

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



**GPT 19/01**

<b>Date of Hearing</b>	1 <sup>st</sup> & 10 <sup>th</sup> April 2019
<b>Date of Final Determination</b>	29 April 2019
<b>Respondent</b>	Player X, (the Respondent).
<b>Attendees, Witnesses &amp; Documents</b>	As attached in Schedule 1
<b>The basis upon which the matter is before the General Purposes Tribunal</b>	Football NSW Grievance and Disciplinary Regulations 2019 Sections 9.2, 16.4, FFA Code of Conduct and Football NSW Competition Regulations.
<b>Key Words/Phrases</b>	Verbal abuse of opposition player (R6). Abuse, Intimidation Threat of Violence towards a Match Official, threatening conduct. Schedule 3 Table B Code 10-01. Under 16 Player.
<b>Finding &amp; Sanction</b>	Guilty <b>Seven (7) matches</b> for R6. <b>Twelve (12) months</b> for Schedule 3 Table B Code 10-01. Serve consecutively. <b>Time suspension of 12 months will expire at midnight on 4 May 2020.</b>
<b>General Purposes Tribunal Members</b>	Mr David P. Lewis (Chair) Mr Robert Iaconis Mr Louis Fayd'herbe

## 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 (“Regulations”). This matter was determined pursuant to the 2019 Regulations: The GPT may impose sanctions in accordance with Schedule 3 of the Regulations.

## B. NOTICES OF CHARGES

2. On 19 March 2019, Football NSW (FNSW) issued a Notice of Charge on the Respondent, Player X, a Participant as defined in Schedule 1 of the Regulations (“the Respondent”) relating to his conduct during the U16s NPL 2 Youth match between Parramatta FC and Bankstown United FC on 9 March 2019 at Melita Stadium. <sup>[[[SEP]]]</sup>
3. The Notice to the Participant specified the following charges:
4. **Charge 1**

“During the U16s NPL 2 Youth match between Parramatta FC and Bankstown United FC on 9 March 2019 at Melita Stadium, Player X of Parramatta FC (**Participant**) was issued a Red Card (R6) by the Match Official after using discriminatory, homophobic, racist, religious, ethnic or sexist language and/or gestures such as *“Fucking faggot”*, with regards to an opposition player.”
5. **Charge 2**

“After being issued with the Red Card, the Participant charged towards the Match Official and stood close to him such that he stood on the Match Official’s toes. The Participant was yelling, *“What the fuck was that for, I’ll fucking get you”*. The Participant’s own teammates tried to restrain the Participant but he persisted in trying to get to the Match Official. Ultimately, it took two of his coaches to come onto the field of play and drag him away for the incident to end.”
6. The Respondent was charged under section 9.2 of Football NSW Regulations (the Regulations) for alleged breaches by the Respondent of section 16.4(d) of the Football NSW Grievance and Disciplinary Regulations 2017, namely Schedule 3, Table A, Offence Code R6 (Charge 1); and Schedule 3, Table B, Offence Codes 10-01 (Charge 2).

### Proposed Sanction

7. Under the Regulations, Football NSW has a discretion to deal with matters without taking the matter to a hearing, provided the Participant agrees to plead guilty to the charge proposed. If the Participant does not agree, then the matter proceeds to a hearing.
8. After reviewing the reports and evidence provided, and based on reference to other similar matters dealt with by Football NSW, the Participant was offered the following sanction by FNSW in respect of the Charges if the Participant agreed to plead guilty to the Charge:
9. **Charge One** – a suspension from all Football Related Activity for a period of seven (7) matches and **Charge Two** – a suspension from all Football Related Activity for a period of twenty-four (24) months. These suspensions were to be served wholly concurrently.
10. The Respondent pleaded GUILTY although declined this offer and requested that the matter proceed to a hearing on the issue of the severity of the sanction.

