

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

GPT 18/75

Date of Hearing	21 November 2018
Date of Final Determination	28 November 2018
Respondent	James Mawein West City Crusaders FC
Attendees, Witnesses & Documents	As attached in the Schedule
The basis upon which the matter is before the General Purposes Tribunal	Football NSW Grievance and Disciplinary Regulations Section 9.2, 16.4(d), FFA Code of Conduct, FFA National Disciplinary Regulations 2018.
Key Words/Phrases	Use of aggressive and offensive language towards a Referee, Unprofessional Conduct, Threatening or Intimidation of a Match Official by word or action, Threat of physical violence towards a Match Official or his/her family or property.
General Purposes Tribunal Members	Mr David P. LEWIS (Chair) Mendo CKLAMOVSKI 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 2018 Regulations.

B. NOTICE OF CHARGE

2. During the Futsal Premier Leagues 2 (FPL2) Open Men's match between West City Crusaders FC and Sydney City Eagles on 3 November 2018 at Hawkesbury Indoor Stadium, the Respondent, Mr James Mawein from West City Crusaders FC, was alleged to have grabbed onto an opposition player (Michael Camino). As a result, the Respondent was issued with a second caution and then a Red Card (Charge 1 - R7). After being issued with the Red Card, the Participant refused to leave promptly. When a Match Official (Riad Wazzi) directed the Participant to leave, the Participant said to that Match Official, words to the effect of: *"don't fucking be a smart ass to me ill fucken [sic] punch you in the face and bash you"* (Charge 2).
3. On 9 November 2018, FNSW issued the Respondent with a Notice of Charge pursuant to section 9.2 and 16.4(d) of the Regulations relating to incidents during the abovementioned match.
4. The Respondent was charged under section 9.2 of Football NSW Regulations (Regulations) for alleged breaches by the Respondent of section 16.4(d) of the Football NSW Grievance and Disciplinary Regulations 2018:
 - a. **Charge 1:**
Schedule 3, Table A, Offence Code 01-01 (R7) and
 - b. **Charge 2:**
Schedule 3, Table B, Offence Code 09-01 *"Threatening or intimidating language or conduct towards a Match Official"* or 10-01 *"Threat of physical violence towards a Match Official or his/her family or property"*.

Respondent's Submissions

5. The Respondent did not supply a Witness Statement and therefore made verbal representations at the Hearing.
6. The Respondent stated in his Notice of Response to Charge 1: *"I do not accept the charge and plead not guilty."* He did not plead to Charge 2 in the Notice of Response. At the Hearing the Respondent pleaded Not Guilty to both Charges.
7. During the Hearing the Respondent conceded that he was guilty of Charge 1.
8. The Respondent denied that he abused the Match Officials.

C. THE HEARING

9. The Tribunal had the benefit of video evidence that showed most of the relevant actions of the incident including the brief scuffle of several players including images of the Respondent running in and grabbing an opposition player. The incident ends quickly and the Respondent can then be seen calmly discussing the incident with Mr Michael Cimino, the opposition player from Sydney City Eagles. No punches were thrown by any player and it is clear that all that takes place is some pushing and grabbing. Evidence was given at the Hearing that the Respondent and Mr Cimino were former teammates and remain friends.

10. The Referee is then seen to issue the Respondent with a second Yellow Card and then a Red Card for his involvement in the scuffle. As the Respondent leaves the field of play he waves his finger at the Referee twice – once as he is issued the Red Card and again as he is walking away towards the sideline.
11. At the far left of the video, with 5-6 seconds left to run, one can see the actions of the Respondent as he is then standing just on the field of play. He is standing with two Sydney City Eagles substitute players and an unidentified man in an orange cap. It is reasonable to assume that they are discussing the incident. The Tribunal was made aware that the Respondent previously played for Sydney City Eagles.
12. Referee number 1 tendered the following Match Official Report:
In the 31st minute of the game, after number 18 from Sydney City Eagles kicked a player from West City Crusaders, Number 8 (WCC) came running into this scenario and grabbed onto number 18 from Sydney City Eagles. This player escalated the melee and caused most players to surround around. After the incident broke away, I then gave this player a yellow card which was his second, leading to him being sent off (R7). As he was leaving, he then said "I'll remember you ref for next time", and "That's fucking ridiculous". It was difficult to get him to get removed from the technical area and noticed him abusing the R3, and didn't resume play until he left the area. Play resumed within 2 minutes of stopping. I was directly in front of the play half way into the pitch (Approx 6-7 metres).
13. Referee number 3 tendered the following Match Official Report:
After the R1 Manwel blew a foul James got up and walked off then came back running in and pushed the Sydney City Eagles player this action escalated everything and another melee started but no punches were thrown so then Manwel gave him his second yellow James carried on his aggressive behavior when he came off he was taking his time and arguing with the players from the other team on the bench when I asked him to leave as an R3 he said "don't fucking be a smart ass to me I'll fucken punch you in the face and bash you" then Manwel the R1 one (sic.) told him to leave then he said "fuck the referees".
14. Referee number 2 did not offer a substantive Match Official Report.
15. Under examination, Referee number 1 noted that he saw the Respondent in discussion with Referee number 3 still on the field of play. As he approached the respondent he heard him say “I’ll fucking smash you” to Referee number 3.
16. Referee number 3 confirmed the words the Respondent used to him.
17. The Respondent denied using the words attributed to him in the Referee’s Reports and evidence. He did not offer an alternative explanation.
18. Mr Warren Ladd, Club Official from West City Crusaders FC, noted that the coach of Sydney City Eagles (Roy), helped to get the Respondent out of the field of play and to walk him out of the playing area. The Tribunal understood this evidence to mean that the Respondent was unwilling to leave and was causing problems in this regard.
19. Football NSW did not elect to make any submissions in relation to possible sanctions other than to charge the Respondent and identify the suggested Offence Codes relevant to the alleged conduct of the Respondent.

