

DISCIPLINARY DECISION



Match	Hornets vs Saracens		
Competition	Calgary Rugby Union – Development Division		
Date of match	June 10, 2023	Match venue	Calgary Rugby Park
Rules to apply	World Rugby Regulation 17: Discipline – Foul Play		

PARTICULARS OF OFFENCE			
Player's surname	Dakuiyau	Date of birth	November 18, 1991
Forename(s)	Laginikoro		
Player's Union	Calgary Saracens RFC		
Referee Name	Alex Nunnally	Plea	<input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not Admitted
Offence	Accumulation of Temporary Suspensions (2 Yellow Cards Red Card): 1 st Yellow – foul play – Law 9(13) Dangerous Tackle (high) resulting in contact with head 2 nd Yellow – foul play – Law 9(13) Dangerous Tackle (high) resulting in contact with head	SELECT: <input type="checkbox"/> Red Card <input type="checkbox"/> Citing <input checked="" type="checkbox"/> Other If "Other" selected, please specify: Two temporary suspensions in a single match	
Summary of Sanction	No Sanction		

HEARING DETAILS			
Hearing date	June 15, 2023	Hearing venue	Calgary, Alberta
Chairman/JO	Martin Rejman		
Other Members of Disciplinary Committee	N/A		
Appearance Player	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Appearance Union	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Player's Representative(s)	Ben Marin-Guzman (Saracens's VP Rugby)	Disciplinary Officer and/or other attendees	N/A
List of documents/materials provided to Player in advance of hearing	<ul style="list-style-type: none"> Referee's Sending-Off Report Video recording of match: https://youtu.be/yQVEI7TRuLo https://youtu.be/ZIBZRIXLOUO 		

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

March Referee's Report:

Match #5 Score and Red Card Report

For Match #5, the final score was 70-0 for the Hornets over the Saracens. 12 tries - 5 Conversions
Additionally, I issued a Red Card. Here are the details for the Report:

- Teams: Hornets vs Saracens
- Div: 2 (Dev)
- Venue: CRU
- Date: June 10th
- Time: 2nd half
- Minutes in Half: 30min (70min in total time)
- Score at time of incident: 55-0
- Final Score: 70-0 (Hornets Win)
- Player's Full Name: unknown
- Team: Saracens
- Player's Number: 15
- Playing Position: 15
- Proximity of referee to the incident: 5m
- Position of the ball relative to the incident: 0m - was actively tackling the ball carrier
- Were other players sin-binned or sent off in relation to the incident: No
- Cautions:
 - Previous Cautions been issued? YES
Both Individual and Team
 - Had the player sent off been warned earlier: YES
 - Had the player sent off been sin-binned earlier: YES
- Did you Observe anything that may have provoked the incident? NO

Description of incident

Yellow Card #1 occurred ~20min into the first half. #15 tackled a player into Touch. Direct head/neck contact, low degree of force, no mitigating factors. Yellow card issued.

Yellow Card #2 occurred ~30min into the second half. #15 was tackling a player legally, then unbound, reached up to the ball carrier's neck and continued the tackle - bringing the BC to the ground in an unsafe manner. Direct head/neck contact, low degree of force, no mitigating factors. Second Yellow card issued. Red Card issued.

SportLomo was referenced to ascertain the name of Saracen's #15 = Laginikoro Dakuiyau ("Mr. Dakuiyau")

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

No medical reports provided

SUMMARY OF PLAYER'S EVIDENCE

Mr. Dakuiyau admitted, through his player's representative, that the first yellow card was justified. However, he did not understand the reason or justification of the second yellow card. Mr. Dakuiyau alleged that during the second impugned tackle (the second yellow incident) he was attempting to strip the ball from the Hornet's ball carrier.

FINDINGS OF FACT

In the absence of any contrary evidence, the referee's report has been adopted as fact except for the time of the first card. The video evidence has confirmed that the first yellow was rendered in the first minute of the second-half.

I accept as fact that at approximately 1 minute in the second-half (0:51 in the video) Mr. Dakuiyau tackled Hornets #11 into touch, high/dangerous tackle, there occurred direct contact to the head/neck, low degree of force and no 'field' mitigating factors were identified. A yellow card was subsequently issued.

