees dated 9 October 2015
18. Mr Brown made an initial submission regarding the original plea of 'not guilty' in the Notice of Response. His submission was that the wording of the Notice of Charge, in particular the Charge of a breach of section 15.3(b) relating to FFA rules, was expansive and did not allow the Respondent to understand the specific rule she was alleged to have breached. The structure of the Charges, and the limitations of the on-line Notice of Response in requiring either a guilty or not-guilty plea, did not enable a differentiation between lesser and more serious Charges.
 19. Mr Brown stated that the Respondent, as reflected in her written statement and her letter of apology to the referees, agreed that she had been wrong in approaching the referees and discussing the issuing of a yellow card to her son. He suggested that were the Charge relating to Part (a) of the FFA Spectator Code been separated as a Charge, the respondent would have been able and willing to plea guilty.
 20. Mr Brown also raised in passing the question as to whether a Charge of 'unsporting or unprofessional behavior' could be applied to a Spectator. He made no specific submission on the matter in his final submissions.
 21. Following a brief submission from Mr Crepaldi, from Football NSW, the Tribunal Chairman advised Mr Brown that the Tribunal would only be considering the Charge of a breach of the FFA Rules and Regulations under Section 15.3(b) of the Football NSW Regulations with regard to the Charge of a breach of parts (a) and (e) of the FFA Spectator Code, and the Hearing proceeded accordingly.
 22. The Chairman sought and Mr Brown provided an assurance that his comments on the structure of the Charges and the difficulties these presented the Respondent in making a plea did not mean he was unable to present the case for the Respondent at the Hearing.
 23. On the substance of the Charges, Mr Brown submitted that the initial interaction between the Respondent and the referees had been calm and non-threatening, and that there had been no intention to intimidate at that point or through the subsequent exchange. He argued that the subsequent comments directed by her to the referees had been in response to what she experienced as mockery – the referees laughing at her. He argued that the evidence supported her account that she had not followed the referees to their room and had not tried to enter. He argued that the evidence – her age, stature, condition on the day, evidence from Mr Pusenjak about the referees emotional state in the referee room after the exchange, and what he suggested had been the insignificance of the event to at least one of the referees, Mr Z, who testified that he had only submitted a report after being asked so to do – also made the suggestion that the referees had felt intimidated at the time unlikely.

24. Mr Brown addressed the two alleged statements particularised in the Charges. The Respondent's account of the first statement was that she had said words to the effect of 'take it further' not 'here when you get out'. She denied that she had made the second statement. He asked the Tribunal to weigh evidence from the Respondent, Mr Debari, Mr Pusenjak and Ms Murdica against those of the Referee and Assistant Referee. He also noted that their original reports had been the subject of discussion between them prior to their submission.
25. Mr Brown argued that the 'balance of probabilities' standard of proof specified under Section 12.13 of the Regulations needed to be modified in this case to accord with the Briginshaw standard, a standard he stated that was routinely applied in disciplinary tribunals. He gave as reasons the seriousness of the charges, and the sanction range and potential consequences of a guilty finding, both in terms of suspensions and damage to reputation for the Respondent.
26. In brief, Mr Brown argued that the weight of evidence, character references for the Respondent, and her condition on the day of the incident, made the conduct, as alleged and as characterized in the more serious parts of the Charges, inherently unlikely.
27. Mr Brown's submission on any possible sanction was that, reflecting the Respondent's admission with regard to Part (a) of the FFA Code, and by comparison to a previous Tribunal Determination (GPT13-11), a four fixture suspension was appropriate and sufficient.
28. Mr Brown also made a submission that there was no public interest in publishing the identity of Respondent were the determination made public; the deterrent affect could be achieved by an anonymized version; and any publication would negatively impact on the Respondent and her family unnecessarily.

F. CONSIDERATION & COMMENT

29. Both Charges allege a possible breach of the FFA Spectator Code Part (a), relating to respect for a referee's decision.
30. The Respondent admitted that she inappropriately approached the Referees after the game as they were leaving the field of play. She admitted that she sought to have the Referee not just rescind a decision to issue her son a yellow card, but to issue a card to a player from the opposite team as a new decision. She admitted that there was a second exchange directed at the referees, the purpose of which, by her account, was to suggest there would be consequences for them as a result of these interactions.
31. Evidence at the Hearing suggested that by the time of the second exchange, the Respondent was upset and directed the words at the Referees loudly enough for other spectators to have reacted.
32. The Referees were 15 and 14 years of age. Two spectators, an adult male and adult female, stopped them immediately as they were leaving the field. One of those adults, the Respondent, challenged the decision of the Referee, and sought, unreasonably and, the evidence suggested, insistently, that he change his decision.