## C. THE INITIAL HEARING

11. In his defence the Respondent had tendered a brief undated statement to FNSW in addition to the Prescribed Form 10 – Notice of Response. In that Notice the Respondent pleaded Guilty to the Charges and noted that he wished to challenge the proposed sanction.
12. The Respondent, aged 15, appeared before the Tribunal on 1 April 2019 (the Initial Hearing) with his uncle, Uncle of Player X, and two representatives of his club, Ms Susy Bruneau and Mr Ahmed Elriche. The Respondent’s father and a number of other family members also attended the hearing in support of the Respondent but chose to wait outside of the Tribunal room. It was clear to the Tribunal that the Respondent and his abovementioned representatives were completely unaware of the procedures of the GPT and were totally unprepared. His Club had provided no material assistance and had “abandoned” the Respondent for reasons that were unclear and unknown to the Tribunal. The Respondent’s representatives had no knowledge of the Regulations and had either not sought assistance from the Club or simply did not consider any of the matters required of them under the Notice of Charge.
13. As the Initial Hearing commenced, the Respondent, through his representatives, sought to challenge the evidence of the Match Official relating to Charge 2 that he stood on the toes of the Match Official or used the words, *I’ll fucking get you*”.
14. To support this claim, and other claims that conflicted with the evidence of the Match Officials, the Respondent also tendered a video of the relevant incidents. Under FNSW GPT Regulations a Respondent is required to submit to FNSW all evidence on which he/she intends to rely in advance of the hearing.
15. The Tribunal warned the representatives for the Respondent that his claims at the Initial Hearing were in conflict with his plea of GUILTY and that what he was in fact asserting was that a critical aspect of the evidence on which FNSW sought to rely was incorrect and in fact that the Match Official had lied in his match report. As the Respondent had pleaded GUILTY in his Notice of Response, FNSW had not asked the Match Official to attend the Initial Hearing and had not been made aware that the Respondent was in fact pleading NOT GUILTY to Charge 2.
16. The Tribunal ordered that a stay to the Initial Hearing was required both to enable the Respondent to properly prepare a defence to Charge 2 and to enable FNSW to have the Match Official available to give evidence in support of Charge 2.
17. The Tribunal further noted to the representatives for the Respondent that their failure to properly prepare for the hearing or advise FNSW of their intended course of action had wasted the time of the Tribunal and that it was likely that an additional order for costs against the Respondent would be made.
18. The Initial Hearing was adjourned to Wednesday 10 April 2019.

#### **D. THE SECOND HEARING**

19. The Second Hearing took place on Wednesday 10 April 2019 as scheduled.
20. Prior to the Initial Hearing the Respondent had tendered the statement noted in paragraph 11 above. The video evidence was accepted by FNSW into evidence.
21. Prior to the Second Hearing the Respondent tendered:
  - a. a further undated statement setting out his defence to the Charges,
  - b. a character reference from Ms Susy Bruneau;
  - c. a character reference from the Uncle to Player X dated 10 April 2019.
22. The Match Official made himself available and attended the Second Hearing.

23. Prior to the 10 April Hearing, FNSW amended its written Submissions based on the video evidence to withdraw the allegation that the Respondent had to be dragged off the Field of Play by his coaches and modified its claim in relation to the contact by the Respondent with the Match Official. FNSW submitted that:

*“After being issued with the Red Card, the Respondent charged towards the Match Official and stood close enough to tread on the Match Official’s toes.”*

24. The Respondent attended with an unannounced witness Mr Hadi Al-Ugali, a teammate of the Respondent, in breach of the Regulations relating to the conduct of the Tribunal as no notice had been filed of his intention to attend and give evidence. No written statement was provided by this witness.
25. The Tribunal agreed to hear this witness and would use its discretion to accord appropriate weight to his evidence.

## **E. BACKGROUND, SUBMISSIONS & EVIDENCE**

26. In relation to Charge 1 the Respondent noted in his further undated statement:

*“I accept this charge because I did say those words but I did not mean it to sexually harass or discriminate against the opposition player. The player was provoking me the entire game and I don’t think the referee had control of the situation. As you can see from the video submitted last week, the player’s elbow’s me in the back and it is me who the referee penalises (sic.). This was after many other incidents that occurred in the game. I do not normal (sic.) become aggressive in games, and I reacted in a way I should not have.”*

27. Under questioning the Respondent, through his representatives, failed to initially appreciate that blaming the Match Official for the Respondent’s failure to control himself was not an acceptable approach. The Respondent attempted to blame the Match Official for his actions and only after much discussion did he and his representatives understand that this was the Respondent’s responsibility and no one else’s.

