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

GPT 18-67

Date of Hearing	17 October 2018
Date of Final Determination	23 October 2018
Respondent	Kade Kinsella of Granville Rage FC
Attendees, Witnesses & Documents	Attendees: Mr Vic Zappia, Granville Rage FC Operations Manager Mr Kade Kinsella, the Respondent Mr Michael Napoli, Legal & Regulatory Officer, FNSW Documents: A. Notice of Charge dated 30 August 2018 and attached Team Sheets and General Purposes Tribunal (GPT) Determination (GPT 16-37) B. Notice of Response by Mr Kade Kinsella dated 17 September 2018 C. Undated and unsigned letter from Mr Kade Kinsella to Football NSW
The basis upon which the matter is before the General Purposes Tribunal	Football NSW Grievance and Disciplinary Regulations 2018 sections 9.2 and 16.4.
Key Words/Phrases	Section 17.2(d) of the Regulations: Accumulation of eleven (11) Yellow Cards in the 2018 Premiership.
General Purposes Tribunal Members	Mr Anthony Scarcella (Chair) Mr Mendo Cklamovski Mr Robert Iaconis

A. INTRODUCTION AND JURISDICTION

1. The General Purposes Tribunal (GPT) has been established by Football NSW (FNSW) pursuant to Section 4 of the Football NSW Grievance and Disciplinary Regulations 2018 (Regulations). This matter was determined pursuant to the 2018 Regulations: The GPT may impose sanctions in accordance with Schedule 3 of the Regulations.

B. NOTICE OF CHARGE

2. On 30 August 2018, FNSW issued a Notice of Charge to the Respondent, Mr Kade Kinsella. The Notice of Charge specified that, on 18 August 2018, the Respondent received his eleventh Yellow Card whilst participating in the Premiership during the 2018 season.

3. The Respondent was charged under sections 9.2 and 16.4 of the Regulations for alleged breach by the Respondent of section 17.2(d) of the Regulations, which reads as follows:

> "A Player who accumulates his or her eleventh (11th) Yellow Card in total in the Premiership, irrespective of the age-grade in which they are received, must appear before the General Purposes Tribunal and must not participate in any Fixture until he or she has appeared before the General Purposes Tribunal and served in full any sanction imposed by the General Purposes Tribunal."

4. The Respondent submitted a Response to the Notice of Charge accepting the charge but, in effect, requesting to make submissions to the GPT in relation to the issue of sanction.

C. THE HEARING

5. The Tribunal convened its hearing at FNSW offices on 17 October 2018.

6. The Tribunal confirmed with the Respondent that he had received and understood the Notice of Charge and had seen the relevant documents before the Tribunal.

7. The Tribunal cautioned those in attendance regarding conduct and evidence given at the hearing, in that, they were obliged to provide accurate and honest testimony to the Tribunal and that any breach of that obligation could of itself be the subject of disciplinary action.

8. The Respondent was advised of his relevant appeal rights under the Regulations.

9. The Tribunal invited submissions on its jurisdiction and competence. No submissions were made. Although, Mr Zappia indicated that he intended taking up the issue of section 17.2(d) of the Regulations directly with FNSW at some later stage.

10. The Tribunal noted the Respondent's plea of guilty to the charge set out in the Notice of Charge dated 30 August 2018 and invited him to make submissions in relation to sanction.

D. BACKGROUND, SUBMISSIONS & EVIDENCE

11. The Tribunal invited Mr Kinsella to make any submissions in addition to those made in his undated and unsigned letter which was before the Tribunal. In his said letter, Mr Kinsella stated amongst other things, as follows:

> "I accept the charge of receiving 11 yellow cards. However, I would like to challenge the proposed sanction. I feel that in this case the award of a yellow was harsh as there was no abusive language or aggression directed towards the official or other players. The incident was merely a show of frustration at the awarding of a penalty for a decision that looked as if the opposing player had played for the free kick."

12. Mr Kinsella's reference to "the proposed sanction" was the sanction determined by the GPT in matter number GPT 16-37 on 19 September 2016. The Notice of Determination in the latter mentioned matter was attached to the Notice of Charge dated 30 August 2018.

13. Mr Kinsella's initial submissions repeated the matters referred to in his undated and

unsigned statement referred to above. The Tribunal reminded Mr Kinsella that his submissions ought to address the question of sanction and that the Tribunal did not have the jurisdiction to hear argument as to whether his last yellow card ought or ought not to have been issued to him. The Tribunal also reminded Mr Kinsella that it could not erase the yellow card he alleged "was harsh". The Tribunal found that such issue was irrelevant to these proceedings.

14. Mr Kinsella advised that he had no further submissions to make.

15. The Tribunal invited Mr Zappia to make any further submissions he wished to make on behalf of Mr Kinsella. Mr Zappia's initial submissions also focussed upon the last yellow card issued to Mr Kinsella. He submitted that the yellow card was harsh and that Mr Kinsella had not directed any disrespect to the match referee. He criticised, "with respect", the performance of referees during the season, especially regarding the issue of yellow cards. Again, the Tribunal reminded Mr Zappia that his submissions ought to address the question of sanction. Mr Zappia submitted that Mr Kinsella was highly regarded at Granville Rage FC as a talented footballer, who would be playing first grade for the club next year.

16. In response to questions put by the Tribunal, Mr Kinsella acknowledged that he had a problem with discipline. Despite five of his yellow cards being for dissent, Mr Kinsella insisted that none of those directed any disrespect at the match referee but rather were caused by his frustration. When it was put to him that he had a problem with anger, he denied the proposition and insisted that his reactions were all out of frustration. Mr Kinsella advised that his sister's friend is a counsellor and that he has "spoken to her a couple of times."

