



CALGARY RUGBY UNION

Box 5888, Station "A", Calgary, Alberta T2H 1Y4

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MEMBER
Canadian Rugby Union
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August 19, 2023

Calgary Rugby Union Appeals Panel Judgement

Governing Body:	Calgary Rugby Union (CRU)
Club:	Lethbridge Rugby Club (LRC)
Player:	Mesake Navitikula (LRC Player)
Appeal Panel:	Peter Rowe (CRU President) Catherine Laing (CRU VP Women's Rugby) Matt Suter (CRU VP Men's Rugby)

Appeal Hearing

Date:	Wednesday, August 16, 2023, 8:00 – 8:30 pm
Venue:	Teams Meeting Online
Attending:	Peter Rowe (President CRU) Catherine Laing (CRU VP Women's Rugby) Matt Suter (CRU VP Men's Rugby) Rory McKeown (LRC President) John McDonald (CRU VP Discipline)
Regrets:	Mesake Navitikula (LRC Player)

Appeal's Background:

Incidents:

When taken together these are serious acts of foul play, committed intentionally with the Player's Right fist and making contact with:

- Incident 1: the left jaw of the Canucks Player, the blow was delivered with force causing the victim player's head to twist violently sideways.
- Incident 2: the left jaw of the victim player (C23) the blow was delivered with force causing the player's head to turn or twist violently, the blow was delivered while the victim player was in a vulnerable position and could not have seen or expected the blow.
- Incident 3: the left jaw of the victim player with force causing the victim player's head to jerk backwards.

Ruling:

An entry point of 20 weeks (expressed as matches) is required under the circumstances for the reasons which follow the high-end entry point of 10 matches is entirely unsuitable.

As all three punches were to the head of the victim players, the lowest possible entry point pursuant to Regulation 17 is the mid-range of 6 weeks which is wholly unsuitable. This was an accumulation of admitted breaches of striking with significant force and in at least one case the victim player was in a vulnerable position and unable to protect himself. As this involves a number of instances of foul play, and at least once case



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where the victim player required emergency medical attention and received a number of stitches an entry point above the top end and below the maximum is warranted.

No mitigating evidence presented on seen was enough to deduct any games from the suspension.

The player has a sanction flowing from a match in 2019 in which he was sent off under Law 9.18 for lifting a player so that his hips were above his shoulders and driving him into the ground. He has a a recent sanction flowing from an earlier match this season under Law 9.12 in which he continued to play notwithstanding that matter had not yet been disposed of and was under a temporary suspension.

The player knowing that he had been shown a red card and had been sent off while temporarily suspended played in another sanctioned match. 3 additional weeks/matches were added.

Total sanction is 23 weeks/matches.

Appeal's Hearing

The Appeal's Board comprised of Peter Rowe (CRU President), Catherine Laing (CRU VP Women's) and Matt Suter (CRU VP Men's) held the appeal's meeting on Wednesday, August 16th, 2023, at 8:00 pm. Other attendee's included Rory McKeown (LRC President) and John McDonald (CRU VP Discipline). The suspended player Mesake Navitikula did not attend the meeting.

The board reviewed the following evidence prior and at the meeting:

- The report of the VP Discipline for the suspension in question.
- The referee's and citing reports.
- The verbal representations of the suspended player Measke Navitikula was not heard as he was not present for the hearing nor had anything presented.
- The verbal representations of the suspended player Navid Azimi club representative, Rory McKeown (President LRC).
- Video of the game the players received red cards or citing from.
 - o <https://www.youtube.com/watch?v=pu5cxtSQblk>

Appeals Procedural Grounds:

Making a decision for which it did not have authority or jurisdiction as set out in its Dispute Resolution Policy

Appeal:

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| <ul style="list-style-type: none">• It is the assertion of the Lethbridge Rugby Club that due to the CRU VP discipline having previously been a member of the Lethbridge Rugby Club, that they should have recused themselves as the match (and incidents) in question involved both former club mates and current members of the CRU board, not allowing the CRU VP discipline to be 100% impartial. |
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Appeal Board Decision:



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- The last season that John McDonald (CRU VP Discipline) was a member of the Lethbridge Rugby club was 2018 and left as a member in good standing. The Appeal's Board has ruled that a five-year separation is sufficient enough time, and the process of his discipline procedures are that John's decisions can be developed without bias and did not need to recuse himself.

Failing to follow procedures laid out in its approved policies

Appeal: NA

Appeal Board Decision: NA

Making a decision that was influenced by bias

Appeal:

- It is the assertion of the Lethbridge Rugby Club that both the referee report and the CRU VP Discipline report/ruling were influenced by bias on the reasons that the referee report had some major discrepancies and failed to name anyone in the report involved in the altercation, other than Mr. Mesake Navitikula, despite clearly viewing the incident.
- With respect to the VP discipline, there was bias towards either the Lethbridge player or to the club itself due to their past playing days with the Lethbridge Rugby Club and familiarity with the player.
- We also feel that the fact that the the person who filmed the match made an edited "highlight" video of Lethbridge player incidents which were slowed down contributed to such bias.
- The VP discipline also mentions many times in their report that Mesake is a repeat offender based on a red card 4 years ago for a separate incident and separate law violation (dangerous tackle) and mentions that the player was under sanction at the time of the offence, despite having never properly communicating it to the Lethbridge Rugby Club, nor the player.

