



FOOTBALL  
NSW

## NOTICE OF DETERMINATION

Proceeding under section 9.2 of the  
Football NSW Grievance and Disciplinary Regulations

### Proceeding Details:

<b>Tribunal reference</b>	MGPT 23-02
<b>Date of hearing</b>	24 May 2023
<b>Time of hearing</b>	6.00pm
<b>Venue of hearing</b>	Via Zoom
<b>Tribunal Member(s)</b>	Robert Iaconis, Member, FNSW GPT
<b>Respondent</b>	Anthony FRANGIE (FFA No: 11296050)
<b>Fixture</b>	NPL NSW Men's First Grade match between Mt Druitt Town Rangers FC and St George City FA on 15 April 2023 at Popondetta Park.

*This Notice constitutes the General Purposes Tribunal's Determination resulting from the Tribunal hearing listed above.*

### Charge(s) and Determination(s):

<b>Charge(s)</b>	<b>Tribunal determination</b>
<p>1. The Respondent was issued with a Red Card (Code R7 – Offence One) for committing a second bookable offence - breach of Section 16.4(d) of the Football NSW Grievance and Disciplinary Regulations 2023 (<b>Regulations</b>), specifically, Schedule 3, Table A, Red Card Code R7, Offence Code 01-01: "Second Yellow Card in a Match".</p> <p>Following the Respondent being issued with the Red Card, the Respondent used words to the effect of "get a real fucking job" towards the Referee, in breach of Section 16.4(d) of the Regulations, specifically, Schedule 3:</p> <ul style="list-style-type: none"><li>Table B, Offence Code 04-01: "Use offensive, insulting or abusive language and/or gestures (isolated incident)";</li></ul>	<p>1. <b><u>Plea:</u> Guilty (to the alternative Charge: Schedule 3, Table B, 03-01), but disputed some or all of the facts.</b></p> <p><b><u>Finding:</u> Guilty (Primary Charge: Schedule 3, Table B, 04-01)</b></p> <p><b><u>Determination:</u></b></p> <p><b>Three (3) fixtures</b></p> <p><b><u>Reasons:</u></b></p> <p><i>While the Respondent pleaded Guilty, it was to the lesser alternative charge based on his submission that the words "get a real fucking job" were said in 'frustration', and not in any direct manner towards the Match Official.</i></p> <p><i>The Tribunal did not accept that the words were said in 'frustration', such that it would enliven the lesser charge. The Tribunal preferred FNSW's view that the comment carries an element of abuse directed at a person (i.e. it's direct and personal) rather than words said in frustration like: "oh for fuck's sake", which is a comment of a more general nature and</i></p>

<p><b>or in the alternative</b></p> <ul style="list-style-type: none"> <li>• Table B, Offence Code 03-01: <i>“Use offensive, insulting or abusive language and/or gestures in frustration”.</i></li> </ul>	<p><i>could be construed to be indirect. The Tribunal was satisfied that given the comment made, the fact that it was made to the Match Official after the Respondent received the Red Card, and that it is consistent with other matters of a similar nature, the primary Charge (Table B, 04-01) is the appropriate charge.</i></p> <p><i>Based on the evidence provided, the Tribunal finds the Respondent “Guilty” of Charge 1 as noted above.</i></p>
<p>2. Following Charge One, the Respondent proceeded to the Referee Dressing Room, entered the Referee Dressing Room and spat on the top of a Match Official’s kit bag, in breach of Section 16.4(d) of the Regulations, specifically, Schedule 3: Table C, Offence Code 03-01: <i>“Unsportsmanlike or unprofessional behaviour”.</i></p>	<p>2. <b><u>Plea: Guilty, but disputed some or all of the facts.</u></b></p> <p><b><u>Finding: Guilty</u></b></p> <p><b><u>Determination:</u></b></p> <p><b>Three (3) fixtures</b></p> <p><b><u>Reasons:</u></b></p> <p><i>The Respondent pleaded Guilty accepting that his conduct was unsportsmanlike and unprofessional, but disputed any intention to spit on the Referee’s bag. The Respondent submitted that “in a fit of rage and sheer anger” at receiving a red card, there is every chance that the level of discharge that ended up on the Referee’s bag could have occurred. He submitted that he did not intentionally spit on the bag and that he did not even realise where he was until the team manager directed him to the player’s changeroom.</i></p> <p><i>The Respondent noted that he did not completely enter the Referee changeroom and that the door was “closed but ajar”. While it is difficult to make out, it appears consistent with the available video footage which in the Tribunal’s opinion shows the Respondent lean into the room but not completely enter.</i></p> <p><i>This raised concerns with the Tribunal in relation to the Respondent’s submissions about how the discharged ended up on the Referee’s bag. If the Respondent was going into the player’s changeroom, he would not have stopped at the entry where only his torso entered to “rage”. Further, the video footage also shows that the Respondent’s</i></p>