28. In relation to Charge 2 the Respondent noted in his further undated statement:

*“I want to appeal this charge. The ref gave me a red card and I did approach him to find out why it was given to me and not the other player. I did yell out “what the f\*\*k was the (sic.) for?” but I did not say the second line I am being accused off “ill fucking get you”.<sup>[SEP]</sup> I believe the referee fabricated that line. It cannot be heard that I said that in the video nor was any other AR near me to claim they heard it. The referee in question also claimed that I stood on his toes and that I had to be dragged off the pitch by two coaches, both claims have shown to be false from the video, so it is highly likely that this line “ill fucking get you” is also false.<sup>[SEP]</sup> I do not believe the referee was afraid of me or intimidated. He did walk backwards as he was approached by me, but as it was revealed at our last tribunal hearing, the referees are trained to automatically walk backwards at the first sign of confrontation, so this cannot be used as an admission of fear.”*

29. Once again the above statement exhibited not only a complete absence of contrition by the Respondent, it sought to claim that the Match Official lied in his statement. Opening verbal observations offered by the Respondent through his Uncle, were consistent with this absence of contrition notwithstanding that the video evidence tendered by the Respondent could only be interpreted as clear intent by the Respondent to physically confront the Match Official and it was only the actions of his fellow team members that averted significant contact.

30. The Tribunal asked the Respondent why he had to be restrained multiple times as he sought to “get at” the Match Official even after he had been initially restrained. He stated that he was angry.

31. The Match Official gave consistent and credible evidence that was consistent with the video and noted that the Respondent had stood on his toes and had verbally threatened him. His written report was prepared and tendered to FNSW on the day of the match.
32. The Tribunal asked the Respondent what he had done since the incident. Had he issued a written apology to the Match Official, his Club, his fellow players? None of these things had been done although he noted that he did say sorry to his teammates. He was also asked what his Club had said to him and he was unable to answer.

#### **Character References**

33. Ms Susy Bruneau prepared a character reference for the Respondent and submitted this document prior to the Second Hearing. She was unable to attend the Second Hearing. Ms Bruneau is a volunteer with Parramatta FC. Whilst she supported the Respondent elsewhere in her reference and spoke well of him she did offer the following observation:

*“In (sic.) feel that he is being charged as an adult who can make adult decisions. The only adult on the field of play was the referee. He is being punished for events that are questionable, from a source that has already proven to be questionable.”*

34. The Tribunal was highly critical of the above section of Ms Bruneau’s reference as it once again demonstrated a complete lack of understanding of the Regulations under which football is governed, contempt for match officials and contempt of the Tribunal process. The Match Official was no more than six years older than the players, himself a young man, and to characterise him in this manner in the face of overwhelming evidence of the guilt of the Respondent in the form of the video was disingenuous in the extreme.
35. The Uncle to Player X tendered a character reference and noted that the Respondent’s family was under stress and that he was supporting them at this difficult time. He was concerned that a lengthy ban might mean the end of soccer for the Respondent and that he may “resort to bad habits and drugs, his father is afraid of this and that he has been depressed”.
36. The Respondent was given an opportunity to make submissions on sanctions in the event that he was found guilty. Through his Uncle he asserted that a six (6) month sanction was all that was appropriate.

#### **D. CONSIDERATION & DETERMINATIONS**

37. The Tribunal found that the evidence of the Match Official was to be preferred. The video evidence was consistent with a finding that the Respondent acted in a **very** aggressive manner towards the Match Official and it was clear that he had to be restrained by his fellow players. On the balance of probabilities it was most likely that the Respondent threatened the Match Official verbally as his physical behaviour was consistent with that finding.
38. Mr Hadi Al-Ugali, a player on the same team as the Respondent gave verbal evidence that corroborated the evidence of the Respondent. Under questioning it was clear to the Tribunal that Mr X was not a reliable witness.
39. The Tribunal considered the amended submission of FNSW as well as the FNSW Referee Abuse Precedents contained in The Schedule.

