

**FINAL
NOTICE OF DETERMINATION**



Tribunal	General Purposes Tribunal
Tribunal reference number	GPT 20-12
Respondent	Mr Thomas James
Date of Hearing	7 December 2020
Venue	Audio visual via Zoom
Attendees, Witnesses and Documents	Refer to Schedules 1 and 2 attached to this Final Notice of Determination.
General Purpose Tribunal Members	Mr Anthony Scarcella (Hearing Chair) Mr Pouyan Afshar Ms Courtney Scallan
Date of Preliminary Determination	16 December 2020
Date of Final Notice of Determination	8 February 2021
Key Words/Phrases	<i>“Spitting on an opponent or any other person”</i> (Schedule 3, Table A, R3 Offence, Offence Code 02-01); <i>“Serious violent conduct that has caused bodily harm ...”</i> (Schedule 3, Table A, R2 Offence, Offence Code 04-01).

<p>Findings</p>	<ol style="list-style-type: none"> 1. The actions of the Respondent did not constitute the offence of spitting at an opponent under Schedule 3, Table A, R3 Offence, Offence Code 02-01 of the Regulations. 2. The actions of the Respondent constituted the offence of serious violent conduct that has caused bodily harm under Schedule 3, Table A, R2 Offence, Offence Code 04-01 of the Regulations.
<p>Sanction</p>	<ol style="list-style-type: none"> 1. The Respondent is suspended for thirteen (13) Fixtures under Schedule 3, Table A, R2 Offence, Offence Code 04-01 of the Regulations - serious violent conduct that has caused bodily harm, to take effect from 18 October 2020. 2. The Respondent is to serve the Fixture Suspension in accordance with section 15.6 of the Regulations, in particular, sub-section 15.6(j). However, under sub-section 15.6(h), that the Fixture Suspension will NOT extend to Spectating to attend any Fixtures in which his club participates during the Fixture Suspension, albeit that he may not enter the Field of Play. 3. The Respondent pay the costs of the General Purposes Tribunal process as assessed by Football NSW.

REASONS FOR THE DETERMINATION

INTRODUCTION AND JURISDICTION

1. The General Purposes Tribunal (GPT) has been established by Football NSW (FNSW) under Section 4 of the Football NSW Grievance and Disciplinary Regulations (the Regulations). This matter was determined pursuant to the 2020 Regulations. The GPT may impose sanctions in accordance with Schedule 3 of the Regulations.
2. FNSW has a general power to investigate any incident that may constitute a breach of the Regulations. Section 1(e) of the Regulations provides:

“Where an incident may constitute a breach of these Regulations and a breach of the FFA Rules and Regulations (for example, the FFA Code of Conduct or the FFA National Member Protection Policy), Football NSW may in its absolute discretion determine the appropriate governing document under which to investigate, process, and penalise (if necessary) any matter.”
3. Section 9.1 of the Regulations relevantly provides:
 - (a) The General Purposes Tribunal has jurisdiction to hear and determine:
 - i. charges of Misconduct and Disrepute and Offences disclosed in Match Official Reports (section 9.2);
 - ii. Grievances between Members (section 9.3); and
 - iii. any other matter which the Executive determines, in its absolute discretion, is important to the interests of football in the State (section 9.4). ...”
4. Section 9.2 of the Regulations relevantly provides:
 - (a) The Board or the Executive may investigate any matter which in its opinion is relevant to whether or not a charge of Misconduct or Disrepute ought to be laid. Such investigation may be initiated on the basis of a written report or complaint of a Member, a Match Official Report, or on the basis of any other evidence which in the opinion of the Board or the Executive, is credible.
 - (b) Such investigation may be carried out by the Board or the Executive as it sees fit and Members are required to cooperate fully with Football NSW in the conduct of that investigation and must do so within the timeframe specified in any correspondence issued by Football NSW. A Member agrees that any information provided to Football NSW may be used as evidence in bringing a charge under this section 9.2 and may be provided to any party so charged. ...”
5. Section 9.4 of the Regulations is entitled “Matters of Importance” and provides:

“The Executive, in its absolute discretion, may refer any matter it determines, in its absolute discretion, to be important to the interests of football in the State, Football NSW or FFA to the General Purposes Tribunal for determination. For the avoidance of doubt, such matters include (but are not limited to) those involving Members involved in football or futsal at any level in the State.”

6. Section 16.4 of the Regulations defines the meaning of Misconduct. Section 16.4(d) includes in the definition of Misconduct any act or omission by a Member which “constitutes a breach of these Regulations including the Offences set out in Schedule 3: Table of Offences”.

NOTICE OF CHARGE

7. The Notice of Charge Football NSW (FNSW) issued to Mr Thomas James (the Respondent) dated 19 November 2020 specified that he was charged as follows:

CHARGE 1	
CONDUCT ALLEGED:	During the NPL 1, 1 st Grade Preliminary Final match between Wollongong Wolves FC (the Club) and Sydney United 58 FC on 18 October 2020 at Albert Butler Memorial Park, Thomas James (the Participant) spat on the face of the opposition Player, Adrian Vlastelica.
THIS CONDUCT IS ALLEGED TO BE IN BREACH OF:	Sections 9.2 and/or 9.4 and/or 16.4(d) of the Football NSW Grievance and Disciplinary Regulations, namely: <ul style="list-style-type: none"> • Schedule 3, Table A, R3 Offence, Offence Code 02-01, <i>“Spitting on an opponent or any other person”</i>.
CHARGE 2	
CONDUCT ALLEGED:	Further to Charge 1, the Participant raised his right boot in a backwards direction, with studs showing, making contact with the face of the opposition Player, Cristian Gonzalez.
THIS CONDUCT IS ALLEGED TO BE IN BREACH OF:	Section 16.4(d) of the Football NSW Grievance and Disciplinary Regulations, namely: <ul style="list-style-type: none"> • Schedule 3, Table A, R2 Offence, Offence Code 04-01, <i>“Serious violent conduct that has caused bodily harm or responsibility for a Melee (Grade 2)”</i>.

8. Charge 1 against the Respondent carries a minimum suspension for a first offence of a Mandatory Match Suspension (MMS) + 8 Fixtures.

9. Charge 2 against the Respondent carries a minimum suspension for a first offence of an MMS + 12 Fixtures.
10. The documents attached to the Notice of Charge are listed in Schedule 1 attached to this Final Notice of Determination.

NOTICE OF RESPONSE

11. The Respondent submitted a Notice of Response on 25 November 2020 together with the supporting documents listed in Schedule 1 attached to this Final Notice of Determination.
12. In the Notice of Response, the Respondent pleaded not guilty to each of the two charges laid against him.
13. The Respondent did not raise any jurisdictional issues.
14. Following the lodgement of the Notice of Response, the matter was referred to the GPT for hearing.