D. CONSIDERATION & DETERMINATIONS

20. There was strong and consistent evidence from all parties, with the exception of the Respondent, that the Respondent abused and threatened the Match Officials in the manner and content consistent with that expressed above. No alternative explanation was offered and Mr Warren Ladd’s evidence corroborated the claim that the Respondent was disruptive after his receipt of his Red Card.

21. Visual evidence from the video was consistent with the evidence of the Referees and others and the Respondent did not offer any alternative explanation for his actions other than a simple denial that he said anything.

E. FINDINGS

22. The Tribunal found the Respondent was Guilty of both Charges.
23. In relation to Charge 2, the Tribunal found that the actions of the Respondent constituted an offence under Schedule 3, Table B, Offence Code 10-01 - *"Threat of physical violence towards a Match Official or his/her family or property"*. The Respondent threatened BOTH Referee 1 and Referee 3 with the latter threat taking place after he had an opportunity to calm himself.
24. The Respondent is to serve the suspension as a Player and in accordance with section 15.6 of the Regulations, in particular, sub-sections 15.6(h) and (j) which provide that, on the day of a Fixture, the Respondent must not:
- a. enter the field of play (or court), its surrounds, the technical area, players race, dressing rooms or any other place within a stadium, venue, ground or Centre where players and/or officials are likely to assemble to prepare for a match;
 - b. be seated in an area in a stadium, venue, ground or Centre normally reserved for players and/or officials; and
 - c. in the case of coach, must not engage or attempt to engage a third party to relay coaching instructions.

F. SANCTIONS AND COSTS

25. In relation to Charge 1, the Tribunal imposed a Sanction under Schedule 3, Table A R7 Grading 01-01 and therefore a suspension of **one (1) Fixture**. This was the minimum Sanction permitted given a finding of guilt. The sanction imposed for Charge 1 may be served concurrently with the sanction imposed for Charge 2.
26. In relation to Charge 2, the Respondent is suspended for **twelve (12) Months** from ALL Football Related Activities in relation to this Charge. Football Related Activities are defined in Section 15.5(e) of the 2018 Regulations.
27. The Tribunal was advised that the Respondent effectively commenced his suspension on 3 November 2018 and therefore **his suspension will expire at midnight on 2 November 2019**. This was the minimum Sanction permitted given a finding of guilt. The Tribunal will permit the Respondent to continue train with his club so that he has the opportunity to mentor and assist juniors and thereby ensure that others do not similarly offend.
28. The Tribunal determined that the Respondent should 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 2018. 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 this Final Determination being issued.



David P. Lewis

Chairman

29 November 2018

The Schedule

Index of Documents

FOOTBALL FEDERATION AUSTRALIA RULES AND REGULATIONS	Football Federation Australia National Disciplinary Regulations
FOOTBALL NSW RULES AND REGULATIONS	Football NSW Grievance and Disciplinary Regulations
ANNEXURE A	Notice of Charge 9 Nov 2018
ANNEXURE B	Notice of Response
ANNEXURE C	Video of alleged incident
ANNEXURE MO1	Match Official Report – Referee number 1
ANNEXURE MO2	Match Official Report – Referee number 2
ANNEXURE MO3	Match Official Report – Referee number 3



GENERAL PURPOSES TRIBUNAL
GPT 18-75
Wednesday, 21 November 2018 at 6.30pm
FNSW Headquarters

ATTENDEE REGISTER

ATTENDEE	POSITION	SIGNATURE
David Lewis	GPT Chairman	
Louis Fayd Herbe	GPT Member	
Mendo Cklamovski	GPT Member	
Manwel Limnios	Match Official	
Jamie Ewin	Match Official	
Riad Wazzi	Match Official	
Paul Franks	West City	
Warren Ladd	West City Crusaders	
Jessica Thorley	West City Crusaders	
James Mawein	West City Crusaders	
Jesse Boness	West City Crusaders	
Dione King	West City Crusaders	
Zackary O'Riley	West City Crusaders	
Peter Malachuk	" "	
Jan Breckenridge	Sydney City Eagles	
Jessica Beale	Sydney City Eagles	
Michael Cimino	Sydney City Eagles	
Martin Fernandez	Sydney City Eagles	