

DISCIPLINARY DECISION



Match	Hornets vs Irish		
Competition	Calgary Rugby Union – Development Division		
Date of match	July 15, 2023	Match venue	Calgary Rugby Park – Field 2
Rules to apply	World Rugby Regulation 17: Discipline – Foul Play		

PARTICULARS OF OFFENCE			
Player's surname	Saro	Date of birth	October 27, 1985
Forename(s)	Savenaca		
Player's Union	Calgary Hornets RFC		
Referee Name	Ian Godfrey	Plea	<input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not Admitted
Offence	Breach of Law 9.12 – Physical Abuse – Punching/Striking	SELECT: <input checked="" type="checkbox"/> Red Card <input type="checkbox"/> Citing <input type="checkbox"/> Other If "Other" selected, please specify:	
Summary of Sanction	5 matches/weeks		

HEARING DETAILS			
Hearing date	N/A	Hearing venue	Calgary, Alberta – Desktop (by default in the absence of any response to 2 inquiries of how the player wants to proceed)
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 type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Player's Representative(s)	Matt Sutter (written/email)	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 Send Off Report • Short Video Footage provided by Calgary Irish (truncated) • Mr. Saro's Written Statement 		

Referee's Send Off Report:

Referee's position: *I was behind the Irish player on his right side, less than 2 meters away from the incident, and had a clear line of site to the incident.*

Referee's view: *I was behind the Irish player on his right side, less than 2 meters away from the incident, and had a clear line of site to the incident.*

Referee's incident observation: *The player was involved in a scrum, after the scrum was finished the ball was taken out by the Irish player #8 and a ruck was formed on the left side of where the scrum was held, the players in the scrum had started to leave and the Irish prop #3 and the Hornets #4 Sava continued with pushing and shoving. While there was pushing and shoving the Hornets Player number for struck or punched the Irish player in the face, resulting in the Irish player falling to the ground with blood coming from his nose. The trainers then entered the field, and the player was eventually removed from the field of play. [Ian Godfrey, Referee Send Off Report]*

Video footage:

The video tendered by the Calgary Irish is a 10-second truncated version. I am unsure if the full game was recorded, or why the truncated version was only made available. I have canvassed both teams for longer footage but was informed it does not exist. Mr. Saro's statement indicates that there was provocation and threats made by IR#3 prior to him throwing the punches. If that was true, then those would have been considerations of mitigating or aggravating factors. However, no evidence was tendered to substantiate that claim. The fact that Mr. Saro punched IR#3 multiple times is not in dispute.

First punch, to head, right fist



Second punch, to upper body/chest, left fist:



Third punch, to head, right fist:



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

SUMMARY OF PLAYER'S EVIDENCE

I have read the report. I will plead guilty. But I do not totally agree with what the referee described. I think it was dangerous but no where close to being violent! I only reacted because I felt threatened and it was in self defence. The Irish prop instigated the situation when we were in the ruck. The report

never mentioned the Irish prop swinging and making contact at me or any of the foul words he was saying to me. Everything else after that just happened so fast! I do regret what I did but i felt I had no other choice.

Peace

[Savenaca Saro written statement, forwarded by email July 19, 2023]

FINDINGS OF FACT

After considering all of the evidence before me, and applying relevant weight to the evidence as per my discretion, I find that:

1. IR#3 and HO#4 were involved in showing and pushing each other.
2. HO#4 struck IR#3 in the head (face) with his right fist twice, and in the upper body/chest once with his left fist (video evidence).
3. IR#3 fell to the ground but immediately got up and walked away.
4. IR#3 did not punch HO#4.
5. It appears that IR#3 did not suffer any long-term injuries.

I am cognizant that the video evidence provided has been truncated, shows only 10 seconds, and does not show the activity prior to the subject matter of this disciplinary decision. Be that as it may, it is undisputed that HO#4 struck IR#3 in the face/head.

The MO's report indicates a strike to the face, which corroborates all other evidence.

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

Intentional – HO#4 admitted that “I only reacted because I felt threatened and it was in self defence”

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

HO#4 used his right fist to strike the head two times, and his left fist to strike the upper body/chest with his left fist once. The punches thrown were in a manner akin to a boxer's combo: R-L-R.

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

Mr. Saro alleges provocation and in the absence of any contrary evidence, I accept that some provocation occurred:

“The Irish prop instigated the situation when we were in the ruck. The report never mentioned the Irish prop swinging and making contact at me or any of the foul words he was saying to me.”