THE HEARING AND THE EVIDENCE

15. The hearing before the GPT took place by audio visual link on 7 December 2020.
16. Mr Marco Nesbeth of counsel appeared for FNSW instructed by Mr Lorenzo Crepaldi, Head of Legal & Governance, FNSW.
17. Mr Chris Sheppard, Solicitor and Director of Wollongong Wolves FC appeared for the Respondent.

Charge 1 - The alleged spitting incident

18. The Respondent was charged with spitting on the face of an opponent, namely, Adrian Vlastelica under Schedule 3, Table A, R3 Offence, Offence Code 02-01 (Charge 1).

Mr Michael Weiner's evidence in relation to Charge 1

19. Mr Michael Weiner was the referee in the subject match. Mr Weiner's evidence came in the form of a short statement in an email to FNSW dated 19 October 2020 in response to whether his attention had been drawn to an alleged spitting incident at or about the 37th minute of the match.
20. Mr Weiner stated that Adrian Vlastelica had made such an accusation and recalled as follows:

"I recall a quick throw-in taken by Wolves, James [the Respondent] beat Gonzalez on the Eastern [sic] touchline and advanced into the area, pushing the ball in front of him.

Vlastelica blocked his progress and the ball deflected back off James and out for a goal kick. James' momentum had taken him into Vlastelica, who

appeared to take offence to the bump and moved towards James to crowd his personal space, which was the catalyst for me rushing in.

I was close as the players faced each other and did not observe any physical spit but Vlastelica told me that he had been spat at. I explained to him that I had not seen it occur and therefore couldn't take any action but I spoke with James and the players near him as we moved back for the resulting goal kick to make it clear that if I witnessed something like that occurring then they would be sent off.”¹

Mr Bradley Wright’s evidence in relation to Charge 1

21. Mr Bradley Wright was an assistant referee in the subject match. Mr Wright’s evidence came in the form of a short statement dated 6 December 2020, wherein he stated:

“In or around the 37th minute of the match, following a foul on a Wollongong player a melee had broken out. The refereeing team had come [sic] to the conclusion that #9 from Sydney United was being sent off for serious foul play and that #9 [the Respondent] from Wollongong was being sent off for violent conduct. During my conversation at the time with the match referee there was no mention of a spit from the Wollongong #9 nor did I observe this incident as my attention was on another group of players.”²

Mr Janush Adabjou’s evidence in relation to Charge 1

22. Mr Janush Adabjou was an assistant referee in the subject match. Mr Adabjou’s evidence came in the form of a short statement dated 6 December 2020, wherein he referred to the ball going out of play in the 37th minute of the match but did not recall any incident between the Respondent and Mr Vlastelica.³

Mr Cristian Gonzalez’s evidence in relation to Charge 1

23. Mr Cristian Gonzalez played in the #2 shirt for Sydney United in the subject match.
24. In evidence there are statements by Mr Gonzalez dated 19 October 2020,⁴ 20 October 2020⁵ and 30 October 2020.⁶ The 30 October 2020 statement relates only to Charge 2 and will be referred to later.
25. Mr Gonzalez described the alleged incident in the following terms:

“After a tackle from our CB, Adrian V [Vlastelica], Thomas James began walking away with Adrian close behind him. As I approached Thomas James turned around and blew spit into the face of Adrian. The referee

¹ Notice of Charge, Annexure A

² Notice of Charge, Annexure MO3A

³ Notice of Charge, Annexure MO4

⁴ Notice of Charge, Annexure C

⁵ Notice of Charge, Annexure F

⁶ Notice of Charge, Annexure G

and linesman failed to see the incident. I asked the referee if he saw him spit and he said 'No I didn't'.⁷ ...

During the incident with the spitting I directed no words to Thomas James, only to the referee asking whether he has seen the spit. There were no words shared between Thomas and I.”⁸

26. At the audio visual hearing, Mr Gonzalez adopted his statements as his evidence and confirmed their accuracy. He stated that he had nothing to add.
27. Mr Gonzalez’s relevant oral evidence at the audio visual hearing in response to questions, may be summarised as follows:
 - (a) Mr Gonzalez observed the incident between the Respondent and Mr Vlastelica.
 - (b) The Respondent had his back to Mr Vlastelica and was walking away from the latter. He would not say that Mr Vlastelica was following the Respondent.
 - (c) Mr Vlastelica did not say anything to the Respondent. The Respondent turned to face Mr Vlastelica. Their faces were very close. The Respondent blew a “raspberry” and spit blew in Mr Vlastelica’s face. Mr Vlastelica reacted by pulling his face away.
 - (d) Mr Gonzalez denied hearing the Respondent say, “fuck off” to Mr Vlastelica.
 - (e) Mr Gonzalez had no recollection of the Respondent and Mr Vlastelica exchanging words at the time of the incident.

Mr Adrian Vlastelica’s evidence in relation to Charge 1

28. Mr Adrian Vlastelica played in the #4 shirt for Sydney United in the subject match.
29. In evidence there is a statement by Mr Vlastelica dated 18 October 2020.⁹ Mr Vlastelica described the alleged incident in the following terms:

“During the match on the weekend in Approx [sic] the 37th Minute. The Wollongong number 9 [the Respondent] turned in my face when the ball went out of Play [sic] and began to spray me and blow raspberry’s [sic] in my face. Salvia [sic] hit me numerous times from this on the face.”¹⁰
30. At the audio visual hearing, Mr Vlastelica adopted his statement as his evidence and confirmed its accuracy. He stated that he had nothing to add.

⁷ Notice of Charge, Annexure C

⁸ Notice of Charge, Annexure F

⁹ Notice of Charge, Annexure B

¹⁰ Notice of Charge, Annexure B

31. Mr Vlastelica's relevant oral evidence at the audio visual hearing in response to questions, may be summarised as follows:
- (a) The Respondent crossed a ball and it went out. The Respondent was muttering under his breath when he crossed the ball. The Respondent's momentum carried him into Mr Vlastelica. Words were exchanged. He did not have a clear recollection of the words used.
 - (b) Mr Vlastelica was "moving back towards where I had to go" and took a step in the Respondent's direction. The Respondent was in front of him with his back to Mr Vlastelica. Mr Vlastelica denied that he was following or tracking the Respondent. They were close to each other but Mr Vlastelica denied being in the Respondent's personal space. He did not remember who started swearing first.
 - (c) The Respondent said, "fuck off", then turned, faced Mr Vlastelica, and blew a raspberry in his face.

