

DISCIPLINARY DECISION



Match	ST ALBERT at CALGARY RAMS		
Competition	MDEV PROVINCIAL FINAL (SA2)		
Date of match	September 23, 2022	Match venue	Calgary Rugby Park
Rules to apply	Regulation 17 World Rugby Handbook;		

PARTICULARS OF OFFENCE			
Player's surname	Savoie	Date of birth	
Forename(s)	Nicholas (Nick)		
Player's Club	Calgary Rams Rugby Club		
Referee Name	Danial Wahba	Plea	<input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not Admitted
Offence	9.12 A Player must not 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	22 weeks (expressed at matches)		

HEARING DETAILS			
Hearing date	February 17, 2024	Hearing venue	Calgary, Alberta byTeams
Chairman/DO	John McDonald		
Other Members of Disciplinary Committee			
Appearance Player	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Appearance Club	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Player's Representative(s)	Player was self represented		
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

I received the match officials sending off report:

Rams # 11 Nick Savoie was cited earlier in the match after a team warning for off the ball incidents. Both him and St. Albert # 13 were issued yellow cards at the 27th minute of the second half. At the time of the incident St. Albert # 13 stated that the opposing player called him a "faggot" which cause him to retaliate. None of the on-field officials heard this and no further action was taken. While the players were serving the suspension match official Kristina Wolfe witnessed Rams #11 calling St. Albert # 13 a "faggot". St. Albert # 13 took personal offence to this. When the players returned to the field St. Albert #13 made a legal hit on Rams #11 that was hard but fair. Rams #11 did not appreciate this and his demeanor changed. No further incidents occurred until after the game was completed where both players were in each other's face again and Rams #11 punched St. Albert # 13 directly in the face with intent to cause harm. This is in violation of Law 9.12.

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

It does not appear from the available evidence that the Victim player was significantly injured as a result of the Alleged Conduct.

SUMMARY OF PLAYER'S EVIDENCE

Of note the Player sent a number of emails indicating he would not attend the hearing, he then attended the hearing by way of telephone. His general conduct before and after the hearing was unacceptable, at times the Adjudicator has to mute, and or otherwise admonish Mr. Savoie with respect to his conduct.

Mr. Savoie's evidence can be summed up in two points. Mr. Savoie stated "I threw bt the punch but it didn't land" and while describing the previous temporary suspension at or about minute 27 of the match stated "so I called him a faggot" or words to that effect.

Mr. Simon Clipperton of the Calgary Rams gave evidence on behalf of the club:

Mr. Clipperton gave evidence that he was "on the pitch" at the time of the punch and that the punch occurred "right in front of him" and was successfully landed.

FINDINGS OF FACT

I have reviewed the Match Official's Report, and the Players/Club's representation,

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.

In coming to my findings I have reviewed relevant decisions of other Rugby Discipline Panels and Judicial Officers, and Relevant Case Law Decisions with respect to Assault pursuant to the *Criminal Code of Canada*.

s.265(1)(b) states that A person commits an assault when, he attempts or threatens, by an act or gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose.

In reviewing in context I am advised by 2016 ABPC 291 citing with authority R v Colbourne, and R, v Melgaragni at para 109 that *See also, R. c. Colburne (1991) 1991 CanLII 11752 (MB CA), 66 C.C.C. (3d) 255 (Que. C.A.) At 251, and R. v. Melaragni (1992), 1992 CanLII 12779 (ON SC), 75 C.C.C. (3d) 546 (Ont. Gen. Div.), where those cases held that, even where a bullet misses its intended victim and the victim is unaware of being shot at, the firing of a gun in the direction of the victim will constitute assault under s. 265(1)(b).*

In my view, I need not be convinced that Mr. Savoie landed any punch, his admission to simply throwing the punch and missing the mark is sufficient to ground a finding that Mr. Savoie did in fact attempt to punch another player contrary to Law 9.12, A Player shall not physically abuse another player.

In the event that I am wrong in the above analysis I have considered both the Match Official's Report, which is corroborated by the Evidence of Simon Clipperton, the the punch was in fact landed, and did in fact impact the head of the victim player.

Through the course of the hearing Mr. Savoie admitted to calling another player a faggot. Such an admission is sufficient enough to make a special finding that Mr. Savoie has in fact verbally abused another player contrary to Law 9.12, and that such verbal abuse included slurs of a homophobic nature contrary to the Rugby Alberta Code of Conduct and the *Alberta Human Rights Act*.

DECISION

Relevant Laws:

The player was cited 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.