<p>However, the MO noted that both IR#3 and HO#4 were involved in pushing and shoving occurred prior to the punches thrown. Therefore, HO#4 was active and participating to the activities before the punches. As such, his culpability renders the provocation level on the lower range.</p>
<p>Whether player retaliated – R 17.18.1(e) (or equivalent Tournament rule)</p>
<p>No evidence of retaliation has been presented.</p>
<p>Self-defence – R 17.18.1(f) (or equivalent Tournament rule)</p>
<p>While Mr. Saro claims he acted in self-defence, I was not provided with any evidence to substantiate this. The MO stated that IR#3 and HO#4 “continued with pushing and shoving”, but the MO did not observe and indicate that any “swinging” was made by IR#3. It appears that the MO’s report contradicts Mr. Saro’s claim of a threat.</p> <p>For guidance on the reasonableness of a claim of self-defence I turn to Canadian jurisprudence. The <i>Canadian Criminal Code</i>, RSC 1985, c C-46 was amended by the <i>Citizen’s Arrest and Self-defence Act</i>, S.C. 2012, c. 9, which provides, at section 2, the criteria to consider when determining if the defence of self-defence is reasonable or justifiable:</p> <ul style="list-style-type: none"> • They believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person • The act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force • The act committed is reasonable in the circumstances <p>For this defence to be accepted, in claiming self-defence, Mr. Saro must substantiate that he perceived danger and reacted in an effort to protect himself. While he’s made this assertion, it is contradicted by the MO’s observations.</p> <p>Even if I accept Mr. Saro’s claim that he was acting in self-defence, and he meets the first two criteria, his self-defence argument fails on the third criteria. I do not find that the punches thrown were reasonable in the circumstances as Mr. Saro could have simply walked away from the allegedly escalating situation.</p> <p>Therefore, on the balance of probability, I find that the claim of self-defence is without merit.</p>
<p>Effect on victim – R 17.18.1(g) (or equivalent Tournament rule)</p>
<p>IR#3 was taken off the field and attended to by an AT. After the blood was cleaned up he returned to the field and continued playing.</p> <p>IR#3 suffered a black eye and swelling on his cheek and nose, no other injuries noted. It is expected that he will be available for selection this weekend.</p>
<p>Effect on match – R 17.18.1(h) (or equivalent Tournament rule)</p>
<p>Minimal, Hornets won 56-29.</p>
<p>Vulnerability of victim – R 17.18.1(i) (or equivalent Tournament rule)</p>
<p>IR#3’s head was exposed and vulnerable during the punches, he was upright and in front of HO#4. I note that IR#3 made no attempt to protect likely indicating a surprise to the punches thrown.</p>
<p>Level of participation/premeditation – R 17.18.1(j) (or equivalent Tournament rule)</p>
<p>Both IR#3 and HO#4 were involved in pushing and shoving prior to HO#4 throwing the punches. Therefore, HO#4 had a high degree of participation.</p> <p>HO#4’s admission that “I only reacted because I felt threatened and it was in self defence” provides for a degree of premeditation, albeit on the lower to mid range.</p>
<p>Conduct completed/attempted – R 17.18.1(k) (or equivalent Tournament rule)</p>
<p>HO#4’s conduct was completed, he struck IR#3 three times: twice in the head, once in the upper body/chest.</p>

Other features of player's conduct – R 17.18.1(l) (or equivalent Tournament rule)
None considered.

Pursuant to the World Rugby Regulation 17 – Appendix 1: World Rugby Sanctions for Foul Play:

Any act of foul play which results in contact with the head and/or the neck shall result in at least a mid-range sanction.

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 checked="" type="checkbox"/>	6	<input type="checkbox"/>	Click Here For #

*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
Due to the two strikes to the head, I am bound by Regulation 17, Appendix 1, to enter at a mid-range sanction.

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)
In his submitted statement, Mr. Saro admits to the striking IR#3. This factor militates in favour of mitigation in this matter.	There is no record of any disciplinary sanctions of Mr. Saro in the last five years (going back to 2018). This factor militates in favour of mitigation in this 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)
This consideration does not appear relevant in Mr. Saro's situation.	No evidence was submitted as to the conduct of Mr. Saro to be of probative value for this factor. A hearing was not held.
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)
Mr. Saro appears to be remorseful: "I do regret what I did but I felt I had no other choice." However, he weakened his remorse by adding that he had no other choice. I do not accept this, as was	No other off-field mitigation was submitted or found to be relevant.

<p>noted earlier that Mr. Saro could have walked away. This factor militates against mitigation in this matter.</p>	
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Number of weeks /matches deducted: 2

<p>Summary of reason for number of weeks/matches deducted:</p> <p>Mr. Saro’s acknowledgment of guilt and his clean disciplinary history over the past five years are mitigating factors which I considered in my decision to deduct 2 matches.</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>No evidence was submitted to warrant a status of Mr. Saro as an offender of the Laws of the Game.</p>
<p>Need for deterrence – R 17.20.1(b) (or equivalent Tournament rule)</p> <p>The <i>Notice of need for Specific Deterrence pursuant to World Rugby Regulation 17.20.1(b)</i> was published by the Director of Discipline on or about June 22, 2023, as a deterrence for violations of Law 9.12. The Notice warned that “such notice will be considered an aggravating factor in future Disciplinary Hearings when a decider of fact is deliberating an appropriate sanction following a hearing where This Section has been contravened.”</p> <p>The Notice is considered an aggravating factor in this decision.</p>
<p>Any other off-field aggravating factors – R 17.20.1(c) (or equivalent Tournament rule)</p> <p>No other off-field aggravating factors were considered.</p>

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	5 Games	<input type="checkbox"/> Sending off sufficient
Sanction commences	July 16, 2023	
Sanction concludes	At the conclusion of 5 matches, whatever this date occurs on.	
Matches/tournaments included in sanction		

Costs	N/A
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Signature (JO or Chairman)	<i>Martin Rejman</i>	Date	July 20, 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](#)

Within 10 days of the date of this decision.