Mr Yianni Fragogiannis' evidence in relation to Charge 1

32. Mr Yianni Fragogiannis played in the #22 shirt for Sydney United in the subject match.
33. In evidence there is a statement by Mr Fragogiannis dated 19 October 2020.¹¹ Mr Fragogiannis described the alleged incident in the following terms:

"At approximately the 37th minute wollongong [sic] player number 9 thomas james [sic] went up close to our captains face (number 4 adrian vlastelica) [sic] and flapped his tongue, spraying saliva directly in our captains [sic] face. This incident can also be described as "blowing a raspberry" [sic].

i [sic] was looking directly at the wollongong [sic] player number 9 thomas james [sic] and saw this exact action take place. This action was clear in my view as there was no other players in my line of site- i [sic] was approximately 5-10 metres away from the incident."¹²

34. At the audio visual hearing, Mr Fragogiannis adopted his statement as his evidence and confirmed its accuracy. He stated that he had nothing to add.
35. Mr Fragogiannis' relevant oral evidence at the audio visual hearing in response to questions, may be summarised as follows:
- (a) Mr Fragogiannis was in the corner of the six yard box when he turned his head to see the Respondent blow a raspberry in the face of Mr Vlastelica. He described the Respondent's blowing a raspberry as flapping his tongue in his opponent's face.
 - (b) Mr Fragogiannis did not hear any words exchanged between the Respondent and Mr Vlastelica.

¹¹ Notice of Charge, Annexure D

¹² Notice of Charge, Annexure D

- (c) The Respondent went up to Mr Vlastelica's face. He did not recall Mr Vlastelica stepping up to the Respondent.
- (d) With the exception of the referee, Mr Fragogiannis and his goalkeeper were the closest to the incident.
- (e) Mr Vlastelica reacted to the raspberry and approached the referee to ask whether he had seen the incident.

The Respondent's evidence in relation to Charge 1

- 36. The Respondent played in the #9 shirt for Wollongong Wolves in the subject match.
- 37. In evidence there are statements by the Respondent dated 5 November 2020¹³ and 25 November 2020.¹⁴ The 25 November 2020 statement relates only to Charge 2 and will be referred to later.
- 38. In his statement dated 19 October 2020, the Respondent described the alleged incident in the following terms:

“In about the 37th minute I went past one player and made my way into the box towards goal. I attempted to cross the ball, but it struck the defender Vlastelica and my momentum carried me into him. There was no foul. I turned to walk away from him and out of frustration at my poor cross I've shouted “for fuck sake”. That wasn't aimed at anyone but myself. I had my back to Vlastelica but he stepped towards me and put his face right up to my face. I thought he was going to attack me. I told him to “fuck off”. I did not spit at him or blow a ‘raspberry’ as they are saying. He was right up in my face and had no right to be there. I don't know if spittle came out of my mouth when I told him to “fuck off”. He shouldn't have put his face right up to mine when I was walking away from him. The referee was within metres and even he said I didn't spit.”¹⁵

- 39. At the audio visual hearing, the Respondent adopted his statements as his evidence and confirmed their accuracy. He stated that he had nothing to add.
- 40. The Respondent's relevant oral evidence at the audio visual hearing in response to questions, may be summarised as follows:
 - (a) The Respondent was frustrated and angry with himself about his failed cross going out of play. He use the words, “for fuck's sake”.
 - (b) The Respondent turned to walk away from Mr Vlastelica. He had his back to Mr Vlastelica. The Respondent was talking to himself.

¹³ Notice of Charge, Annexure C

¹⁴ Notice of Charge, Annexure E

¹⁵ Notice of Charge, Annexure E

- (c) Mr Vlastelica was swearing at him in Croatian and telling him to “fuck off”. He could hear Mr Vlastelica getting closer and closer to him. He turned to face Mr Vlastelica and said, “fuck off”.
- (d) The Respondent stated that he told Mr Vlastelica to “fuck off” to his face. The Respondent denied blowing a raspberry in Mr Vlastelica’s face. He explained that spittle may have landed on Mr Vlastelica’s face when he said, “fuck off”.

The video footage of the Charge 1 incident

- 41. The duration of the video footage was 25 seconds. The footage commenced at the match time stamp of 37 minutes and 7 seconds and ended at 37 minutes and 32 seconds. The video footage could be paused and watched frame by frame. GPT members viewed the video footage numerous times prior to and after the audio visual hearing.
- 42. The Respondent’s attempted cross was seen to strike Mr Vlastelica’s right leg and then ricochet back off the Respondent and out of play for a goal kick.
- 43. The Respondent’s momentum immediately after attempting the cross carried him into Mr Vlastelica. The Respondent was then seen to commence to walk away, with his back to Mr Vlastelica. Mr Vlastelica was seen taking two short steps from behind the Respondent to take him into a position very close behind the latter. He appeared to be speaking to the Respondent. The referee was observed to rush towards the two players. The Respondent was observed to suddenly turn his head and body to his right, at which point, his face appeared to be within very close proximity to the face of Mr Vlastelica. By this time, the referee was a few metres in front of the Respondent.
- 44. The Respondent was then observed to turn back around and commence walking away. Almost immediately, Mr Vlastelica was seen recoiling and then wiping his face by pulling his shirt up over it.
- 45. Contrary to Mr Fragogiannis’ evidence, Mr Gonzalez was the player closest to the alleged incident between the two players in question. He appeared to have an almost side-on view of the incident. The referee appeared to have a front-on view of the incident.
- 46. The video footage was of some limited assistance. However, the camera was too far away from the incident for the viewer to observe whether the Respondent blew a raspberry or in some other manner expelled saliva at Mr Vlastelica’s face.

FNSW’s Submissions in respect of Charge 1

- 47. FNSW’s principal submissions may be summarised as follows:
 - (a) Blowing a raspberry is spitting. Intent is the issue. Blowing a raspberry is depositing saliva in the nature of a spit.
 - (b) Messrs Gonzalez and Fragogiannis were credible witnesses. They both described the Respondent as blowing a raspberry in Mr Vlastelica’s face.

- (c) The Respondent's evidence should be rejected as it goes against what he was saying.
- (d) The fact that Mr Vlastelica recoiled and wiped his face enables an inference to be drawn that he was wiping spittle from his face.
- (e) The Respondent's explanation of the event was one of convenience.
- (f) The context of the events is important.

The Respondent's Submissions in respect of Charge 1

48. The Respondent provided written submissions, through Mr Sheppard, dated 25 November 2020 attached to his Notice of Response bearing the same date and briefly expanded on those submissions at the audio visual hearing.
49. The Respondent's principal submissions may be summarised as follows:
- (a) The video footage of the incident demonstrated the following:
 - (i) The Respondent's momentum lawfully carried him into contact with Mr Vlastelica.
 - (ii) The Respondent turned his back on Mr Vlastelica and remonstrated to himself based on the former's statement dated 5 November 2020.
 - (iii) The Respondent stepped away from Mr Vlastelica. The latter stepped towards the Respondent and projected his face towards him so that it was very close to the right side of the Respondent's face.
 - (iv) The Respondent turned slightly to his right and both players were face-to-face and within centimetres of each other.
 - (v) A very short verbal exchange occurred as the Respondent continued to walk away from Mr Vlastelica.
 - (vi) Mr Vlastelica wiped his face with his shirt and began speaking with the referee, who was now by the former's side.
 - (vii) The Respondent continued to walk away and Mr Vlastelica continued to pursue him.
 - (b) The referee was the closest person to the described events and stated that he was close as the players faced each other. He did not observe any spit. Further, the referee stated that the Respondent's momentum had taken him into Mr Vlastelica and that the latter appeared to take offence at the bump and moved towards the Respondent, crowding his personal space. The latter event caused the referee to rush in. The referee had a clear and unobstructed view. Significant weight ought to be given to the referee's evidence.