I find that Nicholas (Nick) Savoie did physically abuse St. Albert #13 by punching him in the head, and that he called him a "faggot"

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 Mr. Savoie to punch anyone let alone the victim player. There was no rugby reason for Mr. Savoie to call anyone a “faggot” let alone the victim player.
Nature of actions – R 17.18.1(c) (or equivalent Tournament rule)
A serious act of foul play, committed intentionally with the Players right fist striking the head of the victim player. A serious act of foul play, committed intentionally by calling another player a faggot.
Existence of provocation – R 17.18.1(d) (or equivalent Tournament rule)
None.
Whether player retaliated – R 17.18.1(e) (or equivalent Tournament rule)
None.
Self-defence – R 17.18.1(f) (or equivalent Tournament rule)
None.
Effect on victim – R 17.18.1(g) (or equivalent Tournament rule)
The victim player appeared to be uninjured, however the homophobic slur had obvious negative impact on the victim player.
Effect on match – R 17.18.1(h) (or equivalent Tournament rule)
The offence occurred at the final whistle, there was no impact on the match.
Vulnerability of victim – R 17.18.1(i) (or equivalent Tournament rule)
The player was not in a particularly vulnerable position
Level of participation/premeditation – R 17.18.1(j) (or equivalent Tournament rule)
These two players had been previously sent off temporarily under law 9.12 for fighting at approximately the 27 minute mark.
Conduct completed/attempted – R 17.18.1(k) (or equivalent Tournament rule)
Completed
Other features of player’s conduct – R 17.18.1(l) (or equivalent Tournament rule)
None.

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"/>		<input checked="" type="checkbox"/>	<u>12</u>	<input type="checkbox"/>	

*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.

<p>Reasons for selecting Entry Point above Top End</p> <p>An entry point of 12 weeks (expressed as matches) is required under the circumstances for the reasons which follow, this is the mid entry point for the offence of A player must not verbally abuse anyone. A Homophobic slur is not simple bullying, it is verbal abuse on a prohibited ground pursuant to the <i>Alberta Human Rights Act</i> and cannot be tolerated in our sport. It must be dealt with appropriately and the bottom end entry point is wholly insufficient.</p> <p>The Entry point for a punch delivered directly to the head has a mandatory mid-range entry point of 6 weeks (expressed as matches)</p>
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RELEVANT OFF-FIELD MITIGATING FACTORS

<p>Acknowledgement of guilt and timing – R 17.19.1(a) (or equivalent Tournament rule)</p> <p>The player does not admit to foul play, and does not believe calling another player a “faggot” is conduct worthy of sanction</p>	<p>Player’s disciplinary record – R 17.19.1(b) (or equivalent Tournament rule)</p> <p>The player has no disciplinary record to speak of.</p>
<p>Youth and/or inexperience of player – R 17.19.1(c) (or equivalent Tournament rule)</p> <p>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.</p>	<p>Conduct prior to and at hearing – R 17.19.1(d) (or equivalent Tournament rule)</p> <p>Conduct prior to the hearing was entirely inappropriate, immediately after the match the melee carried on in the Clubhouse, The player could not understand why he had to attend such a hearing in the first place, and closed the hearing by calling the Adjudicator a “Fucking Loser”</p>
<p>Remorse and timing of remorse – R 17.19.1(e) (or equivalent Tournament rule)</p> <p>The player has exhibited absolutely no remorse for his actions.</p>	<p>Other off-field mitigation – R 17.19.1(f) (or equivalent Tournament rule)</p> <p>N/A</p>

Number of weeks /matches deducted: 0

<p>Summary of reason for number of weeks/matches deducted:</p> <p>The player admits no responsibility and professes no remorse which I find to be genuine and sincere, he has no history as an offender of the game. I find that his conduct prior to and during the hearing to be entirely distasteful and cannot mitigate the sanction at all.</p>
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ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

<p>Player’s status as an offender of the Laws of the Game – R 17.20.1(a) (or equivalent Tournament rule)</p> <p>The player has no history as an offender of the game.</p>

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)
<p>The player conducted himself in an entirely inappropriate manner prior to and at the hearing, his unwillingness to accept responsibility for his reprehensible conduct, and his conduct towards the adjudicator personally lends to a significant aggravation.</p> <p>In this I follow, although not exactly the decision of the RFU in Re: Sarek October 25, 2023. In that case Mr. Sarek was cited for calling a player a “Black C#t”, the ultimate sanction was a 12 month suspension from all rugby activities, including attending at any Rugby Facilities in under the control of the RFU.</p>

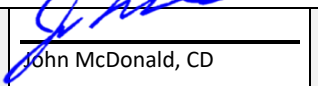
Number of additional weeks/matches: 10

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	22 Weeks (Expressed as matches) Additionally a 12 month exclusion order from any member facility within the CRU including but not limited to the Calgary Rugby Park, and the CCIAC Facility, and any other facilities rented or leased by or for the CRU as may occur from time to time.	<input type="checkbox"/> Sending off sufficient
Sanction commences	September 23, 2023	
Sanction concludes	December 31, 2026 or such earlier date as ordered by the Judicial Officer after provision of satisfactory evidence from the Player of 17 qualifying games under Regulation 17.21 for this Sanction.	
Matches/tournaments included in sanction	The Player is to provide evidence as per Regulation 17.21	

Costs	N/A
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Signature (DO or Chairman)	 John McDonald, CD	Date	February 17, 2024
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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.