

PRELIMINARY DETERMINATION.

Reference is made to the following Tribunal:

Date of the Tribunal	12 October 2017
Tribunal that heard the case	General Purpose Tribunal (GPT)
Tribunal reference number	17/46
Tribunal Members	Ben Jones (Chair) Louis Fayd'herbe Tyrone Dutt
Venue of Tribunal	FNSW Headquarters
Time of Tribunal	6:30pm
Respondent	Aedon Kyra

This document constitutes a Preliminary Determination under section 9.5(g) of the Football New South Wales (FNSW) Grievance and Disciplinary Regulations 2017 (**Regulations**), resulting from the Tribunal listed above. Pursuant to section 9.5(h) of the Regulations, the GPT determined not to issue a Final Determination in relation to this matter.

Charge

The Respondent was charged by FNSW under sections 9.2 and 16.4 of the Regulations for alleged breaches by the Respondent of sections 16.4(d) of the Regulations, namely:

- Schedule 3, Table C, Offence Code 14-01 - instigator of a violent melee; or
- Schedule 3, Table C, Offence Code 13-01 - participating in a violent melee; or
- Schedule 3, Table C, Offence Code 12-01 - instigator of a melee (non-violent); or
- Schedule 3, Table C, Offence Code 11-01 - participating in a melee (non-violent).

The charge related to a melee which occurred between players from APIA Leichhardt Tigers FC (APIA) and Sydney United 58 FC (SU) at Lambert Park on 26 August 2017 during a National Premier League U20s match.

Evidence

FNSW provided video evidence of the incident which clearly demonstrated that a melee had taken place (**Video**). The Respondent was able to identify himself in the Video. The Video showed two distinct interactions between the Respondent and a player from SU. The Video also demonstrated that the Respondent was involved in the melee and failed to remove himself from the initial melee at the first available opportunity.

Submissions of the Respondent

The Respondent accepted that, whilst he had been involved in a melee, he was not the instigator of the melee. The Respondent submitted that the melee had been instigated by a number of other players who came from other parts of the field to become involved in the initial incidents. The Respondent further submitted that the melee was not violent and that at no time did he engage in any violent conduct.

Following acceptance of his involvement in the melee, the Respondent submitted that he should be sanctioned with the minimum sanction available.

In support of this submission, the Respondent made reference to his lengthy playing history, lack of any antecedence and to his forthright and open nature in interacting with the GPT, evidenced by the fact that his club had provided FNSW with the Video despite it potentially being detrimental to his case.

The Respondent also submitted that pursuant to section 13.12 of the Regulations, the GPT order that part of the minimum suspension not to come into effect unless and until an additional offence is committed by the Respondent.

Determination of the GPT

1. The GPT determined that a melee had occurred and accepted the admission from the Respondent that he had been involved in a melee.
2. The GPT determined that whilst the Respondent's proximity to the melee resulted from his involvement in the original incident, he failed to remove himself from the initial melee and became unnecessarily involved in a secondary melee.
3. The GPT determined that the melee was a non-violent melee as there was insufficient Video evidence to establish that violent conduct had occurred.
4. The GPT also formed the view that the instigators of a melee are the persons to become involved in an incident following the original interaction. There are various instances when two/three opposing players have interactions which involve light pushing but which does not escalate into a melee. The melee only occurs when additional persons rush in to become involved in the original incident. Accordingly, as the Respondent was involved in the original incidents, rather than joining those incidents, the GPT determined that the Respondent was not the instigator of the melee.

Based on the above, the GPT found the Respondent not guilty of:

- instigating a violent melee;
- participating in a violent melee; or
- instigating a non-violent melee.

The GPT found the Respondent guilty of participating in a non-violent melee.

Sanction

Subject to section 13.12 of the Regulations, section 9.5(c) of the Regulations requires that the sanction imposed by the GPT in respect of an offence not be below the applicable minimum sanction or suspension. The minimum sanction for the breach of section 16.4(d) of the Regulations, by way of Schedule 3, Table C, Offence Code 11-01 is either 4 fixtures or a time suspension of 1 month.

Section 13.12 of the Regulations provides that in respect of a time suspension of less than six (6) months or a fixture suspension of less than six (6) fixtures, the GPT may order that part of the suspension come into immediate effect, with the other part not to come into effect unless and until an additional offence is committed during a specified probationary period. The GPT was not of a view that the circumstances in this case justified suspending any part of the sanction to be imposed on the Respondent.

Having regard to the submissions provided by the Respondent, acknowledging that the objective seriousness of the incident was at the lower end of the spectrum, the Respondent's good disciplinary record and his openness to admit participation in the melee, the GPT determined that the Respondent be issued with the minimum suspension in relation to his participation in a non-violent melee.

The Respondent is therefore suspended for four (4) fixtures. This suspension only affects the Respondent's participation in eleven-a-side football (**Suspension**).

The Respondent must serve the Suspension in the next Premiership, Championship, Cup or FFA Cup Fixture(s) in which that Respondent's Team or Club plays in, whichever occurs first, until that Suspension is served in full. The Respondent cannot serve such the Suspension in a Trial Match, Tournament, the NPL Pre-Season Competition, the Futsal State Titles, the FFA national titles, any Football NSW Representative Match, any competition, event or tournament conducted by another Member Federation or any other match/fixture.

While subject to the Suspension, the Respondent may only participate in a Trial Match, Tournament or the NPL Pre-Season Competition if the Respondent's Club has obtained written approval from Football NSW to do so. That approval is to be at Football NSW's absolute discretion.

Additional Matters

Pursuant to section 13.17 of the Regulations, the Respondent is to pay the costs of the Tribunal process as assessed by Football NSW.

The Respondent may appeal this Preliminary Determination of the GPT to the Appeals Tribunal in accordance with the Regulations, and in particular section 9.6. Any appeal must be submitted on the Notice of Appeal form (Prescribed Form 12) to tribunal@footballnsw.com.au with the relevant Application Fee (\$750), within 7 days of this Preliminary Determination of the GPT being issued by Football NSW.

Sincerely,

Ben Jones
Vice Chair
GENERAL PURPOSES TRIBUNAL