- (c) The assistant referee on the relevant side of the pitch appeared to have a clear view of the incident and did not provide a statement.
- (d) Mr Gonzalez was further away from the incident than the referee. Mr Fragoiannis was even further away than Mr Gonzalez. Accordingly, their evidence should carry little weight.
- (e) The Respondent's evidence was consistent with the video footage of the events. He admitted to using expletives towards Mr Vlastelica when their faces were in very close proximity.
- (f) Based on all the evidence, the most probable occurrence was that some spittle was ejected from the Respondent's mouth and landed on Mr Vlastelica's face when the former told him to "fuck off". The Respondent is not guilty of Charge 1.

FNSW's Submissions in Reply in respect of Charge 1

- 50. The referee's statement that he did not see any spittle on approaching the two players, was consistent with the blowing of a raspberry.
- 51. Blowing a raspberry is a forcible ejection of saliva.
- 52. The Respondent is guilty of Charge 1.

Charge 2 - The alleged serious violent conduct

- 53. The Respondent was charged with serious violent conduct that caused bodily harm under Schedule 3, Table A, R2 Offence, Offence Code 04-01 (Charge 2), when he allegedly raised his right boot in a backwards direction, with studs showing, making contact with the face of an opposition player, Cristian Gonzalez.

Mr Michael Weiner's evidence in relation to Charge 2

- 54. In his Match Official's report dated 19 October 2020, Mr Weiner reported that he had not witnessed the incident that gave rise to Charge 2 against the Respondent because he was involved in endeavouring to prevent the further escalation of another nearby incident that had occurred seconds before. A melee ensued. When the situation de-escalated, he consulted both assistant referees.
- 55. In the 43rd minute of the subject match and on the report of his assistant referee, Mr Adabjou, Mr Weiner showed the Respondent a red card for violent conduct for kicking out at Mr Gonzalez's head with excessive force.
- 56. Mr Weiner observed that Mr Gonzalez had sustained a significant facial wound and required medical attention.

Mr Bradley Wright's evidence in relation to Charge 2

57. In his Match Official's report dated 19 October 2020, Mr Wright reported that he was consulted by the referee about the incident that had occurred in a tackle seconds before the incident involving the Respondent.
58. It was apparent from Mr Wright's report that he had not witnessed the incident that gave rise to Charge 2 against the Respondent.
59. Mr Wright reported that Mr Gonzalez's head was bloodied and he had sustained cuts to his face that required treatment.

Mr Janush Adabjou's evidence in relation to Charge 2

60. In his Match Official's report dated 20 October 2020, Mr Adabjou reported that he was consulted by the referee about the incident involving the Respondent.
61. Mr Adabjou reported that in the 38th minute of the match, a free kick was awarded to Wollongong Wolves on halfway, five metres from the sideline on which he was operating. Just after the stoppage for the free kick, a Sydney United player [Mr Gonzalez] was kneeling on the ground after having tackled the Respondent, when the Respondent kicked out at Mr Gonzalez with his studs making contact with Mr Gonzalez's head.
62. Mr Adabjou reported that he was 10 metres from the incident and had a clear view of it.

Mr Cristian Gonzalez's evidence in relation to Charge 2

63. In his statement dated 20 October 2020,¹⁶ Mr Gonzalez stated that his recollection was a bit fuzzy because of the head injury he had sustained in the alleged incident. He recalled that he had two attempts to try and win the ball. After the second attempt, he assumed that he somehow ended up on the ground and that another player had tackled the Respondent, who then kicked out at him. He acknowledged that the video footage of the incident showed him attempting to win the ball from the Respondent and whilst doing so, the Respondent kicked out at his face.
64. In his statement dated 30 October 2020, Mr Gonzalez described the injuries and sequelae arising from the alleged incident with the Respondent in the following terms:

“Several cuts to the face; 7 cuts/scratches from studs
Severe pain at the top of my nose that continued for the week following
Pain on side of my head where one of the cuts was located. Pain continued throughout the week
Dizziness for the remainder of the game following the incident
Headaches throughout the week
Doctor's appointment the day after the incident and he determined I did not require stiches [sic].”¹⁷

¹⁶ Notice of Charge, Annexure F

¹⁷ Notice of Charge, Annexure G

65. In evidence, there are three colour photographs depicting the facial injuries sustained by Mr Gonzalez in the alleged incident.¹⁸
66. Mr Gonzalez's relevant oral evidence at the audio visual hearing in response to questions, may be summarised as follows:
 - (a) Mr Gonzalez confirmed that he recalled the first two challenges preceding the incident with the Respondent. He recalled that he ended up on the ground. Having had the benefit of viewing the video footage, it appeared that he had tackled the Respondent.
 - (b) Mr Gonzalez denied that he slide tackled or tackled the Respondent with both feet. He took a step into the tackle. He did not slide into the tackle. He was trying to win the ball.
 - (c) The ball was behind Mr Gonzalez. Then the ball was back at the Respondent's feet and then it went past him. He could not remember where the ball went.

The Respondent's evidence in relation to Charge 2

67. In his statement dated 25 November 2020, the Respondent stated that he had got away from an attempted tackle by an opponent and was then fouled by Mr Gonzalez. As the Respondent was getting up after being fouled by Mr Gonzalez, the ball ended up at the Respondent's feet. The Respondent pushed the ball past Mr Gonzalez and the latter slid in with his left foot raised, clipping the Respondent's left leg. The Respondent was airborne endeavouring to jump over the tackle. Both his feet were off the ground. He lost his balance and some control of his body.
68. Mr Gonzalez's tackle put the Respondent off-balance causing him to twist to his right. His right foot was off the ground and in the air. He landed on his left foot and stumbled forward. As he did so, his right foot swung around as he tried to regain his balance after landing on the ground.
69. Mr Gonzalez was behind the Respondent and he was unable to see where he was. However, he was aware that Mr Gonzales had tried to tackle him and that "he was sort of underneath me." The Respondent's right boot accidentally came into contact with Mr Gonzalez's face. He did not intend for his right boot to make contact with Mr Gonzalez's face. He had got the ball past him.
70. The Respondent's relevant oral evidence at the audio visual hearing in response to questions, may be summarised as follows:
 - (a) Mr Gonzalez's tackle on the Respondent was a slide tackle and not a lunge.
 - (b) Mr Gonzalez's foot clipped the Respondent's left foot and put him off balance. He did not make contact with Mr Gonzalez's head deliberately. He had no control whilst he was in the air.