I also find that at approximately 30 minutes into the second half (~29:14 of the video evidence), Mr. Dakuiyau tackled a player legally, then unbound, reached up to the ball carrier's neck and continued the tackle and brought down the ball carrier down in an unsafe manner. There was direct head/neck contact. A low degree of force. No "field" mitigating factors were identified. A second yellow card was issued against Mr. Dakuiyau, and consequently, a red card was issued.

I do find that the Referee's report contained a time error as it referenced that the first yellow card occurred at "~20 mins into the first half", however, video evidence proved this was in the first minute (approx.) of the second-half.

DECISION

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)

Intentional

Reckless

State Reasons

No evidence of intentional intent.

Nature of actions – R 17.18.1(c) (or equivalent Tournament rule)

Dangerous tackle #1 - Mr. Dakuiyau tackled HO#11 into touch, direct head/neck contact, low degree of force.
Dangerous tackle #2 – Mr. Dakuiyau was tackled a HO player legally, then unbound, reached up to the ball carrier's neck and continued the tackle - brought the BC (ball carrier) to the ground in an unsafe manner. Direct head/neck contact, low degree of force.

Existence of provocation – R 17.18.1(d) (or equivalent Tournament rule)

No evidence of provocation.

Whether player retaliated – R 17.18.1(e) (or equivalent Tournament rule)

No retaliation occurred

Self-defence – R 17.18.1(f) (or equivalent Tournament rule)
No self-defence occurred
Effect on victim – R 17.18.1(g) (or equivalent Tournament rule)
No evidence was tendered as to the effect on the victims
Effect on match – R 17.18.1(h) (or equivalent Tournament rule)
The red card had little to no effect on the match
Vulnerability of victim – R 17.18.1(i) (or equivalent Tournament rule)
Both “victims” were ball carriers and expected to be tackled. Therefore, no significant vulnerability has been identified
Level of participation/premeditation – R 17.18.1(j) (or equivalent Tournament rule)
Mr. Dakuiyau acted alone in both dangerous tackles. No evidence of premeditation was identified.
Conduct completed/attempted – R 17.18.1(k) (or equivalent Tournament rule)
The conduct was “complete”. Both tackles were high and resulted in head/neck contact.
Other features of player’s conduct – R 17.18.1(l) (or equivalent Tournament rule)
None identified

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 type="checkbox"/>	<u>1</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.

Reasons for selecting Entry Point above Top End
Section 1 of Appendix 4: Sanctions Guidance for Accumulation of Temporary Suspensions and/or Citing Commission Warnings stipulates that “There is deliberately no guidance within the World Rugby sanctions table(s) to assist a Judicial Officer or Judicial Committee to determine the appropriate sanction in relation to accumulated Temporary Suspensions and/or Citing Commissioner Warnings.” I therefore have wide discretion and deference in my decision.
I am also cognisant that the discretion of the Regulations allows me to engage Appendix 1: World Rugby Sanctions for Foul Play. Foul Play is defined in Regulation 17 as “means breach(es) of Law 9 of the Laws of the Game and/or breach(es) of Law 3.7 or Law 4.7.” This includes Rule 9.13 which stipulates that a “player must not tackle an opponent early, late or dangerously. Dangerous tackling includes, but is not limited to, tackling or attempting to tackle an opponent above the line of the shoulders even if the tackle starts below the line of the shoulders.” Mr. Dakuiyau was issued two separate yellow cards for breach of 9.13 (dangerous tackle).

Appendix 1 dictates that “[a]ny act of foul play which results in contact with the head and/or the neck shall result in at least a mid-range sanction.” The mid-range entry for breach of 9.13 is 6 weeks/matches. The Regulation does not allow me to mitigate more than 50% of the sanction. Therefore, the range here would be a **three to six week/match suspension**. In my opinion, this is wholly disproportionate to the infringements. Incidentally, Note 5 provides me discretion where “having completed steps 1-3 of Regulation 17.17-17.20 inclusive” and if I determine that “the sanction would be wholly disproportionate to the offending player’s fault and the consequences thereof”, I am afforded the discretion not to apply the mandatory mid-point entry in cases of foul play which results in contact with the head and/or neck.

