

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

**GPT 16/25
[2016] FNSWGPT 1625 SH**

Date of Hearing	6 June 2016
Date of Final Determination	8 June 2016
Respondent	Ms Sarah HICKLING
Attendees & Witnesses	Mr Michael Clout, Coach Southern Branch FC, Mr Phil McColl, Southern Branch FC, Mr Jim Azar (Referee) Mr Christos Papoulias (A/Referee) Mr Wayne Crabb (A/Referee)
The basis upon which the matter is before the General Purposes Tribunal	Section 8.2 for alleged breaches of section 15.4(d) of the Football NSW Grievance and Disciplinary Regulations.
Key Words/Phrases	Substitute entering the Field of Play, Running to fight with Players, Striking Players, Fighting with Players, Violent Conduct, Melee.
General Purposes Tribunal Members	Mr David P. Lewis (Chair) Mr Louis Fayd'herbe Ms Marcelo Valerio

A. INTRODUCTION

Football NSW has established the following Bodies pursuant to Section 5.1 of the Football NSW Grievance and Disciplinary Regulations (“Regulations”). This matter was determined pursuant to the 2016 Regulations:

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

B. NOTICE OF CHARGE

FNSW issued a Notice of Charge to the Respondent on 30 May 2016.

The Charge related to an alleged incident during Round 7 of the 1st Grade Match of the Women’s National Premier League 2 (WNPL2) competition between Nepean FC and Southern Branch FC on 15 May 2016 at Cook Park St. Marys NSW.

The Notice to the Respondent specified the following charges:

Charge 1

During Round 7 of the 1st grade Match of the Women’s National Premier League 2 (WNPL2) competition between Nepean FC and Southern Branch FC at Cook Park, St Marys on 15 May 2016 a melee broke out between the two teams. During the melee, the Respondent (Sarah Hickling) was sitting in the Technical Area when she entered the Field of Play without authorisation to become involved in the melee.

Alleged breaches of Section 15.4(d) of the Football NSW Grievance and Disciplinary Regulations 2016, Schedule 3.

Charge 2

The Respondent then struck an opposition player (Ms Hollie Wilson, Nepean FC) in the body.

Football NSW Grievance and Disciplinary Regulations 2016

15.4 Misconduct

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

(d) constitutes a breach of Football NSW Rules and regulations (including these regulations) unless a document contains a provision or provisions for dealing with any breach thereof;

Sub-section 15.4(f) is also relevant to the alleged behaviour:

(f) results in the failure to provide a safe environment for Participants or to maintain public order at a Match;

Alleged breaches of Section 7(g) of the FFA National Member Protection Policy may also have occurred:

(g) Verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;

Alleged breaches of Clauses 2.1, 2.2 (c), (e) and/or (f), 2.3 and/or 3.1 of the FFA Code of Conduct (effective from 1 January 2007) are also relevant to the Charge under Section 15.4(d) of the Football NSW Grievance and Disciplinary Regulations 2016.

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(d) provocation or incitement of hatred or violence;

2.2(k) any other conduct, behaviour or statement that materially injures the reputation and goodwill of FFA or football generally.

The Respondent allegedly engaged in conduct that:

D constituted a breach of the FNSW and FFA Rules and Regulations;
D was unsportsmanlike or unprofessional;
D was violent and intimidating; and
D 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 the Respondent was as follows:

In the 87th minute of the match, a fight occurred between a player from Nepean FC and Southern Branch FC. The Respondent then ran from the Technical Area (substitutes bench) and entered the Field of Play towards where the players were fighting and it was alleged struck one or more Nepean FC players. The Respondent (Ms Sarah Hickling) was wearing a coloured bib over her football shirt.

A Melee of players had formed prior to the arrival of the Respondent. The three Match Officials attempted to record incidents that took place during the Melee however as there were many players involved it was difficult for the Officials to identify the relevant participants.

Subsequent to this incident, as it took some time for the officials to restore order as well and ensure the safety of all players, the referee issued the Respondent, Ms Hickling, with a Red Card for Violent Conduct (R2). This Red Card was issued after consultation with the Southern Branch coach as the player had to be identified.

C. THE HEARING

The Respondent produced a Notice of Response dated 1 June 2016 and entered the following pleas:

“I am pleading GUILTY to Charge 1.”

“I am pleading NOT GUILTY to Charge 2.”

The Respondent represented herself with the support of her Coach Mr Clout. Her co-accused, Ms Kellie Brown, was present at all times during the Hearing and both matters were heard together.

Prior to the hearing of these matters, the Tribunal heard evidence from both Nepean FC and Southern Branch FC in relation to the concurrent charges brought against those Clubs relating to the alleged failure to control their Players, Members and Spectators.

Both Clubs confirmed that they ensure that their Members are aware that unauthorized entry into the Field of Play is not permitted and that all Players sign a Code of Conduct with the Club that acknowledges that and many other relevant prohibited forms of conduct.

D. BACKGROUND, SUBMISSIONS & EVIDENCE

In relation to Charge 1, the Respondent made verbal submissions admitting guilt on Charge 1 however she claimed that she was not aware that she was not permitted to enter the Field of Play.

The Respondent is a Petty Officer in the Australian Navy. She submitted to the Tribunal that she was highly trained, extremely disciplined and was ingrained with military philosophy that required her to always act in the best interests of her colleagues and “remove them from danger at all times”.