*'entry' into the Referee's changeroom lasted no more than a second or two.*

*FNSW maintained the submission that the level of discharge was consistent with an intentional act, and aggravating given that it was against a Match Official even if it was deemed 'unintentional'. FNSW further submitted that even if there was no intention as submitted by the Respondent, it is a demeaning act and considered descent against a Match Official, given the potential transmission of disease (noting the Referee made contact with the discharge).*

*The Tribunal could not conclude whether the discharge on the Referee's bag was the result of an intentional or unintentional act. The Respondent acknowledges that the discharge was there by his own doing, but denies any intention. The video is somewhat unhelpful in contradicting the Respondent's position, but it does go some way to questioning the Respondent's version of how the discharge ended up on the Referee's bag.*

*In any event, the Tribunal is satisfied that reaching a conclusion on intention is not necessary in considering guilt for this Charge. The Respondent has pleaded Guilty to the charge (albeit disputing the facts) and the Tribunal agrees that the Respondent's conduct was unsportsmanlike and unprofessional. The Respondent's conduct resulted in the discharge ending up on the Referee's bag and he was clearly acting in a matter he should not have been, and clearly in a place he should not have been, after being sent from the field of play. It is obvious that if the Respondent had simply gone straight into the player's changeroom and remained there allowing sufficient time for his "rage" to subside, this would not have transpired. Spitting or discharging saliva in any context is a disgusting and demeaning act regardless of how it happens.*

*Based on the evidence provided, the Tribunal finds the Respondent "Guilty" of Charge 2 and believes a sanction above the minimum is warranted as noted above.*

3. Following Charge Two, the Respondent stood outside the Referee Dressing Room and proceeded to shout at the Match Officials in a threatening and/or intimidating manner, requiring him to be physically restrained from advancing towards the Match Officials and “man-handled” into his team’s Player Dressing Room by his own team-mates while still screaming at the Match Officials and using words to the effect of “think your [sic.] fucking hard”, in breach of Section 16.4(d) of the Regulations, specifically, Schedule 3:

- Table B, Offence Code 09-01: “Threatening or intimidating language or conduct”; **or in the alternative**
- Table B, Offence Code 04-01: “Use offensive, insulting or abusive language and/or gestures (isolated incident)”; **or in the alternative**
- Table C, Offence Code 37-01: “Failure to comply with section 17.6(g) of these Regulations (restrictions imposed on Participants after receiving a Red Card or being expelled during a Match). Any sanction applied is in addition to the sanction issued in respect of the Red Card Offence or the Expulsion Offence”.

3. **Plea: Guilty, (to the alternative Charge: Schedule 3, Table C, 37-01), but disputed some or all of the facts.**

**Finding: Guilty (of the alternative Charge: Schedule 3, Table B, 04-01)**

**Determination:**

**Three (3) fixtures**

**Reasons:**

*While the Respondent pleaded Guilty, it was to the lesser alternative charge (Table C, 37-01) based on his submission that the proximity of the player’s changeroom to the Referee changeroom meant that he was not waiting outside the Referee changeroom. The Respondent submitted that he did converse with the Match Official but did so from the doorway of the player’s changeroom.*

*The Respondent also acknowledged that while he was yelling, it was not at the top of his lungs, and said words to the effect of: “what was the card for” and “you think you’re tough you don’t want to speak to me”. Further, the Respondent acknowledged that while he had to be removed from the door, it was not forcibly but nudging to move away and “leave it alone”. The Respondent submitted that the accounts of the Match Officials was not an accurate record of what happened and a “tad exaggerated”. He was there and spoke to the Match Officials, but it was not threatening or intimidating.*