33. As the Referees moved to their change room, the Respondent directed words to them in a loud voice suggesting that there were going to be consequences for them as a result of their interaction, as intimated above.
34. The Tribunal found, and the Respondent admitted, that this incident involved a clear breach of the FFA Spectator Code Part (a) – it disrespected a decision of the Referee. In this case, that disrespect was egregious in the demand that the decision be reversed and given the relative age of the Referees.
35. The Tribunal determined that Ms Notarangelo was guilty of Charge 1 in that she breached the FFA Spectator Code Part (a), and to that extent breached Section 15.3(b) of the Regulations.
36. It agreed with and accepted the submission from Mr Brown that a four (4) fixture suspension was an appropriate sanction. Such a sanction should, appropriately, cover competition fixtures involving the Respondent's son involved in the game in this incident.
37. Both Charges raised a possible breach of Section 15.3(e) of the Regulations. Mr Brown raised but did not pursue the question of whether a spectator could be guilty of a breach of Section 15.3(e) of the Regulations.
38. The Tribunal takes the view that Sport in general, and the sport of Football in particular, as a human institution is made up of players, officials and spectators. The Tribunal takes the view that sportsmanship includes maturity in the face of unpredictable and sometimes seemingly unfair decisions and outcomes. It includes respect for match officials even when one disagrees with a decision. It certainly does not involve trying to pressure referees to change a decision after the game.
39. The Regulations do not identify a sanction for 'unsportsmanlike' conduct.
40. In this matter, the Tribunal took the view that disrespecting a referee's decision was the appropriate Charge to determine, and did so, obviating a determination on 15.3(e). It makes these comments by way of clarification for future hearings.
41. An additional breach alleged in Charge 1 was of 15.3(d) Schedule 3 Table B Number 1 (3.B.1).
42. The Respondent denied using the words 'waiting here when you get out'. She stated that she used the words 'take it further'. Whilst she could not have known with certainty why the Referees were smiling or laughing, it was not unreasonable for her to feel that the behavior was directed at her. She says she was simply letting them know she would take that behaviour up with officials. For their part, the Referees explained that they were smiling not laughing. The Tribunal took the view that it was likely that their behavior in possibly nodding when first confronted, and subsequently smiling as they walked away, were the behaviors of young Referees placating the Respondent and trying to handle a difficult situation. The Tribunal concluded that these behaviors were misinterpreted by the Respondent.
43. Mr Brown argued that the evidence from the Respondent and her witnesses should be preferred over that of the Referee and Assistant Referee on the critical issue of the words used by the Respondent. Assistant Referee Z had not mentioned the words in his report, and the Referee testified that he had discussed his report with Assistant Referee Y before they sent in their reports, raising questions about the weight to be given to their evidence.

44. Mr Debari's evidence was that he was in close proximity and did not hear the alleged words used. There were some discrepancies between the account of Mr Debari and that of the Respondent and Mr Debari was at times unresponsive to questions. Generally though the evidence of Mr Debari lent some support to the account of the Respondent that she had not used the words alleged.
45. Ms Murdica's evidence in her statement was that she was in hearing distance and had not heard the alleged comments. Ms Murdica did not however record anything of what she heard in her statements and was not available to give evidence, so the Tribunal gave her untested and limited account very little weight in its determination.
46. Mr Pusenjak's evidence in his statement on this aspect of the incident was that it was reported to him by the Respondent and he made no claim to have been a direct witness. His evidence at the Hearing, however, was that the Referees did not seem worried or upset in the change room after this exchange. Mr Pusenjak also gave evidence at the Hearing that he heard the Respondent say words similar to "You may be laughing now" but did not hear what she subsequently said.
47. The minimum sanction under 3.B.1 involves a suspension of 12 fixtures, the maximum life.
48. The Tribunal accepted the view that the Briginshaw standard applied, given the choice of 3.B.1 and the serious consequences of a finding of guilt.
49. For the Tribunal to have found that the words particularised in the Charge had been used, it would have had to have been comfortable finding it was likely that the Respondent was the kind of person who would threaten to wait for referees to take some action against them when they left their room. The evidence before the Tribunal as to the character of the Respondent made this unlikely, although the Respondent herself accepted that it was out of character for her to have approached the referees in the first place.
50. In weighing the discrepant accounts between the Respondent with her witnesses Debari and Murdica, and the Referee and Assistant Referee, the Tribunal had to be comfortably satisfied it favored the latter's evidence in the shadow of the potential sanctions. Ultimately it was not.
51. The Tribunal did not uphold Charge 1 with regard to a breach of 15.3 Schedule 3, Table B, Number 1.
52. The second Charge involved, in the Tribunal's view, an alleged insulting, and so, to that extent, offensive, statement by the Respondent towards the Referee impugning his integrity.
53. The second Charge rises from the allegation by the Referee in his incident report stating that the Respondent was "yelling at us 'how much are they paying you'". The incident report involves inconsistent reporting as to when this alleged exchange occurred, but on one reading, the exchange occurred after the Referees had already entered their room.
54. The Assistant Referee, Y, reported the same words being used, also said they were yelled, but stated that they had been used as the Respondent was 'following' them up the stairs.

55. Notwithstanding that the Referee and Assistant Referee suggested these words had been yelled, the second Assistant Referee did not hear them, and neither Mr Pusanjak nor Ms Murdaci heard them. No other spectators or officials, and none of the parents who were, by the Referees' accounts, proximate, reported hearing this exchange.
56. Neither the Referee nor Assistant Referee mentioned this aspect of their allegations, or repeat the alleged words, when asked to recount the incident at the Hearing.
57. The Tribunal was not comfortable in finding that the words alleged had been used by the Respondent and did not uphold the second Charge.
58. The Tribunal did find the Respondent responsible for the incident and guilty of a Charge. It therefore awarded the cost of the Tribunal process, as assessed by Football NSW, against the Respondent.
59. On the question of the public interest in publishing the Determination, the Tribunal was not persuaded that this case warranted special treatment.
60. Limitations on publication of determinations are rare, requiring exceptional circumstances. The possible embarrassment of a Respondent, in their club or family, for the consequences of their conduct is not an exceptional circumstance. Indeed, it is the prospect of having to face such consequences that adds to the deterrent affect of such determinations.
61. The Tribunal did not accept the argument for non-publication or anonymised publication of this Determination.

Chris Gardiner
Chairman
22 October 2015