Appeal Board Decision:

- As stated above, the board has made the decision that there has been enough time away from the LRC and the procedures he follows to mitigate bias there maybe.
- The referee's report does explain the third and final incident that Measke was involved in. The citing report put forth by the Canuck's and the full-length video provided clearly shows the two other incidents not witnessed by the referee. The game did end abruptly and with the referee's not having the game sheet in hand may make it difficult to have a player's name on hand.
- The board did not watch the altered shortened version of the three incidents that Mr. Navitikula was involved in but did watch the full-length unedited video. It was clear to show that LRC player #23 (Mesake Navitikula) was in fact the player in question in all three incidents and he did strike two different Canucks players in the head in all three incidents.
- The VP Discipline did answer the questions regarding the watching of the 'shortened video' and the process he used. The board felt his response was



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sufficient and that the long version was the main source of his evidence to guide his decision making.

- It was made clear at the Appeal's hearing that it was true that Mr. Navitikula did have a previous sanction in 2019 and the week prior to the incidents in June 2023. The Lethbridge Rugby Club was provided evidence of the 2019 sanctioning and also the Appeal's Board acknowledged that the communication of the previous red card was not received by the LRC due to the usage of an old email. The club did acknowledge that they and the player knew the Mesake had received a red card in the previous match. This does prove to show there is a history of red card sanctions.
- After reviewing all the evidence above the Board rules that these accusations did not influence the decision process with bias.

Failing to consider relevant information or taking into account irrelevant information in making the decision

Appeal:

- It is the assertion of the Lethbridge Rugby Club on behalf of Mr. Mesake Navitikula that the VP Discipline ignored relevant information that was brought forward by the Lethbridge Rugby Club which provided context into the events that transpired.

Appeal Board Decision:

- The board felt the VP Discipline did use all the information provided to him and did not ignore specifics that would have altered his decision at that time of decision making.

Making a decision that was grossly unreasonable

Appeal:

- It is the assertion of the Lethbridge Rugby Club on behalf of Mr. Mesake Navitikula that the VP Discipline, has issued a grossly unreasonable decision (23 matches), which does not align with world rugby decisions of similar incidents, nor previous rulings issued by the CRU (Grant Crowell suspension in 2022 of 10 matches for much more egregious behaviour)

Appeal Board Decision:

- The act of strike to the head has the high entry point of +10 weeks depending on mitigating factors.
- Mr. Navitikula was involved in three separate incidents where he was witnessed striking an opponent in the head and in two incidents multiple times.
- Mr. Navitikula did not show any remorse for the incidents and does have a history of red card sanctions and therefore no mitigating factors to reduce the sanction.
- The fact the one of the victims required medical attention and numerous stitches, that Mr. Navitikula was also currently suspended on a red card sanction are mitigating factors that added 3 games to the sanction.



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- The Appeal's Board was not presented with any new evidence that they could use to overturn the decision already put forth by the VP Discipline, John McDonald.

The Appeal's Board has upheld the final decision to be 23 weeks/matches in total.

Decision

The Appeal's Board understands that recent events have led to your involvement in an incident where striking to the head occurred during a rugby match. It is essential to address such incidents seriously, both for your personal growth and the integrity of the sport. We believe in providing players with guidance to ensure that such incidents are not repeated and to foster a culture of respect, safety, and sportsmanship. Your recent sanction of 23 weeks/matches will be help held by the appeals committee.

Cost

As the appeal was unsuccessful, the CRU will retain any appeal fee paid by the Club.

Right of Appeal

Pursuant to regulation of the Rugby Alberta Discipline Guideline and Procedures 2008, there is no right of appeal from this decision.

Appeal's Board Future Recommendations

- Accept Responsibility:
 - o Acknowledge your actions and take responsibility for your role in the incident. Recognizing your mistake is the first step towards growth and positive change.
- Apologize and Learn:
 - o Reach out to the affected player, referees, coaches, and teammates and offer a sincere apology. This demonstrates your commitment to making amends and learning from your mistakes.
- Educate Yourself:
 - o Attend workshops, seminars, or training sessions on player conduct, sportsmanship, and respect in rugby. Understanding the importance of fair play and maintaining composure is crucial for your development as a player and a person. (ex.
- Teamwork and Leadership:
 - o Lead by example on and off the field. Embrace the role of a positive influence within your team, emphasizing sportsmanship, respect, and camaraderie.
- Anger Management:



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- If anger played a role in your actions, seek professional guidance on anger management techniques. Learning to control your emotions can significantly impact your behavior on the field.
 - Role Model Behavior:
 - Understand that young players look up to you as a role model. Your actions on and off the field can have a lasting impact on their understanding of sportsmanship and respect.

Regards,

Calgary Rugby Union Appeals Board

Peter Rowe
President
Calgary Rugby Union

Catherine Laing
VP Women's Rugby
Calgary Rugby Union

Matt Suter
VP Men's Rugby
Calgary Rugby Union