

DISCIPLINARY DECISION

Match	Lethbridge Rugby Club at Calgary Rams RFC		
Competition	MDEV		
Date of match	June 10, 2022	Match venue	Calgary Rugby Park
Rules to apply	Regulation 17 World Rugby Handbook;		



PARTICULARS OF OFFENCE			
Player's surname	Navitkula	Date of birth	
Forename(s)	Mesake		
Player's Club	Lethbridge Rugby Club		
Referee Name	Keith McLeod	Plea	<input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not Admitted
Offence	9.12 A Player must physically abuse anyone	SELECT: <input checked="" type="checkbox"/> Red Card <input type="checkbox"/> Citing <input type="checkbox"/> Other If "Other" selected, please specify:	
Summary of Sanction	2 weeks (Translated to 2 matches)		

HEARING DETAILS			
Hearing date	July 4, 2023	Hearing venue	Calgary, Alberta by desktop
Chairman/DO	John McDonald		
Other Members of Disciplinary Committee			
Appearance Player	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Appearance Club	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Player's Representative(s)			
List of documents/materials provided to Player in advance of hearing	Sending off report		

SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/INCIDENT FOOTAGE

Ball left the ruck, I followed the ball. Shoulder check, ruck did not clean up, followed ball, next shoulder check L8 has a Ram by the collar, both hands shaking/striking the chest of the Ram.
Low level of danger but L8 was in previous flare ups as instigator and was warned.

ESSENTIAL ELEMENTS OF OTHER EVIDENCE (e.g. medical reports)

N/A

SUMMARY OF PLAYER'S EVIDENCE

It is the position of the player and LRC that L8 did not strike/punch the rams player but was shaking him, no punch was thrown.

FINDINGS OF FACT

While there is some contrary evidence between the red card report and the Players/Club's representation, I am satisfied that I can fairly adjudicate the matter on the basis of written representations.

I am not required to find that a thing did or did not happen to the Criminal Standard of beyond a reasonable doubt, as with all administrative tribunals the burden of proof standard is the Balance of Probabilities, that means that based on the preponderance of evidence, I must be more convinced than not that a thing happened, or did not.

On the allegation with respect to Law 9.12 A Players shall not Physically abuse anyone. World rugby regulation 17 goes on to say that physical abuse includes but is not limited to the following: Biting, intentional contact with the eyes, reckless contact with the eyes, contact with the eye area, Punching or striking with the hand arm or elbow, striking with the head, striking with the knee, stamping or trampling, and or kicking. The operative portion of the law is "but not limited to" it then confers some subjective discretion to the decider of fact. I am further convinced that grasping another player by the collar and shaking him or her, or striking the player in chest as alleged is in fact foul play contemplated under the laws.

In the absence of any evidence to the contrary and based on the Referees report I am convinced on the balance that referee warned Mr. Navitkula earlier in the match as having instigated previous flare-ups.

I am further convinced on the basis of the referees sending off report and the players and or clubs representations that Mr Navitkula did in fact physically abuse another player, albeit in a minor way. I find that based on the forgoing, the fact that Mr. Navitkula had been warned earlier in the match that a sending off was warranted and will not interfere with the match official decision on the day.

DECISION

Relevant Laws:

The player was ordered off under law 9.12 Which states:

Law 9.12 A player must not physically or verbally abuse anyone physical abuse includes, but is not limited to, biting, punching, contact with the eye or the eye area, striking with any part of the arm, shoulder, head or knees, stamping, trampling, tripping or kicking.

In respect of the player’s argument that he did not strike the Rams player that he only grasped him by the collar and shook him I am convinced on the balance of probabilities that shaking would be included under the definition of law 9.12 two and I paraphrase but is not limited to.

It is my view that shaking a player has no place in the game and while it is a low instance of foul play it is in fact foul play as contemplated under law 9.12.

For the reasons set out Above and the findings of fact above the player has not shown on the balance probabilities that the match official was wrong in ordering off the player. The red card was not overturned.

Breach admitted

Proven Not Proven Other disposal (please state)

SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 17.18.1(a)-(b) (or equivalent Tournament rule)
<input checked="" type="checkbox"/> Intentional <input type="checkbox"/> Reckless
State Reasons
There was no rugby reason for the player to initiate the grasping and shaking contact with the Calgary Rams player this act was deliberate.
Nature of actions – R 17.18.1(c) (or equivalent Tournament rule)
The force applied by shaking or lightly striking in the chest another player was of a low force.
Existence of provocation – R 17.18.1(d) (or equivalent Tournament rule)
There is some evidence that there may have been some provocation it is noted by the match official that the Rams appeared to be focusing on the Lethbridge 8 temper.
Whether player retaliated – R 17.18.1(e) (or equivalent Tournament rule)
There’s insufficient evidence for me to make a finding as to whether the contact was a form of retaliation of another player’s actions or not.

