



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

GPT 15/45

Date of Hearing	28 October 2015
Date of Final Determination	5 November 2015
Respondent	Mr Z
Attendees & Witnesses	Mr Z, Respondent, Ms Y, Parent, Mr V, Parent,
The basis upon which the matter is before the General Purposes Tribunal	Football NSW Grievance and Disciplinary Regulations Section 8.2 for alleged breaches of section 15.3(b) and/or clauses 2.1 and 2.2 (b), (c) and/or (f) of the FFA Code of Conduct.
Key Words/Phrases	Writing of offensive, intimidating and/or abusive material directed at tournament referees. Delivery of offensive, intimidating and/or abusive material to referees.
General Purposes Tribunal Members	Mr David P. Lewis (Chair) Mr Louis FAYD'HERBE, Mr Mendo CLAMOVSKI

A. INTRODUCTION

Football NSW has established the following Bodies pursuant to Section 5.1 of the Football NSW Grievance and Disciplinary Regulations (“Regulations”):

A Disciplinary Committee (DC) is responsible for issuing Suspensions pursuant to section 7.2 of the Regulations and to rectify or review a disciplinary decision made by the Match Official pursuant to sections 7.3 to 7.4 of the Regulations. The DC shall only have jurisdiction to issue Suspensions that are no more than one (1) calendar year (section 7.1(b) of the Regulations). Suspensions that are greater than one (1) year shall only be issued by a Tribunal.

A General Purposes Tribunal (GPT) responsible for hearing and determining:

- I. Breaches of Misconduct and Disrepute as set out in Section 8.2 of the Regulations.
- II. Grievances between Members as set out in Section 8.3 of the Regulations.
- III. Appeals against a decision of an Association Appeals Committee as set out in Section 8.4 of the Regulations only where that body has imposed a sanction of at least:
 - i. A suspension of six (6) or more Fixtures, or
 - ii. A suspension of three (3) or more months, or
 - iii. A fine of three thousand dollars (\$3,000), or
 - iv. A loss of six (6) or more competition points, or
 - v. Expulsion from a competition.
- IV. Any other matter the Executive considers important to the interests of football in the State to be referred to the GPT. Such a decision is to be at the absolute discretion of Football NSW.
- V. Any referral from the DC to the GPT pursuant to Section 8.5 of the Regulations.
- VI. Any other matter that the DC deems appropriate to be referred to the GPT as set out in Section 8.5 of the regulations.

An Appeals Tribunal (AT) responsible for hearing and determining appeals from the:

- II. DC pursuant to Section 7.5 of the Regulations but subject to Section 9.2 of the Regulations, and
- III. GPT pursuant to sections 8.6 and 15.2 of the Regulations but subject to Sections 9.2 and 9.4 of the Regulations.

The GPT may impose sanctions in accordance with Schedule 3 of the Regulations.

B. NOTICES OF CHARGES

FNSW issued a Notices of Charges to the **Respondent** on 22 October 2015.

The charge related to an alleged incident during the Football NSW Under 15s State Titles held at Parkes NSW from Monday 21 September through Friday 25 September 2015.

The Notice to the Respondent specified the following charges:

Charge 1

Alleged breaches of Section 15.3(b) of the Football NSW Grievance and Disciplinary Regulations 2014, Schedule 3 and/or alleged breaches of Clauses 2.1 and 2.2(b), (c) and/or (f) of the FFA Code of Conduct.

15.3 Misconduct

Misconduct shall mean any act or omission by a Member which:

(b) constitutes a breach of the FFA Rules and Regulations;

Alleged breaches of Clauses 2.1, 2.2(b), (c) and/or (f) of the FFA Code of Conduct (effective from 1 January 2007).

2.1 A Member must not bring FFA or the game of football into Disrepute.

Without limiting the generality of clause 2.1, a Member will be taken as having brought football into Disrepute if any of the following occurs:

2.2(b) harassment, including sexual harassment or any unwelcome sexual conduct which makes a person feel offended, humiliated and/or intimidated where that reaction is reasonable in the circumstances;

2.2(c) offensive behaviour, including offensive, obscene, provocative or insulting gestures, language or chanting;

2.2(f) intimidation of Match Officials, which may take the form of (but is not restricted to) derogatory or abusive words or gestures toward a Match Official or the use of violence or threats to pressure a Match Official to take or omit to take certain action regardless of where such action is taken;

The relevant conduct alleged exhibited by **Mr Z** allegedly engaged in conduct that:

- *was offensive, abusive, harassing and threatening;*
- *constituted a breach of the FFA Rules and Regulations;*
- *was unsportsmanlike or unprofessional; and*
- *brought or may have brought football and/or Football NSW into disrepute and/or damaged the reputation and goodwill of the game.*

Relevant Conduct

The relevant conduct alleged exhibited by **Mr Z** was as follows:

On the night of Thursday, 24 September 2015, during the FNSW U15 State Titles held at Parkes, a number of Players from the Met East U15 Team (Team) wrote/drew offensive, intimidating and/or abusive material on a pizza box and garlic bread wrapper. The material was directed at a number of Referees, those Referees having officiated the Team's match earlier in the day. The Players then delivered the box and wrapper to the front doors of motel rooms belonging to the Referees and knocked on the door before running away.

The Respondent, **Mr Z**, was present while some of his teammates wrote/drew on the box and wrapper. The Respondent then delivered same to the front doors of motel rooms belonging to the Referees.