¹⁸ Notice of Charge, Annexures J, K, and L

- (c) The Respondent's momentum took him forward. He tried to find the ground to regain his balance. His left foot hit the ground first and, whilst trying to find the ground with his right foot, he struck Mr Gonzalez in the head with his right boot.
- (d) The Respondent denied kicking out at Mr Gonzalez. He did not know where Mr Gonzalez's head was. He was just trying to regain his balance.

The video footage of the Charge 2 incident¹⁹

- 71. The duration of the video footage was 18 seconds. The footage commenced at the match time stamp of 38 minutes and 43 seconds and ended at 39 minutes and 1 second. The video footage could be paused and watched frame by frame. GPT members viewed the video footage numerous times prior to and after the audio visual hearing.
- 72. The short video footage consisted of a very busy passage of play in which a number of tackles and incidents occurred. A description relevant to the subject charge is provided below:
 - (a) In the lead up to the subject incident, the Respondent was observed to receive the ball and was challenged by Sydney United #9.
 - (b) The Respondent won possession of the ball. Mr Gonzalez challenged the Respondent for the ball and caused the Respondent to fall to the ground.
 - (c) The ball ended up beside the Respondent as he was on the ground. The Respondent attempted to get up to play at the ball and, at the same time, Wollongong Wolves #12 and Sydney United #9 converged on the ball.
 - (d) There was a heavy collision between Sydney United #9 and Wollongong Wolves #12 and the latter fell to the ground. The referee appeared to blow his whistle and run towards Sydney United #9 and Wollongong Wolves #12. The video footage demonstrated that the referee's attention was focused on Sydney United #9 and Wollongong Wolves #12.
 - (e) However, play continued, in that, the ball continued to travel along the sideline, in the field of play, with the Respondent following it.
 - (f) Mr Gonzalez challenged for the ball by lunging at it with his left foot. Mr Gonzalez's left boot appeared to make contact with the Respondent's left leg/foot.
 - (g) At the time of the contact, the Respondent's right boot was a short way off the ground and his left boot was higher off the ground. It was difficult to calculate from the video footage how high the

¹⁹ Notice of Charge, Annexure H

Respondent's left boot was off the ground at the time contact was made. It appeared consistent with the Respondent's evidence that he was attempting to jump over Mr Gonzalez's tackle.

- (h) Whilst the Respondent was airborne, his body turned to his right (facing the sideline), with his right foot raised in an unnaturally high position. The Respondent was then seen to kick out his right boot in a backwards direction, making contact with Mr Gonzalez's face.
- (i) At the time the Respondent's right boot made contact with Mr Gonzalez's face, the latter had his right knee and his left foot on the ground (akin to a genuflexion).
- (j) The Respondent landed on the ground, stumbled, regained his balance and remained on his feet.
- (k) Mr Gonzalez fell to the ground with both hands over his face.

73. The activities described above took place over a period of eight seconds.

74. The video footage was of assistance to the GPT.

75. There was also a poor quality screenshot taken from the video footage at about the time the Respondent's right boot made contact with Mr Gonzalez's head in evidence.²⁰ On its own, the screenshot was of little assistance to the GPT in a situation where the GPT was able to pause, watch and replay the video footage frame by frame.

FNSW's Submissions in respect of Charge 2

76. FNSW's principal submissions may be summarised as follows:

- (a) Mr Gonzalez's tackle on the Respondent was a lunge rather than a slide.
- (b) The clip the Respondent received to his left leg/foot from Mr Gonzalez was not of sufficient force to change his trajectory.
- (c) The trajectory of the Respondent's body was moving forward and did not affect his balance.
- (d) The Respondent's action was more of a strike or a kick than a loss of balance.
- (e) The Respondent may not have intended to strike Mr Gonzalez's head but he knew that he was underneath him.
- (f) At the relevant time, the ball was in front of the Respondent and he was not playing for the ball.

²⁰ Notice of Charge, Annexure M

The Respondent's Submissions in respect of Charge 2

77. The Respondent provided written submissions, through Mr Sheppard, dated 25 November 2020 attached to his Notice of Response bearing the same date and he briefly expanded on those submissions at the audio visual hearing.
78. The Respondent's principal submissions may be summarised as follows:
- (a) As the Respondent has been charged with two serious offences, the Briginshaw principle requires significant convincing evidence in order for the GPT to be able to find him guilty of either charge.
 - (b) The GPT cannot be satisfied to the requisite standard that the Respondent used excessive force against Mr Gonzalez.
 - (c) The Respondent's evidence is consistent with the video footage.
 - (d) The Respondent had gone past Mr Gonzalez. Mr Gonzalez slid in to tackle the Respondent. The Respondent had both feet off the ground in an attempt to avoid the sliding tackle. Mr Gonzalez's raised left leg/foot made contact with the Respondent's left leg and caused him to lose balance and some control. The Respondent's body twisted to the right whilst he was airborne and the loss of balance and some control caused his right foot to be raised in a somewhat unnatural position. Mr Gonzalez's sliding tackle on the Respondent resulted in the former being positioned on the ground. As the Respondent's right foot landed, he stumbled and in the course of regaining balance and control, his right foot, unfortunately, made contact with Mr Gonzalez's head which was about thigh height in respect of the Respondent. The momentum of Mr Gonzalez's slide tackle took him towards the Respondent's right foot.
 - (e) At the time contact was made, the Respondent was looking away from Mr Gonzalez and had his back to him, apparently looking at the ball on the ground. Therefore, it was improbable (when combined with his momentum, loss of balance and bodily control) that the Respondent was capable of physically intending to strike out at Mr Gonzalez with his right foot.
 - (f) After regaining his balance and remaining on his feet, the Respondent did not even look back at Mr Gonzalez, which suggests that the Respondent may not even have known that his boot had connected with Mr Gonzalez's face. If this is accepted, a strong inference can be drawn that the Respondent had no intention to act violently or recklessly towards Mr Gonzalez.
 - (g) Little weight should be given to the evidence of the assistant referee, Mr Adabjou, because he suggested that the Respondent kicked out at Mr Gonzalez after a stoppage in play and whilst Mr Gonzalez was kneeling on the ground. The video footage evidenced the fact that both players were still engaged in play and the subject actions occurred whilst the Respondent was attempting to avoid Mr Gonzalez's tackle.

- (h) There should be a finding that the Respondent did not engage in serious violent conduct on Mr Gonzalez.
- (i) In the alternative, if the GPT is of the view that the Respondent's actions constituted "violent conduct", then the charge should be downgraded to Schedule 3, Table A, R2 Offence, Offence Code 02-01 "violent conduct". In this regard, the Respondent relied on MGPT 20/01 as a precedent in support of the submission for downgrading.