17. In response to a question put by the Tribunal, Mr Kinsella advised that he was not a qualified referee but that he had refereed a match for a friend's team to help out. He stated that he found the experience easy and enjoyable.

18. Mr Zappia informed the Tribunal that his club had spoken with Mr Kinsella about seeking assistance and that it would help him do so once he had taken some independent steps in this regard. The club had also spoken to Mr Kinsella's father. Mr Kinsella confirmed that he had not yet taken any independent steps to allow his club to provide assistance.

19. Mr Zappia also made the submission that the incremental increase in suspensions under section 17 of the Regulations was unfair and required review. Again, the Tribunal drew Mr Zappia's attention to the fact that his submissions should be relevant to the issue of sanction. Mr Zappia submitted that Mr Kinsella's promotion to first grade next year would improve Mr Kinsella's discipline.

20. Mr Zappia informed the Tribunal that Mr Kinsella had been stood down for two matches following the issue of the Notice of Charge dated 30 August 2018.

21. Mr Zappia's final submission was that a two-fixture suspension would be an appropriate sanction in Mr Kinsella's case.

E. CONSIDERATION & DETERMINATIONS

22. Mr Kinsella is 19 years of age. FNSW records revealed that Mr Kinsella played 19 matches in the 2018 season. He played 16 matches in the NPL3 – U20s and he was issued with 10 yellow cards. He played three matches in the NPL3-1st Grade and was issued with one yellow card. As a result of the accumulation of yellow cards, Mr Kinsella served a total of eight match suspensions in the 2018 season.

23. The 11 Team Sheets in evidence revealed that Mr Kinsella was issued with 11 yellow cards by 10 different match officials.

24. The Tribunal was concerned that during the course of the hearing Mr Kinsella did not demonstrate any contrition in relation to his accumulation of 11 yellow cards in the 2018 season. Rather, he was focussed on the submission of the alleged unfairness of the eleventh yellow card issued to him. There was an apparent lack of insight and ownership of his breach of the relevant Regulation. Also of concern was Mr Zappia's focus on that same issue, as well as the issues of referees in general and the unfairness of section

17.2(d) of the Regulations.

25. Only when pressed by the Tribunal as to what steps had been taken by either Granville Rage FC or Mr Kinsella following the issue of the relevant Notice of Charge on 30 August 2018, were the matters referred to in paragraphs 16 and 18 above forthcoming.

26. The Tribunal rejected the submission that Mr Kinsella's promotion to first grade next year, on its own, would improve Mr Kinsella's discipline.

27. The Tribunal rejected the submission that a two-fixture suspension would be an appropriate sanction in Mr Kinsella's case.

28. The Tribunal relied upon the decision of the GPT in GPT 16-37, being the only precedent in relation to a breach of section 17.2(d) of the Regulations. In that case, the Respondent had accumulated eleven yellow cards in 20 matches in the 2016 season and those yellow cards were issued by 10 different match officials. In that decision, the GPT imposed a four-fixture sanction and mandated the Respondent to successfully complete a referee course with an affiliated FNSW Branch and officiate at three adult matches prior to resuming his playing privileges. The Tribunal considered that there was little to distinguish Mr Kinsella's case from the facts in GPT 16-37. In fact, the only distinguishing factor was that Mr Kinsella had played in 19 matches, whereas the Respondent in GPT 16-37 had played in 20 matches in the season.

F. FINDINGS

29. Mr Kinsella accepted the charge of his breach of section 17.2(d) of the Regulations and pleaded guilty to it in his Notice of Response. The Tribunal formally found Mr Kinsella guilty as charged. Accordingly, the only issue which remained to be dealt with was that of an appropriate sanction.

30. The Tribunal found that there were no reasons established to depart from the precedent set in GPT 16-37.

G. SANCTIONS

31. Schedule 3 Table D of the Regulations sets out the nature of the sanctions the Tribunal may impose.

32. There is no prescribed minimum sanction for a breach of section 17.2(d) of the Regulations.

33. Pursuant to section 17.2(d) of the Regulations, the Tribunal imposed sanctions on the Respondent under Schedule 3, Table D, Number 7: *"suspension from participation in a Match, Fixture, Event, Tournament or Competition"* and under Schedule 3, Table D, Number 19: "*the successful completion of a referee's course and/or the requirement to officiate at a number of matches*".

34. FNSW records revealed that Mr Kinsella's long and poor disciplinary history did not warrant any reduction by way of leniency in the Tribunal's proposed sanctions.

35. The Respondent is suspended for four (4) Fixtures from all football related activities, including spectating to be served in accordance with section 15.6 of the Regulations. As the Respondent has already served a two (2) fixture suspension following the receipt of his eleventh yellow card, he must serve a further two fixture suspension at the commencement of the 2019 season.

36. Further, the Respondent is required to successfully complete a referee course with an affiliated FNSW Branch and officiate as the central referee in not less than three (3) adult matches. The Respondent may not resume playing until this requirement has been fulfilled. The Respondent must provide written evidence to FNSW that the terms of this aspect of the sanction have been fulfilled.

37. 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 9.6 and 10 of the FNSW Grievance and Disciplinary Regulations. Any appeal must be submitted by completing the online Notice of Appeal form (Prescribed Form 12) **to** **tribunal@footballnsw.com.au** with the relevant Application Fee ($750) within seven (7) working days of this Final Determination being issued.

Anthony Scarcella

Chairperson

23 October 2018