C. THE HEARING

The Tribunal convened at Football NSW offices at 6.30pm on 28 October 2015 and invited the Respondent and all witnesses and other persons to attend initial briefings on the conduct of the proceedings.

The Respondent produced a Notice of Response and entered the following plea:

"I am pleading Guilty to the Charge and I accept the report(s) attached to the Notice of Charge."

D. BACKGROUND, SUBMISSIONS & EVIDENCE

The Respondent was charged with a very serious offence and was highly embarrassed by the incident and pled guilty to the charge. He did however not accept all of the reports as an accurate description of his involvement in the incident.

Mr Z claimed that his injury on the Monday and the prescribed strong painkillers impaired his judgment and thereby restricted his ability to respond to the peer pressure.

He also the following 'errors' in the reports:

"The Conduct Alleged report says "*The participant was present while some of his teammates wrote / drew on the box and wrapper*". This is not fully correct. I was not inside the room when it was discussed and the writing started. I entered when writing had already been planned, decided and almost completed."

And:

The statement '*... The Participant then delivered same to the front doors of motel rooms belonging to the Referees*'. I was handed one wrapper and was a part of the team to go across the road. But I did not know the referee, or where the referee was living, or not fully know why it was being done. Importantly, I did not have any malicious intention to defame the referee whom I did not know. To accomplish a delivery, one has to know what the content is, the destination, the person, and the reason - things I was not at all aware of or involved in ascertaining these details. I was just being pushed to be part of this act, despite being physically and mentally weak.

The Tribunal rejected these claims as they were not considered relevant to the culpability of the Respondent. The injury took place on the Monday and if he was that ill that he was suffering from significant impairment then surely he should have returned home. Further, on his own admission he was "playing handball in the open spaces in front of the rooms in the motel" - hardly the actions of a person with such an impairment that he could not make decisions on what was right and wrong.

Such claims were disingenuous in the extreme.

Mr Z confirmed that he did walk across the road and was part of the group who delivered the pizza box and other offensive material outside the referee's room. He noted that he said that he did not think this was a good idea yet still participated in that delivery.

Mr Z noted that the coach, Mr H, entered the room and was laughing at the pictures and words written on the pizza box. He confirmed that Mr H advised them not to deliver the pizza box and other material to the referees yet said to the boys "*Remember I wasn't here.*"

Mr Z was asked how they knew where the referees were staying and he responded that A, one of his fellow players, had spoken to his mother on speakerphone to find out as she was staying near them and knew where they were. This evidence was corroborated by I, the assistant coach, in his written submission in Annexure Q.

E. CONSIDERATION & DETERMINATIONS

The Tribunal accepted that all the Respondents admitted their involvement in this incident quickly and at the earliest opportunity. The actions of the parents in ensuring that the Respondents took responsibility during the State Titles was clearly recognition of the serious nature of the matter and was commended in the circumstances.

The Tribunal also accepted that Mr Z was genuinely apologetic and understood the gravity of his actions.

However, the Respondent and his teammates were selected in an elite team to represent their district at the NSW State Titles. Representation in an elite team is a privilege and not a right and with that privilege comes responsibility to behave in a professional manner and be a role model to others.

Mr Z failed to exhibit behaviour that was appropriate and professional and as a result he was found guilty of the charge.

The Tribunal recognized that this behaviour was a silly childish prank and given the immediate apologies and recognition of his error, the Tribunal imposed a low level sanction.

F. FINDINGS

The Tribunal found that Mr Z was GUILTY of the Charge.

G. SANCTIONS

The Tribunal imposed the following sanctions on **all Respondents**:

1. The Respondents are to enrol and successfully complete a Referee's Course with their local Referee Branch and thereafter complete not less than four (4) Match Official Centres in a local competition during the 2016 season.
2. The fees related to these appointments are to be donated back to the relevant Referees' Branch.
3. The Respondents must provide a letter from their local referees' Branch to FNSW to substantiate that this requirement has been completed.
4. Each Respondent will provide a letter to FNSW apologising for their actions and specifically apologising to the relevant Referees to whom the "pizza box" was delivered.
5. FNSW runs a football day called Football4All. This is an opportunity for people with a disability or special needs to enjoy a day of football with family and friends enjoying the 'world game'. The 2016 event is likely to take place in June. Each Respondent will attend the FNSW 2016 Football4All at Valentine Park and assist with the management of games for the special children.

Whilst the GPT cannot require it, we request that all players in the Metro East U15 team also attend with the Respondents as a gesture of good will. FNSW will write to each of the Respondents in 2016 to advise them of the date of the event.

For more information on Football4All see:

http://www.footballnsw.com.au/index.php?id=football4all&no_cache=1&sword_list%5B%5D=Football4all

6. Failure to complete any of the above will constitute Contempt of the GPT and may lead to additional sanctions.

The Tribunal made no order relating to the costs of the Tribunal processes.

Aggrieved parties to a determination of the FNSW General Purposes Tribunal may lodge an appeal to the FNSW Appeals Tribunal in accordance with articles 8.6 and 9.2 of the FNSW Grievance and Disciplinary Regulations. Any appeal must be submitted on the Notice of Appeal form (Prescribed Form 13) to tribunal@footballnsw.com.au with the relevant Application Fee (\$750) within seven (7) working days of the Final Determination of the GPT being sent to the Club.



David P. Lewis

Chairman

5 November 2015

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