

PRELIMINARY NOTICE OF DETERMINATION.
14th August 2020

Reference is made to the following Tribunal:

1. Date of the Tribunal	13th August 2020
2. Tribunal that heard the case	General Purpose Tribunal (GPT)
3. Tribunal reference number	GPT 20-02
4. Tribunal Members	David LEWIS (Chair), Mendo CKLAMOVSKI Robert IACONIS
5. Venue of Tribunal	88 Pitt Street Redfern Board Room & via Video
6. Time of Tribunal	7pm
7. Respondent	Player X

This document constitutes a Preliminary Notice of Determination resulting from the Tribunal hearing listed above.

Charges against the **Respondent** under Sections 9.2 and 16.4 of Football NSW Grievance and Disciplinary Regulations 2020 for alleged breaches of the Football NSW Regulations and the FFA Code of Conduct related to incidents during the U16 Association Youth League match between Blacktown Districts Soccer Football Association (**BDSFA**) and Hills Football (**HF**) at Blacktown Football Park No. 1, on 11 July 2020.

Summation of the Tribunal:

The Tribunal found that the evidence and submissions:

Supported the Charges brought against the Respondent.

Charges and Pleadings:

Charge 1

During the 16's Association Youth League match between Blacktown Districts Soccer Football Association (**BDSFA**) and Hills Football (**HF**) on 11 July 2020 at, Blacktown Football Park No. 1, Player X

(**Respondent**) a Player for BDSFA, was issued a Red Card (R6) by the Match Official after using offensive, insulting or abusive language towards the Match Official, such as *"you're a stupid bitch"*, *"fucking bitch"*, *"you're a whore"* and *"shit referee"*.

This conduct was alleged to be in breach of Section 16.4(d) of the Football NSW Grievance and Disciplinary Regulations - Schedule 3, Table B, Offence Code 05-01 - *"Use offensive, insulting or abusive language and/or gestures (repeated and/or excessive conduct)"*.

Charge 2

Following the Red Card (R6) being issued to the **Respondent** by the Match Official, the **Respondent** spat on the ground near the Match Official's left foot.

This conduct was alleged to be in breach of Section 16.4(d) of the Football NSW Grievance and Disciplinary Regulations - Schedule 3, Table B, Offence Code 16-01 - *"Spitting at or towards a Match Official"*.

Pleadings & Evidence

The Respondent pleaded GUILTY to Charge 1 in his Notice of Response to FNSW however he disputed the words he was alleged to have used to the Match Official.

The Respondent pleaded NOT GUILTY to Charge 2 in his Notice of Response to FNSW and denied he spat at or towards the Match Official.

FNSW supplied a video of the relevant incidents at the Hearing.

Charge 1

The referee wrote in her match report dated 16 July that she issued a Red Card for the Offence Code R6. The detail she provided was as follows:

“Calling me a “fucking bitch” and a “shit referee” then when shown the red card spat at the ground in front of me.”

The referee was asked by FNSW to provide a more detailed report and later that day she provided the following by way of an email to FNSW:

“Within 2-3 seconds of the red card being issued, while he was still facing my direction making eye contact with me, he spat at the ground within approximately 2 metres of my left foot (to his right) before he turned and walked off the pitch while taking off his shirt. He then walked directly into the change room. I know this because as I was walking through the tunnel he walked passed me and back to his coach.”

“The fact that he was facing my direction, within 2 metres of me and spat in my direction within only seconds of the card being issued and seeing the anger on his face, I highly believe it was directed at me.”

The Respondent claimed that all he said to the referee was:

“How the fuck do you blow the whistle and award us the goal and then make us retake the penalty”.

AR2 disputed this claim and noted in his match report:

*“Eventually the Blacktown players retook the penalty and the goalkeeper saved the ball. The Blacktown players erupted again and ran towards the referee screaming in her face. The penalty kick taker (13) screamed, “you’re a stupid bit**, you’re a wh*re, get off the pitch, you’re useless”. The referee runs over to the AR1 and abandoned the match in the 71’ minute.”*

Charge 2

The Respondent at all times maintained that he did not spit at or towards the referee. He conceded that it was possible that some spit might have come out of his mouth when he approached the referee immediately prior to his send off. He however qualified this statement by noting “its always possible”.