FNSW's Submissions in Reply in respect of Charge 2

- 79. The Respondent lost his balance on landing, not whilst airborne.
- 80. The Respondent admitted in evidence that he knew that Mr Gonzalez was underneath him.

CONSIDERATION AND FINDINGS

Charge 1

- 81. The thrust of FNSW's submissions was that there ought to be a finding that the Respondent blew a raspberry and that such action amounted to spitting because he intended to forcibly eject saliva at his opponent.
- 82. The thrust of the Respondent's submissions was that there ought to be a finding that the Respondent did not spit or blow a raspberry at his opponent and that on the balance of probabilities, some spittle was ejected from the Respondent's mouth and landed on his opponent's face when he told him to "fuck off". Such action did not amount to spitting.
- 83. The GPT carefully considered all the oral and documentary evidence before it. There was conflicting oral and documentary evidence.
- 84. The GPT's task is to unravel the available evidence and make findings on the balance of probabilities.²¹ This involves a careful analysis of the evidence in reaching a determination as to whether it was "more probable than not" that a certain alleged event occurred, that is, on the balance of probabilities. In relation to the Respondent's submission in respect of the Briginshaw principle in relation to each charge, contrary to popular belief, the Briginshaw principle in no way alters the standard of proof in civil matters. It simply means that cases involving allegations of a more serious nature may require stronger evidence to be adduced to establish the cause of action. This principle is typically applied in cases involving fraud or dishonesty and is distinguishable from this case. The Briginshaw principle is effectively subsumed within section 140(2)(c) of the *Evidence Act 1995*. The GPT is not bound by the rules of evidence or the *Evidence Act 1995* (NSW).
- 85. The video footage did not assist in identifying whether or not there was any spitting or blowing of a raspberry. It did show the Respondent suddenly turn his head and body to his right, at which point, his face appeared to be within

²¹ The Regulations at 13.16

very close proximity to the face of Mr Vlastelica. The Respondent then turned back around and commenced walking away. Almost immediately, Mr Vlastelica was seen recoiling and then wiping his face by pulling his shirt up over it.

86. Mr Weiner, the match referee, opined that Mr Vlastelica had taken offence to the bump he received from the Respondent and moved towards the latter crowding his personal space. It was this action by Mr Vlastelica that caused Mr Weiner to rush towards these two players. He was close as the players faced each other but did not observe any spit. The referee had a front-on view as he ran in towards the Respondent and Mr Vlastelica and, this could explain why he did not observe any spitting or the blowing of a raspberry. Mr Weiner did not refer to any verbal exchanges between the two men involved in the incident.
87. Mr Gonzalez gave his evidence in a forthright manner. Whilst in his evidentiary statement he described the Respondent as having blown spit into the face of Mr Vlastelica, his oral evidence clarified that their faces were very close and the Respondent blew a raspberry causing spit to land on Mr Vlastelica's face. The video footage of the incident demonstrated that Mr Gonzalez had a side-on view of the interaction between the Respondent and Mr Vlastelica. He was closer than Mr Fragogiannis, who also had an almost side-on view but from further away. The video footage demonstrated that both Mr Gonzalez and Mr Fragogiannis were looking in the direction of the Respondent and Mr Vlastelica at all relevant times. Mr Gonzalez was somewhat protective of Mr Vlastelica, in that, contrary to the evidence of the match referee, he would not agree that Mr Vlastelica was following the Respondent. Mr Gonzalez did not hear the Respondent and Mr Vlastelica exchange words.
88. Mr Fragogiannis gave his evidence in a forthright manner. He observed the Respondent blow a raspberry in the face of Mr Vlastelica. He too was somewhat protective of Mr Vlastelica, in that, contrary to the evidence of the match referee, he did not recall Mr Vlastelica stepping up to the Respondent. He did not hear any words exchanged between the two players.
89. Contrary to the evidence of the referee, Mr Vlastelica denied that he was following or tracking the Respondent or that he was invading the Respondent's personal space. The Respondent was in front of him with his back to Mr Vlastelica. Words were exchanged. He did not have a clear recollection of the words used. The Respondent said, "fuck off", then turned, faced Mr Vlastelica, and blew a raspberry in his face.
90. The GPT found the Respondent's evidence that spittle may have landed on Mr Vlastelica's face when he told him to "fuck off" to be unconvincing. It was contrary to the evidence of Mr Vlastelica that the respondent told him to "fuck off" before he turned to face him. In his evidentiary statement, the Respondent stated that he had his back to Mr Vlastelica but that the latter stepped towards him and put his face right up to his face. The latter statement is not supported by the video footage, which demonstrated that the two came face-to-face only when the Respondent turned to his right. On his own evidence, the Respondent was indignant about Mr Vlastelica encroaching on his personal space. The GPT found the Respondent's statement that he thought Mr Vlastelica was going to attack him to be unconvincing. Further, his statement that the referee had said that he had not spat at his opponent was inaccurate. For these reasons, the GPT

treated the Respondent's evidence with caution in respect of what occurred when the two players came face-to-face.

91. The GPT preferred the evidence of Messrs Gonzalez, Fragogiannis and Vlastelica in relation to what occurred when the two players came face to face, over the evidence of the Respondent for the reasons stated above.
92. The GPT was satisfied on the balance of probabilities and found that:
 - (a) In about the 37th minute of the subject match, the Respondent's attempted cross struck Mr Vlastelica's right leg and then ricocheted back off the Respondent and out of play for a goal kick.
 - (b) The Respondent's momentum immediately after attempting the cross carried him into a collision with Mr Vlastelica.
 - (c) Mr Vlastelica took offence to the collision and moved towards the Respondent crowding his personal space. This caused the match referee to commence his run towards the two players.
 - (d) Mr Vlastelica and the Respondent exchanged words.
 - (e) The Respondent suddenly turned his head and body to his right, at which point, his face came in very close proximity to the face of Mr Vlastelica. By this time, the referee was a few metres in front of the Respondent.
 - (f) The Respondent blew a raspberry at Mr Vlastelica, turned back around and commenced walking away. Almost immediately, Mr Vlastelica recoiled and wiped some spittle that had sprayed onto his face from the raspberry by pulling his shirt up over it. Had Mr Vlastelica not deliberately placed himself in such close proximity to the Respondent, it is unlikely that he would have been subjected to the spray of spittle.
93. Having found that the Respondent blew a raspberry at his opponent, the next matter for consideration and determination was whether such action amounted to spitting on an opponent within the meaning of Charge 1.
94. The Macquarie Dictionary's primary definition of "spat, spit or spitting" is "to eject saliva from the mouth". The Macquarie Dictionary provides a number of definitions of the word "raspberry". One such definition is that of a sound expressing derision or contempt made with the tongue and lips. The Urban Dictionary goes further and defines the act of blowing a raspberry as making a noise signifying derision, real or feigned; made by placing the tongue between the lips and blowing and resulting in a sound redolent of flatulence.
95. The act of "spitting on an opponent" is not defined in the Laws of the Game 2019/20 (LOTG) or in the Regulations. Charge 1 attracts a significant nine Fixture suspension as a minimum sanction for a first offence. Those who drafted the LOTG and Table of Offences in the Regulations could not have contemplated that blowing a raspberry amounted to the serious offence of spitting on an opponent.