#### **E. FINDINGS**

40. The Tribunal found the Respondent **Player X GUILTY** of both Charges.
41. The Tribunal was satisfied that the Respondent’s conduct was consistent with an actual threat of violence directed at the Match Official both physically and verbally and it was clear that his words and manner were aggressive and threatening.
42. The behaviour of the Respondent was unacceptable and was found to be in breach of

FNSW Regulations. The Tribunal found that the Respondent had threatened and intimidated the Match Official.

## F. SANCTIONS

43. In relation to Charge 1, the Tribunal imposed sanctions on the Respondent under Schedule 3, Table A, Offence Code R6 – *Offensive, insulting, abusive or intimidating language and/or gestures*. Code 05-01 – *“Use of discriminatory, homophobic, racist, religious, ethnic or sexist language and/or gestures”*.
44. In relation to Charge 2, the Tribunal imposed sanctions on the Respondent under Schedule 3, Table B, Offence Code 10-01 – Offences by Participants Against Match Officials: *“Threat of physical violence towards a Match Official or his/her family or property”*.
45. In relation to Charge 1, the Respondent is suspended for **seven (7) Matches**.
46. In relation to Charge 2, the Respondent is suspended for **twelve (12) months** from ALL Football Related Activities.
47. Football Related Activities are defined in Section 15.5(e) of the Regulations however the Respondent is to serve the Fixture suspension in accordance with section 15.6, in particular, sub-sections 15.6(j), but the Tribunal has, under sub-section 15.6(h), determined that the Fixture suspension will also extend to Spectating such that the Respondent is not entitled to attend any Fixtures that his club is participating in during the Fixture suspension.
48. For clarity, the Respondent is free to train with his club during the Fixture suspension.
49. The Respondent is to serve the Time suspension in accordance with section 15.5, in particular, sub-sections 15.5(e), except that, given the age of the Respondent and as a major concession, the Tribunal has, under sub-section 15.5(d), determined that the Respondent is free to train with his club and participate in any Trial Matches during the Time suspension so that he has the opportunity to mentor and assist younger players in order to minimise the risk of those players committing similar offences.
50. For clarity, the Respondent is **not** entitled to attend any Fixtures that his club is participating in during the Fixture suspension **and** the Time suspension. For further clarity, the Respondent is free to train with his club during both suspensions and the Respondent is free to participate in any Trial Matches during the Time suspension.
51. Given that Charge 2 related to actions by the Respondent of a “wholly different character” to Charge 1, the Tribunal applied the precedent of Andrew Prentice v FNSW 12 October 2016 (Appeals Tribunal of FNSW) to the effect that sanctions for these different offences may not be served concurrently but consecutively. Therefore, the Tribunal orders that these Sanctions are to be served consecutively and in accordance with Section 15.5 of the Regulations.
52. These Sanctions commence immediately. The Tribunal has been advised by Football NSW that the Respondent had already commenced serving his Fixture suspension and had been stood down since the relevant incident. His seventh (7th) Fixture will take place on 4 May 2019 and therefore his 12 Month Suspension will commence on 5 May 2019 AFTER his team’s Fixture on 4 May 2019.
53. Further, clause 15.5(c) of the Regulations will **NOT** apply so that **the Time suspension of 12 months will expire at midnight on 4 May 2020**.
54. 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 2019. Any appeal must be submitted by completing the online Notice of Appeal form (Prescribed Form 12) to [tribunal@footballnsw.com.au](mailto:tribunal@footballnsw.com.au) with the relevant Application Fee within seven (7) working days of this Final Determination being issued.

A handwritten signature in black ink, appearing to be 'DL' with a flourish.