I do not believe a range of three to six week/match suspension is proportionate in the circumstances. On both occasions, the match official evaluated Mr. Dakuiyau infraction and awarded a yellow card. Independently, each infraction, according to the match official, was worthy of only a yellow card. Had the second yellow card incident not occurred, a red card would not have been issued.

I am disappointed with the fact that while we are bound by the World Rugby Disciplinary Regulations, we are not afforded the Coaching Intervention Programme that has been made available to the upper echelons of rugby. Due to his sanctions, and the nature of the infractions, I believe that Mr. Dakuiyau would be an ideal candidate for some form of tackling intervention programme or training.

In considering the factors, specifically, World Rugby Regulations 17.18.1(a) – Assessment of Intent, 17.18.1(g) – Effect on Victim, and 17.18.1(h) – Effect on Match and the guidance that “Ordinarily, the appropriate entry point for persistent offending within a single Match is a suspension of one to two weeks”, I am convinced that an appropriate entry point would be one-week.

I am mindful that independently, neither yellow card infraction rose to the threshold of a red-card. Furthermore, I am afforded by Regulation 17, Appendix 4, wide discretion and deference in adjudicating the accumulation of temporary suspensions. I am willing to allow Mr. Dakuiyau significant benefit of the doubt, but I also caution him to improve his tackling technique. Therefore, I believe that the appropriate process here is to adjudicate under Appendix 4. I also consider the submission from the Hornets that that Mr. Dakuiyau and the game of rugby would benefit from education rather than a prolonged suspension.

I am therefore ordering that the Sending Off was sufficient and highly recommending that Mr. Dakuiyau completes the World Rugby Passport Tackle Ready module.

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)
Mr. Dakuiyau admitted to the first infraction. He did not understand how or why he was sanctioned during his second sanctioned incident. I do not hold this against him as the video is inconclusive and the match official did not directly explain the infraction.	There is no record of a disciplinary history for Mr. Dakuiyau. This consideration weighs favourably towards Mr. Dakuiyau
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)
Mr. Dakuiyau is not a young nor inexperienced player. This factor does not provide any beneficial relevant off-field mitigating consideration	Mr. Dakuiyau did not attend the hearing. Nor is his conduct prior to the hearing at issue.
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)
Some remorse is evident.	The Hornets submitted that Mr. Dakuiyau and the game of rugby would benefit from education rather than prolonged suspension.

Number of weeks /matches deducted: 0

Summary of reason for number of weeks/matches deducted:
N/A

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)

Mr. Dakuiyau does not possess a history of offending the Laws of the Game.

Need for deterrence – R 17.20.1(b) (or equivalent Tournament rule)

Rule 17.20.1(b) dictates that "the need for a deterrent to combat a pattern of offending in the Game where the teams participating in the Match or Tournament have been put on notice that such a need exists"

The match official noted that the Saracens were put on notice for dangerous tackles. I also note that this season there is a problem with frequent breaches of Rule 9.13 (Dangerous Tackle) within the Calgary Rugby Union. I do not believe it to be appropriate to make an example of Mr. Dakuiyau for a problem that is widespread among all men's teams and divisions within the Calgary Rugby Union.

Any other off-field aggravating factors – R 17.20.1(c) (or equivalent Tournament rule)

As limited submissions were made, no other factors were tendered for consideration.


Number of additional weeks/matches: 0

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	0 Weeks/Games	<input checked="" type="checkbox"/> Sending off sufficient
Sanction commences	June 10, 2023	
Sanction concludes	June 16, 2023	
Matches/tournaments included in sanction	None	

Costs	\$0.00
-------	--------

Signature (JO or Chairman)		Date	June 16, 2023
-------------------------------	---	------	---------------

NOTE: YOU HAVE 48 HOURS FROM NOTIFICATION OF THE DECISION OF THE CHAIRMAN/JO TO LODGE AN APPEAL WITH THE TOURNAMENT DIRECTOR – R 17.24.2(a) (or equivalent Tournament rule) (see Page 6)