96. Spitting on an opponent requires an element of intent to eject saliva from the mouth on the opponent. The intent behind blowing a raspberry, by its very definition, is to express derision or contempt at the opponent and the GPT so found on the evidence it accepted in this case. Whilst common sense tells us that blowing a raspberry must result in releasing saliva particles into the air, the GPT was not satisfied that the Respondent intended to deliberately eject saliva from his mouth on the opponent by blowing a raspberry.
97. Accordingly, Charge 1 has not been made out and is dismissed.

Charge 2

98. Violent conduct is defined in Law 12 of the Laws of the Game (LOTG)²² as follows:

“Violent conduct is when a player uses or attempts to use excessive force or brutality against an opponent when not challenging for the ball, or against a team-mate, team official, match official, spectator or any other person, regardless of whether contact is made.

In addition, a player who, when not challenging for the ball, deliberately strikes an opponent or any other person on the head or face with the hand or arm, is guilty of violent conduct unless the force used was negligible.”

99. Table A in Schedule 3 of the Regulations provides an explanatory note as to “violent conduct” in the following terms:

“Typically, but not limited to, the use or attempted use of excessive force against an opponent when not challenging for the ball, or against a team mate, Club Official, Team Official, Match Official or Spectator.”

100. The GPT carefully considered all the oral and documentary evidence before it. There was conflicting oral and documentary evidence.
101. The GPT rejected the Respondent’s submission that little weight be given to the evidence of the assistant referee, Mr Adabjou. Mr Adabjou’s evidence was consistent with the video footage described at [72] above. He was 10 metres from the incident and had a clear view of it. The Respondent on the other hand, was airborne, not facing Mr Gonzalez but admitted that he knew the latter was underneath him.
102. The GPT rejected the Respondent’s submission that Mr Gonzalez’s tackle on him was a slide tackle and not a lunge. It was clear to the GPT from the video footage that Mr Gonzalez took a large step or a lunge into the tackle with his left foot, which resulted in him finishing with his right knee and his left foot on the ground (akin to a genuflection) moments before he was struck by the Respondent’s right boot. It was not a slide tackle. This was also supported by Mr Gonzalez’s evidence.

²² LOTG 2019/20 at page 111

103. The GPT rejected the Respondent's submission that the Respondent's evidence was consistent with the video footage for the following reasons:
- (a) Whilst the GPT accepted that the Respondent endeavoured to jump over Mr Gonzalez's lunging tackle, the video footage did not demonstrate to the GPT that he was off-balance whilst airborne. His body was moving forward in the direction he had been running, despite momentarily facing the sideline when attempting to jump over the tackle. The video footage showed him endeavouring to get his balance once his left foot touched the ground.
 - (b) The video footage demonstrated that the Respondent kicked out his right leg when it was raised in a somewhat unnatural position and at or about the time his left foot touched the ground. He only swung his right foot/leg around after he had kicked out in a backwards direction and struck Mr Gonzalez in the face. It was difficult to conceive how kicking out his right leg in a backwards direction before swinging it around was necessary to maintain his balance on landing.
 - (c) Whilst the Respondent may not have intended to strike Mr Gonzalez in the face or head, he was aware that Mr Gonzalez was underneath him and he kicked out with his right leg in any event. Even so, intention is not a factor under Schedule 3, Table A, R2 Offence, Offence Code 04-01 of the Regulations.
104. The GPT rejected the Respondent's submission that he may not even have known his boot had connected with Mr Gonzalez's face on the basis that he did not look back at Mr Gonzalez. The video footage at the match time stamp of 38 minutes and 52 seconds, appeared to show the Respondent throwing a glance back at Mr Gonzalez, who was on the ground. Even if the latter were not so, the GPT was not able or prepared to draw the inference suggested by the Respondent, that he had no intention to act violently or recklessly towards Mr Gonzalez because he did not look back at him and did not know that he had made contact.
105. At the relevant time, the ball was in front of the Respondent and he was not playing at or challenging for the ball.
106. Mr Gonzalez's evidence in respect of the injuries he sustained in the incident involving the Respondent was unchallenged. As were the photographs of his facial injuries. The GPT is satisfied that the incident caused bodily harm.
107. The GPT preferred the evidence of the assistant referee, Mr Adabjou and Mr Gonzalez, over that of the Respondent for the reasons stated above. Further, the video footage corroborated their evidence.
108. The Respondent's actions endangered the safety of Mr Gonzalez, to whom he owed a duty of care. It was fortunate that Mr Gonzalez's injuries were not more serious.
109. The Respondent submitted that, in the alternative, if the GPT was of the view that the Respondent's actions constituted "violent conduct", then the charge should be downgraded to Schedule 3, Table A, R2 Offence, Offence Code 02-01

“violent conduct”. In this regard, the Respondent relied on MGPT 20/01 as a precedent in support of the submission for downgrading. The GPT rejected this submission. The Notice of Determination in MGPT 20/01 is of little assistance to the Respondent or the GPT. The reasons for the determination were encapsulated in two paragraphs as a result of the late guilty plea. There was no analysis of the evidence available to this GPT. The video footage of the incident in MGPT 20/01 on its own without knowing the evidence, including the Match Official’s reports, is of little assistance. The GPT has reached its determination based on the evidence in this case. The evidence in this case does not support a downgrading of the charge.

110. The GPT was satisfied on the balance of probabilities and found that:

- (a) In the lead up to the subject incident, the Respondent received the ball and was challenged by Sydney United #9.
- (b) The Respondent won possession of the ball. Mr Gonzalez challenged the Respondent for the ball and caused the Respondent to fall to the ground.
- (c) The ball ended up beside the Respondent as he was on the ground. The Respondent attempted to get up to play at the ball and, at the same time, Wollongong Wolves #12 and Sydney United #9 converged on the ball.
- (d) There was a heavy collision between Sydney United #9 and Wollongong Wolves #12 and the latter fell to the ground. The referee appeared to blow his whistle and run towards Sydney United #9 and Wollongong Wolves #12. The referee’s attention was focused on Sydney United #9 and Wollongong Wolves #12.
- (e) However, play continued, in that, the ball continued to travel along the sideline, in the field of play, with the Respondent following it.
- (f) Mr Gonzalez challenged for the ball by lunging at it with his left foot. Mr Gonzalez’s left boot made contact with the Respondent’s left leg/foot. At the time of the contact, the Respondent’s right boot was a short way off the ground and his left boot was higher off the ground. The Respondent was attempting to jump over Mr Gonzalez’s tackle.
- (g) Whilst the Respondent was airborne, his body momentarily turned to his right (facing the sideline), with his right foot raised in an unnaturally high position. The Respondent then kicked out his right boot in a backwards direction, making contact with Mr Gonzalez’s face.
- (h) At the relevant time, the ball was in front of the Respondent and he was not playing at or challenging for the ball.
- (i) At the time the Respondent’s right boot made contact with Mr Gonzalez’s face, the latter had his right knee and his left foot on the ground (akin to a genuflection).