AR1 gave highly conflicting evidence on a range of issues, generally in support of the referee, relating to both charges. The Tribunal gave no weight to his evidence.

AR2 did not see any evidence of spitting.

A Hills Player gave evidence that he saw the Respondent spit at the referee.

Determination of the Tribunal

Charge 1

The Tribunal found the Respondent **GUILTY** of Charge 1 and found that he used words consistent with the conduct alleged by Football NSW.

Whilst the Respondent denied using the words attributed to him, the Tribunal preferred the evidence of the referee, AR2 and other witnesses.

Further, the words that the Respondent claimed he used were inconsistent with the decision of the referee to issue a Red Card. If the Respondent had used the words he claimed, this would only amount to dissent and a Yellow Card would have been the appropriate sanction.

Charge 2

The Tribunal found the Respondent **GUILTY** of Charge 2.

The referee was an excellent witness and was composed and unshaken in her evidence. She consistently maintained that the Respondent spat on the ground in front of her.

Corroborating evidence was provided by a Hills Player.

Conclusion

It was clear from the video evidence that within thirty (30) seconds of the issue of the Red Card to the Respondent the referee had abandoned the match and retreated to the Match Officials' bathroom in tears. There was significant and uncontested evidence that the referee was in considerable distress from that moment on and for some time thereafter. A number of other Participants assisted her.

The immediate post-match behaviour of the referee and her corroborated evidence was consistent with the Charges brought by FNSW. Further, her actions and behaviour were completely inconsistent with the claims by the Respondent that he used relatively bland dissenting words and did not spit at or towards the referee.

Based on the evidence and on the balance of probabilities, the Tribunal was satisfied that the evidence of the referee was to be preferred.

Sanctions Imposed

In relation to **Charge 1**, the Tribunal found that the actions of the Respondent constituted an offence under Schedule 3, Table B, Offence Code 05-01 – *“Use offensive, insulting or abusive language and/or gestures (repeated and/or excessive conduct)”*.

The Respondent is suspended from 12 July 2020 for **ten (10) Fixtures**.

As the Respondent was stood down by both his Club and FNSW from 12 July, he has already served four (4) Fixtures of this suspension and therefore is to serve another six (6) Fixtures.

In relation to **Charge 2**, the Tribunal found that the actions of the Respondent constituted an offence under Schedule 3, Table B, Offence Code 16-01 – *“Spitting at or towards a Match Official”*.

The Respondent is suspended for a period of **twelve (12) months**. This suspension is to commence AFTER he serves the above Fixture suspension.

In recognition of the Respondent’s age the Tribunal has exercised its discretion under section 15.5(c) of the FNSW Regulations to the benefit of the Respondent.

Notwithstanding the “non-playing period” that is excluded from any Time Suspension, all time will be counted in the Respondent’s suspension during the 12 months. This would mean that assuming that the next six Fixtures are all played on their scheduled dates, the Time Suspension commences on 20 September 2020, after those six Fixtures, and terminates on 19 September 2021. The Respondent could therefore recommence playing in FNSW competitions from 20 September 2021.

Again in recognition of the Respondent’s age, the Tribunal will permit the Respondent to train with his Club during his suspension, provided he remains registered with his current Club.

The Respondent is to serve the Time Suspension generally in accordance with section 15.5 of the FNSW Regulations, that is he is suspended from All Football Related Activities, save for the exceptions noted above.

For clarity, the Respondent is free to train with his current Club during the Time Suspension and attend matches as a spectator however he may not do any of the other activities set out in section 15.5(e).

Fines Imposed	NIL.
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Bonds Imposed	Nil
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Additional Matters and Fees as per the Notice of Costs:

The Respondent is to pay the costs of the Tribunal process as assessed by Football NSW. A Final Determination will be produced.

Aggrieved parties to a determination of the FNSW General Purposes Tribunal may lodge an appeal to the FNSW Appeals Tribunal in accordance with sections 9.6 and 10 of the FNSW Grievance and Disciplinary Regulations. Any appeal must be submitted on the Notice of Appeal form (Prescribed Form 12) to tribunal@footballnsw.com.au with the relevant Application Fee within 7 working days of the Final Determination of the GPT (where the GPT has indicated one will be issued) being sent to the Respondent.



David P. Lewis
Chairman
GENERAL PURPOSES TRIBUNAL