David P. Lewis

Chairman

29 April 2019

## The Schedule

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<b>FOOTBALL NSW RULES AND REGULATIONS</b>	<b>Football NSW Grievance and Disciplinary Regulations</b>
<b>ANNEXURE MO1</b>	Send Off Offence – L Pevey (Referee) dated 9 August 2019
<b>ANNEXURE MO2</b>	Match Official Incident Report – L Pevey (Referee) dated 9 August 2019
<b>ANNEXURE MO3</b>	Match Official Incident Report – B Shashati (AR1) dated 9 August 2019
<b>ANNEXURE MO4</b>	Match Official Incident Report – K McKenna (AR2) dated 9 August 2019
<b>ANNEXURE</b>	Witness Statement – Player X undated (Hearing 1)
<b>ANNEXURE</b>	Witness Statement – Player X undated (Hearing 2)
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<b>ANNEXURE</b>	Football NSW Submission (Hearing 1)
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<b>ANNEXURE</b>	Video of Relevant Incidents (Hearing 1)

# FNSW Referee Abuse Precedents

## 1. GPT 17-36 Azam Dabbagh – 26 Sept 2017

Key Words - Abuse and intimidation of Match Official, threatening conduct, child Match Official. U14 Match. Respondent parent/spectator.

### Charge 1

“During the Association Youth League (AYL) U14s match between Southern Districts Soccer FA and Sutherland Shire FA at Ernie Smith Reserve on 30 July 2017, Azam Dabbagh (the **Respondent**) accused the Match Official, Mr Isaac Walker, of calling his son a ‘cunt’.”

The Respondent was then alleged to have said that if Mr Walker ever called his son a ‘cunt’ again he would allow his son to hit him. After this comment, the Respondent started making threats towards Mr Walker’s family saying, ‘I will go to your house and sort you and your father out’. The Respondent then said to Mr Walker, ‘if you ever say it again, I will let my son jump the fence and crack you one or if you are on the field for him to hit you’.

### Charge 2

The Respondent then said to Mr Walker, ‘after this you won’t have a job as a referee’, ‘sorry buddy you might not have a job much longer’ and ‘let’s see how much longer you hold your position as a referee’.

Finding - Guilty of Charge 1 (6 months) and Charge 2 (12 months) - serve consecutively

## 2. GPT 17-27 Nabil Sawalha – 5 Sept 2017

Key Words - Abuse and intimidation of Match Official, threatening conduct, child Match Official. U18 Match. Respondent player.

### Charge 1

Nabil Sawalha (the **Participant**) yelled at the Match Official after a send-off, “what is the name of the fucking Referee, you fucking cunt, you fucking arsehole I fuck you up”.

### Charge 2

At the conclusion of the match, the Match Officials were leaving the Field of Play when the Participant approached and said, “ruined son’s career”, “he will knock head off” and “I’ll kill you”.

Finding - Guilty of Charge 1 (2 months) and Charge 2 (4 months). Doubt on words used in Charge 2. Serve consecutively.

## 3. GPT\_15-52\_Quan\_Nguyen – 10 Dec 2015

Key Words - Intimidating and Threatening Behaviour against Match Official, Punching Match Official – Respondent not attend GPT

### CHARGE1:

During a Men’s division two Match 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) [1] [SEP]

**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. [1] [SEP]

**CHARGE 3:**

The Participant then approached the Mr Liaros and threatened or intimidated him by word and action [1] [SEP]

**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 [1] [SEP]

Finding - Guilty of Charge 1 (20 Fixtures), Charge 2 (20 Fixtures), Charge 3 (LIFE) and Charge 4 (LIFE).

**4. GPT 16-12 Luke\_NGUYEN - 28 April 2016**

Key Words - Intimidating and Threatening Behaviour against Match Official, Punching Match Official - Respondent not attend GPT

The Respondent admitted in brief written submission that he swore at the Referee and then attacked the referee by punching him several times.

Video evidence was available confirming that the Respondent had to be physically restrained by other players to prevent the continued battery of the Referee. The Tribunal determined that this was a very serious offence and the maximum sanction must be imposed.

Finding - Guilty of Charge 1 (LIFE).

**5. GPT 17-26 Lydia Surgeon-**

Key Words - Coach Intimidating and Threatening Behaviour against Match Official, Push Match Official - No Hearing - Guilty Plea

Charge 1  
Push Match Official

Charge 2  
Threaten Match Official

Finding - Guilty of Charge 1 (12 months) & Charge 2 (12 months). Serve concurrent.