- (j) The Respondent landed on the ground, stumbled, regained his balance and remained on his feet.
- (k) Mr Gonzalez fell to the ground with both hands over his face.
- (l) The incident caused bodily harm to Mr Gonzalez in the nature of a blow to the head resulting in short term dizziness and headaches; short term pain at the top of the nose; and facial lacerations and abrasions.
- (m) The Respondent's actions in kicking out his right boot in a backwards direction, knowing that Mr Gonzalez was somewhere underneath him, involved the use of excessive force against an opponent when not challenging for the ball.
- (n) The Respondent's actions constituted the offence of serious violent conduct that caused bodily harm within the meaning of Schedule 3, Table A, R2 Offence, Offence Code 04-01 of the Regulations.

111. Accordingly, Charge 2 has been made out and the Respondent is guilty of the offence.

SANCTION

112. FNSW submitted that, in respect of Charge 2, the following matters ought to be taken into account in relation to an appropriate sanction:

- (a) The Respondent pleaded "not guilty".
- (b) There was an obvious risk of injury in striking or kicking with studs high.
- (c) There was an intention on the part of the Respondent to strike or kick.

113. FNSW submitted that the sanction should be greater than the minimum and that an appropriate sanction would be 16 Fixtures.

114. The Respondent submitted that, in respect of Charge 2, the following matters ought to be taken into account in relation to an appropriate sanction:

- (a) The Respondent's actions were not malicious or intentional and occurred whilst he was not looking at his opponent and stumbling away from him.
- (b) The Respondent has been in Australia since 2013 and has an application for permanent residency pending.
- (c) The Respondent is married and looking to making a career in football in Australia.
- (d) The Respondent has a good Tribunal history.

115. The GPT considered the submissions made in relation to sanction and, on balance, formed the view that the minimum suspension of MMS + 12 Fixtures was appropriate.
116. Accordingly, the Respondent is suspended for **thirteen (13) Fixtures** under Schedule 3, Table A, R2 Offence, Offence Code 04-01 of the Regulations - serious violent conduct that has caused bodily harm, to take effect from **18 October 2020**.
117. The Respondent is to serve the Fixture Suspension in accordance with section 15.6 of the Regulations, in particular, sub-section 15.6(j). However, the GPT determined, under sub-section 15.6(h), that the Fixture Suspension will NOT extend to Spectating to attend any Fixtures in which his club participates during the Fixture Suspension, albeit that he may not enter the Field of Play.
118. The GPT determined that the Respondent pay the costs of the GPT process as assessed by Football NSW.

APPEAL PROVISIONS

119. Aggrieved parties to a determination of the Football NSW General Purposes Tribunal may lodge an appeal to the Football NSW Appeals Tribunal in accordance with sections 9.6 and 10 of the Football NSW Grievance and Disciplinary Regulations 2020. 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 within seven (7) working days of the Final Determination being issued.



Anthony Scarcella
Hearing Chair
8 February 2021



Schedule 1
Index of Documents
GPT 20-12

1.	NOTICE OF CHARGE AND ANNEXURES
	Notice of Charge dated 19 November 2020
Football NSW Rules and Regulations	Football-NSW-Grievance-and-Disciplinary-Regulations and FFA National Disciplinary Regulations
ANNEXURE MO1	Match Official Send-Off/Expulsion Report of Michael Weiner dated 19 October 2020
ANNEXURE MO2	Match Official Send-Off/Expulsion Report of Bradley Wright dated 19 October 2020
ANNEXURE MO3	Match Official Send-Off/Expulsion Report of Janush Adabjou dated 20 October 2020
ANNEXURE MO3A	Incident Report of Bradley Wright dated 6 December 2020
ANNEXURE MO4	Incident Report of Janush Adabjou dated 6 December 2020
ANNEXURE A	Statement of Michael Weiner dated 19 October 2020
ANNEXURE B	Statement of Adrian Vlastelica dated 18 October 2020
ANNEXURE C	Statement of Cristian Gonzalez dated 19 October 2020
ANNEXURE D	Statement of Yianni Fragogiannis dated 19 October 2020
ANNEXURE E	Statement of Thomas James dated 5 November 2020
ANNEXURE F	Statement of Cristian Gonzalez dated 20 October 2020

ANNEXURE G	Statement of Cristian Gonzalez dated 30 October 2020
ANNEXURE H	Video Footage of R3 Spitting Incident (Charge 1)
ANNEXURE I	Video Footage of R2 Incident (Charge 2)
ANNEXURE J	Post-Incident Photograph of Cristian Gonzalez No. 1
ANNEXURE K	Post-Incident Photograph of Cristian Gonzalez No. 2
ANNEXURE L	Post-Incident Photograph of Cristian Gonzalez No. 3
ANNEXURE M	Screenshot of R2 Incident (Charge 2)
2.	NOTICE OF RESPONSE AND ANNEXURES
	Notice of Response dated 25 November 2020
	Statement of Thomas James dated 25 November 2020
	Written submissions by Chris Shepherd dated 25 November 2020
3.	GPT PRECEDENTS
	Final Determination GPT 18-46 (redacted)
	Notice of Determination MGPT 20-01 Daniel Araujo and video footage - RCS v BC Incident
	Final Determination GPT 20-03 David D'Apuzzo
	Final Determination GPT 20-04 David D'Apuzzo

	Final Determination GPT 20-07 (redacted)
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Schedule 2



**GENERAL PURPOSES TRIBUNAL
GPT 20-12
Monday, 7 December 2020 at 6.30pm
via Zoom**

ATTENDEE REGISTER

ATTENDEE	POSITION
Anthony Scarcella	GPT Vice-Chairman
Pouyan Afshar	GPT Panel Member
Courtney Scallan	GPT Panel Member
Lorenzo Crepaldi	Head of Legal & Governance, Football NSW
Michael Kantarovski	Legal & Regulatory Officer, Football NSW
Marco Nesbeth	Independent Counsel for Football NSW
Thomas James	Respondent
Chris Sheppard	Respondent's Legal Representative and Director of Wollongong Wolves FC
Mark Ivancic	Sydney United 58 FC's club representative
Adrian Vlastelica	Complainant
Cristian Gonzalez	Complainant
Yianni Fragogiannis	Witness