

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

GPT 15/52

Respondent	Mr Quan Nguyen
Attendees	Nil
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	Intimidating and Threatening Behaviour against Match Official, Punching Match Official
Date of Hearing	10 December 2015
Date of Final Determination	15 December 2015
General Purposes Tribunal Members	Mr Chris Gardiner (Chair) Mr Mendo Cklamovski Mr Ben Jones

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. NOTICE OF CHARGES

4. Football NSW issued a Notice of Charges against the Respondent dated 26 November 2015, alleging:

CHARGE 1: breaches of Section 15.3 (d) Schedule 3 Table A Number R6, of the Football NSW Regulations.

CHARGE 2: breaches of Section 15.3 (d) Schedule 3 Table B Number 7, of the Football NSW Regulations

CHARGE 3: breaches of Section 15.3 (d) Schedule 3 Table B Number 1, of the Football NSW Regulations

CHARGE 4: breaches of Clauses 2.1 and 2.2(c), (d), (f) and/or (k) of the FFA Code of Conduct and Sections 15.3 (b), (d) Schedule 3 Table B Number 5, (g), and/or (h) of the Football NSW Regulations

5. The conduct alleged in the Notice of Charges for the Respondent was as follows:

CHARGE 1: *During a Men's division two Match between Bee Deluxe and 4 a Laugh at the Bankstown Basketball Stadium on 8 November 2015, the Participant (Quan Nguyen) was issued with a Red Card (R6) for "using offensive, insulting or abusive language or gestures" towards a Match Official (Peter Liaros)*

CHARGE 2: *After being issued with the Red Card, the Participant then approached the Match Official and used threatening, intimidating, offensive or abusive language towards Mr Liaros.*

CHARGE 3: *The Participant then approached the Mr Liaros and threatened or intimidated him by word and action*

CHARGE 4: *After being asked by Mr Liaros on a number of occasions to leave the field of play, the Participant grabbed Mr Liaros' shirt, just below the neck, and struck Mr Liaros in the throat with a closed fist*

6. The Respondent provided no Notice of Response and no plea was made.

C. DECISIONS OF THE GPT

7. In relation to Charge 1, the Tribunal determined that Mr Quan Nguyen was guilty of an R6 offence as defined in Schedule 3 Table A of the Regulations and determined that he serve a 20 fixture suspension.
8. In relation to Charge 2, the Tribunal determined that Mr Quan Nguyen was guilty of a breach of Section 15.3(b) Schedule 3 Table B Number 1 and determined that he serve a 20 fixture suspension.
9. In relation to Charge 3, the Tribunal determined that Mr Quan Nguyen was guilty of a breach of Section 15.3(b) Schedule 3 Table B Number 7 and determined that he receive the maximum sanction provided in the Regulations, suspension from all Football activities for life.
10. In relation to Charge 4, the Tribunal determined that Mr Quan Nguyen was guilty of a breach of Section 15.3(b) Schedule 3 Table B Number 5 and determined that he receive the mandatory sanction provided in the Regulations, suspension from all Football activities for life.
11. The Tribunal determined that the costs of the Tribunal process related to his matter, as assessed by Football NSW, be met by Mr Quan Nguyen.

D. THE HEARING

12. The Hearing was held at Football NSW on 10 December 2015.
13. The Respondent did not attend.
14. The Tribunal proceeded to a review of the evidence and to determinations under Section 12.7(a) of the Regulations.

E. EVIDENCE & SUBMISSIONS

15. The Tribunal accepted and relied on the following Documents and Annexures from Football NSW:
 - 15.1. A copy of an official send-off report from the Match Official, Mr Peter Liaros (by email dated 10 November 2015) submitted by FNSW as Annexure MO1
 - 15.2. A copy of an official incident report from the Match Official, Mr Peter Liaros (by email dated 10 November 2015) submitted by FNSW as Annexure MO2
 - 15.3. A copy of a witness statement from Mr Guido Annoni dated 12 November 2015, submitted by FNSW as Annexure A
 - 15.4. A digital video clip of the incident titled 'Video_1.avi'
 - 15.5. A copy of a FNSW file note titled 'file note of conversation between Shane Merry (SM) and Quan Nguyen (QN) dated 10 December 2015
16. Mr Nguyen submitted no evidence, made no submissions and did not attend the hearing.

F. CONSIDERATION & COMMENT

17. The Tribunal accepted evidence from Football NSW that it had contacted the Respondent to remind him of the Tribunal hearing and encourage him to attend.
18. The Tribunal noted, in the determining the sanctions it imposed, that the Respondent had not accepted the seriousness of his conduct and had shown no remorse.
19. The Tribunal noted that the Respondent was also guilty of misconduct under Section 12.7(b) of the Regulations in refusing to attend the Tribunal hearing.
20. The Match Official's report of the conduct that led him to issue the Respondent with a Red Card was unchallenged, and the Tribunal accepted the report.
21. The language used by the Respondent towards the Match Official was extremely offensive, and he showed no remorse for his misconduct.
22. The Tribunal determined that Mr Nguyen was guilty of an R6 offense under the Regulations and determined that the maximum suspension of 20 fixtures was the appropriate sanction.
23. The Match Official's incident report was unchallenged, was corroborated by the witness statement from Mr Annoni and by the video evidence available to the Tribunal, and was accepted by the Tribunal.
24. The video evidence showed the Respondent had moved aggressively towards the Match Official and made contact with the Match Official at chest level with his arm, been restrained by colleagues, moved again towards the Match Official and made contact with the Match Official with both arms, again been restrained by colleagues, and had moved again aggressively towards the Match Official and again been restrained by colleagues.
25. The Tribunal found that the evidence supported Charges 2 and 3: that the Respondent had used threatening and intimidating language towards the Match Official and had threatened and intimidated the Match Official in his actions.
26. Given the evidence of the Respondent's determined efforts to reach and intimidate the Match Official, only prevented by colleagues, and given his lack of remorse for his actions, the Tribunal determined that the maximum sanction was appropriate for each of Charges 2 and 3 – a 20 fixture suspension for intimidating and threatening language, and a life suspension for intimidating and threatening actions. Given the seriousness of the misconduct and that it was against an Official, the Tribunal determined that the suspensions be from all football activities.
27. The Tribunal reviewed the video evidence carefully with regard to the second instance of physical contact made by the Respondent on the Match Official. The evidence showed that the Respondent had grabbed the Match Official at high chest level with his right hand, pulled him towards himself, and made contact at neck level in a forward movement of his left arm in a what the Tribunal concluded could reasonably be characterized as a punching action.
28. Physical violence against any participant in Football is unacceptable. Physical violence against a Match Official is unacceptable as an attack against that person and, as an attack against a person in his official capacity, against Football as a sporting institution.

29. The Tribunal found the Respondent guilty of a breach of Schedule 3 Table B Number 5 – punching a Match Official – and imposed the mandatory life suspension, determining that the suspension be from all football activities.
30. The Tribunal determined that the cost of the Tribunal process relating to his matter, as assessed by Football NSW, be met by the Respondent.
31. The Tribunal had been advised by FNSW that the Respondent had indicated that he was now residing in the ACT. The Tribunal also determined that a copy of this Determination be provided to Capital Football.

Chris Gardiner
Chairman

15 December 2015