Self-defence – R 17.18.1(f) (or equivalent Tournament rule)
There is insufficient evidence for me to determine on the balance whether or not the player was acting out of anger or in self-defense.
Effect on victim – R 17.18.1(g) (or equivalent Tournament rule)
Apart from his immediate remonstrations the Calgary Rams player appeared to be unhurt.
Effect on match – R 17.18.1(h) (or equivalent Tournament rule)
Sending off occurred at the 39 th minute of the second half as a result Lethbridge played the remainder of the game one man down.
Vulnerability of victim – R 17.18.1(i) (or equivalent Tournament rule)
Save for the grasp at the collar the Rams player was unrestrained and not vulnerable.
Level of participation/premeditation – R 17.18.1(j) (or equivalent Tournament rule)
There was no premeditation identified in the evidence.
Conduct completed/attempted – R 17.18.1(k) (or equivalent Tournament rule)
It is Mr Navitkula as evidence that he did in fact grasp and or shake the Rams player.
Other features of player’s conduct – R 17.18.1(l) (or equivalent Tournament rule)
N/A

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point					
<u>Top end*</u>	<u>Weeks/Matches</u>	<u>Mid-range</u>	<u>Weeks/Matches</u>	<u>Low-end</u>	<u>Weeks/Matches</u>
<input type="checkbox"/>	Click Here For #	<input type="checkbox"/>	Click Here For #	<input checked="" type="checkbox"/>	<u>2</u>

*If Top End, the JO or Panel should identify, if appropriate, an entry point between the Top End and the maximum sanction and provide the reasons for selecting this entry point, below.

In making this assessment, the JO/Committee should consider World Rugby Regulations 17.18.1(a), 17.18.1(g), and 17.18.1(h) or the equivalent provisions within the Tournament Rules referred to above.

<u>Reasons for selecting Entry Point above Top End</u>
The low end entry point is selected for striking as there is some evidence to suggest that Mr Navitkula did in fact strike the Calgary Rams player in the chest in the alternative if he did not strike the Calgary Rams player in the chest he admittedly shook the Calgary Rams player and as a result I do not find that an entry point above the low end is required under the circumstances.

RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 17.19.1(a) (or equivalent Tournament rule)	Player’s disciplinary record – R 17.19.1(b) (or equivalent Tournament rule)
The player partially admits to engaging in some form of foul play notwithstanding he maintained that he did not strike another player as a result I find this fact or partially mitigating.	The player has a record as an offender of the game in 2019 he was sanctioned for tip or dump tackling another player I do not find the presence of a single sending off report in a four year span notwithstanding COVID to be particularly mitigating nor aggravating for that matter
Youth and/or inexperience of player – R 17.19.1(c) (or equivalent Tournament rule)	Conduct prior to and at hearing – R 17.19.1(d) (or equivalent Tournament rule)
The player is an experienced rugby player having played in multiple jurisdictions throughout the world as a result I do not find any mitigation based on youth or inexperience.	The player advised that he did not wish an in person hearing and to proceed on a desktop basis his conduct a prior to Was appropriate but for the fact that there is evidence that while serving a temporary suspension from ascending off where a hearing had not been held Mr Navitkula played in another match notwithstanding his temporary suspension.
Remorse and timing of remorse – R 17.19.1(e) (or equivalent Tournament rule)	Other off-field mitigation – R 17.19.1(f) (or equivalent Tournament rule)
The player has exhibited no remorse with respect to this event and I cannot mitigate based on same	The time for the matter to come to a hearing, while caused by a number of technical issues is beyond what is accepted as normal and as a result I find this factor to be especially mitigating.

Number of weeks /matches deducted: 1

Summary of reason for number of weeks/matches deducted:
 As a result of the time it took to come to a hearing, factors which are not in the players control I must apply a significant mitigation factor, and in fact my maximum powers to mitigate are engaged in this case.

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player’s status as an offender of the Laws of the Game – R 17.20.1(a) (or equivalent Tournament rule)
The player has a history as an offender of the game he has a sanction flowing from a match in 2019 in which he was sent off under rule 9.18 for lifting a player so that his hips were above his shoulders and driving him into the ground.
Need for deterrence – R 17.20.1(b) (or equivalent Tournament rule)
N/A
Any other off-field aggravating factors – R 17.20.1(c) (or equivalent Tournament rule)
The player knowing that he had been shown a red card and had been sent off while temporarily suspended played in another sanctioned match.

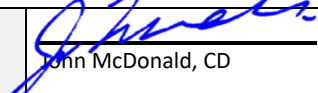
Number of additional weeks/matches: 1

SANCTION

NOTE: PLAYERS ORDERED OFF OR CITED BY A CITING COMMISSIONER ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING – R 17.12.5(f) / 17.13.7 (or equivalent Tournament rule)

Total sanction	2 Weeks/Games	<input type="checkbox"/> Sending off sufficient
Sanction commences	July 5, 2023	
Sanction concludes	July 22, 2023	
Matches/tournaments included in sanction	CRU/RA Fixtures in the MDEV level of the competition	

Costs	N/A
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Signature (DO or Chairman)	 John McDonald, CD	Date	July 5, 2023
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NOTE: Should the Player or the club wish to appeal this sanction they may do so in accordance with the Rugby Alberta Appeals Policy found here https://sportlomo-userupload.s3.amazonaws.com/uploaded/galleries/14156_uploaded/c526b66af28f017556c1381ab492ecb88f4f9bb1.pdf

Within 10 days of the date of this decision.