*FNSW maintained that the primary Charge (Table B, 09-01) was the correct charge for the conduct given the Respondent needed to be restrained by teammates, using words to the effect of “think your [sic.] fucking hard”. FNSW submitted that while this can be interpreted in many ways, it was intended to be intimidating and created a “hostile environment”. FNSW further submitted that it’s what the Match Official felt – in their statement they confirmed they felt unsafe.*

*However, FNSW conceded there is no video footage of the incident and the alleged conduct is on the low end of offending, in that it is not consistent with language in line with this charge, for example: “I’ll meet you in the car park”. FNSW submitted that if the primary charge could not be made out, that the*

*alternate charge: Table B, Offence Code 04-01: "Use offensive, insulting or abusive language and/or gestures (isolated incident) was made out.*

*The Tribunal concluded that the primary charge (Table B, 09-01) could not be made out on the evidence available. While the Match Official in his statement said that they did not feel safe to enter the changeroom and waited for the Respondent to be removed, it is possible that this decision was made out of caution rather than because the Respondent's conduct or language was threatening or intimidating. In fact, the video footage does show the point the Respondent was sent from the field of play and the Respondent can be seen being restrained from approaching the Match Official and made comments similar to those alleged in this Charge, but it did not appear that the Match Official was, or felt, threatened or intimidated.*

*The Tribunal was satisfied that the Respondent's conduct in the post-game incident with the Match Officials was consistent with the Charge: Table B, Offence Code 04-01: "Use offensive, insulting or abusive language and/or gestures (isolated incident)".*

*Based on the evidence provided, the Tribunal finds the Respondent "Guilty" of Charge 3 as noted above.*

### **Serving of Suspension:**

The Tribunal has determined that the Respondent is to serve the minimum sanction for Charges 1 and 3, and a sanction of three (3) Fixtures for Charge 2, which totals to a **nine (9) Fixture suspension**.

#### Respondent's Submissions

The Respondent made submissions (both at the hearing, and in writing following the hearing), that any sanctions for the Charges should be served wholly concurrently given the level of remorse he has shown since the incident, his relatively clean disciplinary record, the positive character references submitted, and the unlikelihood the Respondent would re-offend.

#### FNSW Submissions

FNSW made a number of submissions in response. The essence of those submissions being that given the nature of the conduct (re all three Charges) and that the Respondent needed to be physically restrained following his dismissal and to allow the Match Officials to enter their changeroom, it is not appropriate for the Respondent to serve any sanctions wholly concurrently.

However, FNSW did accept that the Respondent has shown remorse and contrition and submitted glowing character references. FNSW submitted that these matters should be

considered by the Tribunal in any exercise of its discretion in relation to directing any sanctions to be served consecutively, concurrently, or partly thereof.

*Application of Discretion*

The Tribunal agrees that it has the power to exercise its discretion in this matter in the manner set out in section 13.11(l). That is, the Tribunal could in finding the Respondent guilty of all three Offences, sanction him to serve a three (3) Fixture suspension for each of the Offences yet direct that these suspensions be served concurrently.

*Conclusion*

The Tribunal exercises its discretion in this matter in the manner set out in section 13.11(l) of the Regulations. As detailed above, the Respondent is found Guilty of all three Charges and suspended for three (3) Fixtures for each Charge. The Respondent is to serve those suspensions **partly concurrently for a total suspension of six (6) Fixtures.**

**Costs:**

The Tribunal determined that the costs of the Tribunal, as determined by FNSW, be met by the Respondent.

Aggrieved parties to a determination of the FNSW General Purposes Tribunal may lodge an appeal to the FNSW Appeals Tribunal in accordance with sections 9.8 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](mailto: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.

Please note that the FNSW Appeals Tribunal may vary, by way of reduction or increase, any sanction, measure or order imposed by the FNSW General Purposes Tribunal without the necessity to provide any prior notice to any party to the appeal of its intention to do so.

**8 June 2023**

Robert Iaconis

Member

FNSW General Purposes Tribunal