She maintained that she was fearful of the potential danger faced by her teammates and therefore she was not only justified for entering the Field of Play from the Technical Area, she was also acting in a manner totally consistent with her training.

The Respondent was asked if her Navy training always governs her behaviour and she agreed very strongly with this statement.

The Respondent was then directed to consider why she should ever be permitted to play football again if she would not be able to observe the Laws of Football when they conflicted with her Navy training. The Respondent did not respond to this question.

In relation to Charge 2, the Respondent denied that she struck any Player and maintained that order had been restored by the time she reached the centre of the field.

In summary the Respondent claimed that:

1. A charge of Violent Conduct could not be sustained as there was no punching or striking;
2. The reports of the Match Officials were inconsistent; and
3. The Respondent was justified in running towards the incident for the reasons noted above under Charge 1 and the number of others involved in the melee.

Referee Evidence

The centre referee, Mr Jim Azar, gave evidence that the Respondent entered the Field of Play and engaged in the melee and struck unnamed Nepean players. He drew on the diagram of the pitch showing where both respondents entered and where they involved themselves in the melee. He saw one of the Respondents kick a Nepean Player in the body. He had an excellent and proximate view of the incidents.

The far side Assistant referee, Mr Christos Papoulias, gave evidence that four (4) members of the Southern Branch FC players who were sitting in the Technical Area entered the Field of Play during the melee. He drew on the diagram of the pitch showing where the respondents entered and where they involved themselves in the melee and this was in a quite different place to that identified by the Referee. He saw one of the Respondents kick a Nepean Player in the head. When pressed on this evidence he stated that he was absolutely certain that it was in the head.

The near side Assistant referee, Mr Wayne Crabb, gave evidence that he entered the Field of Play so that he had a better view of the actions of the Players. He saw the two Respondents enter the Field of Play but did not see them involve themselves in the fight. He drew on the diagram and showed that he too had a proximate and excellent view of the incidents. He was asked why the Referee issued a Red Card to both Respondents and he stated that "the referee must have seen an offence that I did not see." He also noted that he ran onto the field to tell Sarah (Hickling) to leave the field. She did not do so however he reiterated that he did not see the Respondents strike any other Player.

Respondent Evidence

Ms Hickling attempted to impugn the referee's evidence by claiming that the Referee had said to a number of people that he had issued a Red Card to the two Southern Branch Respondents for entering the Field of Play and that this somehow excused their behaviour or was proof that they did not engage in Violent Conduct. She further claimed that the fact that the referee failed to record the identity of the goal scorer on the Team Sheet also indicated that the referee was an unreliable witness and incompetent.

The Tribunal took a very dim view of this claim and cautioned the Respondent for this disingenuous claim. She was asked if she had ever made a minor error in the execution of her work duties and if that minor error rendered her incapable and incompetent? There was no response to this question.

Throughout the written evidence from Southern Branch players and spectators there was this undercurrent of blame on the Match Officials for their "failure" to do anything to stop the melee and alleged violence.

The Match Officials are NOT to blame for the poor behaviour of players and spectators. They cannot physically intervene in such situations and in fact they are expressly directed not to attempt this. Match Officials are directed to record the identity of alleged offenders to the best of their ability in such situations and issue strong blasts of the whistle in an attempt to halt such player behaviour.

The Tribunal deplores this attempt by the Respondent to link blame to the Match Officials.

E. CONSIDERATION & DETERMINATIONS

The action of illegally entering the Field of Play from the Technical Area by the Respondent could have led to an escalation of the melee by way of inducing other players and spectators to become involved. The claim by the Respondent that she did not know that this was not permitted after more than a decade of playing football was unbelievable. She claimed that the Club did not educate her that such behaviour was not permitted.

Further, the claim that her Navy training governs her behaviour at all times was of great concern for the Tribunal. How could this Player not understand that non-combat rules of behaviour applied in civilian circumstances let alone on a football pitch? This aspect of her evidence was not credible.

However, the evidence offered by the three independent witnesses, the Match Officials, was so inconsistent in relation to the allegations under Charge 2 that the Tribunal was unable to find the Charge proved on the balance of probabilities.

There was no doubt that a melee involving several players took place and that striking by unknown players also took place during that melee. The Match Officials were unable to collectively identify those Player who were responsible for these actions.

The Tribunal does NOT attribute fault in any way to the Match Officials as a result of this finding. Mass Player confrontations are difficult to control and often it is even more difficult to accurately identify those responsible in the absence of video evidence.

The Tribunal therefore found the Respondent Not Guilty under Charge 2.

F. FINDINGS

The Tribunal finds the Respondent GUILTY of Charge 1 and NOT GUILTY of Charge 2.

G. SANCTIONS

The Tribunal imposed the following sanction on the Respondent under Schedule 3, Table C, Number 9 - Other Offences by Members.

The Respondent is suspended for four (4) Fixtures for the offence under Charge 1 from all Football related activities, including spectating.

As the Respondent has already served a two (2) Fixture suspension she is suspended for a further two (2) Fixtures.

The Respondent may NOT serve this suspension during any assignment with the Navy that requires her absence from Sydney.

For the purposes of clarification, in accordance with section 14.6(e) of the Regulations: "A Participant must serve a Fixture Suspension in the same age-grade and Competition for which he or she received that Suspension and will not be eligible to participate in any Match/Fixture of any Competition until that Suspension is served in full."

The Tribunal determined that the Respondent also pay the costs of the Tribunal processes as determined by FNSW.

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

8 June 2016

