

**INTERNATIONAL RUGBY BOARD
WOMEN'S RUGBY WORLD CUP 2014
JUDICIAL OFFICER'S HEARING REPORT**

Hearing: 2 August 2014

JUDGMENT

JUDICIAL OFFICER: Jeremy Summers, England

PLAYER: Sotiera PULUMU, Samoa ("the Player")

MATCH: Samoa v England

VENUE: FFR HQ, Marcoussis

DATE OF MATCH: 1 August 2014

REFEREE: Amy Perreti, Argentina

IN ATTENDANCE:

The Player

Sara Mika, Team Manager

Filoi Eneliko, Assistant Coach

Kevin Senio, Liaison Officer

Ms Yvonne Nolan, Tournament Designated Disciplinary Officer ("DDO")

DECISION

- 1. The Player accepted that she was guilty of an offence contrary to Law 10.4(j) (dangerous tip tackle)**
- 2. I considered that a sanction was required and a period of suspension was accordingly imposed.**
- 3. As set out at paragraphs 41 and 42 below the Player was suspended for a period of 5 weeks. The suspension will be served as to 4 tournament matches at WRWC2014 together with a further week from 18 to 24 August 2014 inclusive.**
- 4. The Player will be free to play again on 25 August 2014**

PRELIMINARIES

5. The hearing was convened by the DDO pursuant to The Tournament Disciplinary Programme (“TDP”) contained in the WRWC 2014 Terms of Participation and followed the dismissal of the Player during the match which was played in Round 1 of the tournament.
6. The Player confirmed her identity and that she had been wearing Samoa 15 during the match.
7. I introduced all persons present and confirmed that the Player had received the Referee’s Report, the match recording and all other papers in good time for the hearing.
8. The Referee’s Report set out offending in the alternative of an offence contrary to Law 10.4 (e) (dangerous tackle) or Law 10.4. (j) (dangerous tip tackle). Having reviewed the match footage I was satisfied that constituent elements of an offence contrary to Law 10.4 (j) were present. I advised the parties that this was my view but invited submissions on the point drawing attention to the respective entry point sanctions for each offence. No submissions were made and I accordingly proceeded to deal with the matter as on offence under Law 10.4 (j).
9. I considered:
 - a. The Referee’s Report.
 - b. The match recording.
 - c. Oral evidence from the Player.
 - d. Submissions on behalf of the Player

THE DISMISSAL

10. The Referee’s Report indicated that the incident had occurred in the 12th minute of the first half at which point there had been no score. The incident was recorded as follows:

Samoa 15 lifted England ball carrier in the air and flipped player so that her legs were past the horizontal and drove her to the ground with England player landing on her head.
11. The Report was read to the Player who formally confirmed that she accepted that the Referee had been correct to order her dismissal.
12. On behalf of the Player issue was taken with the Referee’s stated view that the England player concerned (E9) had been driven to the ground. The Player would assert that she had in fact let go of E9 and that there had been a drop rather than a drive. It was though accepted that a drop would still be sufficient to engage Law 10.4 (j).

13. I then considered the match footage with the Player. Three angles were available to be I real time and I also had the benefit of having the footage on a separate clip which provided a further angle in slow motion.
14. In my view the footage showed the sequence of events as set out below. I reviewed this with the parties who were in broad agreement with my interpretation of the incident and did not suggest that the narrative below was inaccurate.
15. E10 is seen to break from around the Samoa 10 meter line in the middle of the field and advance at pace slightly to her right. Some 5 metres short of the 22 she passes to E9 who is running a support line to the left of E10 in mid field. The Player is seen to move up tackle E9 who steps to the right of the Player.
16. As she prepares to effect the tackle the Player is seen to bend and squat slightly before contact occurs. Her left arm is seen to wrap around E9's left leg just below the buttock and lift up slightly. The Player then rises into an almost upright position and her right arm and elbow are clearly seen to lift E9's right leg. This lifts E9 fully through the horizontal plain and into a vertical position with her head pointing toward the ground.
17. As E9 is taken into the vertical position the Player is still applying force to the contact contributing further the overall momentum of the incident.
18. Her right arm followed by her left arm then slips off E9 who is effectively dropped to the ground, with no effort being made to bring her down safely.
19. The Referee immediately stops play and a number of England players are seen to check on E9's wellbeing. The Player does not go over to E9 and is smiling.
20. No other written evidence was before me. I was advised by the DDO that E9 was able to play on before being tactically substituted in or around the 51st minute.

MITIGATION

21. The Player gave evidence. She stated she had seen E9 attacking and had not realised she was so light. She had not acted in an intentional way, and had not thought the tackle would end up as it had. She had just wanted to stop the attack and had planned to drive through E9 in the hope of dislodging the ball. She had not been coached to tackle in that way and had simply misjudged the contact.
22. She was greatly upset by the incident and wanted to play again during the tournament. She knew she was in the wrong and acknowledged her culpability. She was sorry that she had placed an opponent at risk of injury and that her conduct had necessitated this hearing.

23. She is 22 years of age and has been playing rugby in Samoa for about 5 years. She has won 4 full caps and in addition has represented her country at 10 7's tournaments.
24. I was told that the Player had a previously unblemished disciplinary record save for Yellow Cards issued for technical offences. I was prepared to proceed in the basis that she had a clear record, but warned of the possible consequences of that position subsequently being found to be incorrect.
25. On behalf of the Player Ms Mika advised me that the Player is very much home grown talent, the Golden Girl of Samoan rugby and an important member of the WRWC squad. She had missed out on selection for Samoa's game against New Zealand in June 2014 and had worked very hard to get back into the team. The incident had happened very early in the game and reflected her desire to cement her position and do everything she could to help the team.
26. Whilst she accepted that the incident should not have occurred and apologised to me accordingly, she felt that the tackle was not malicious but rather had been badly misjudged. The offending was also not in the Samoan way generally and she believed represented the first Red Card the team had received.
27. In reference to the fact the Player had been smiling, Ms Mika stressed that this was just the nature of the Player who always played rugby with a smile on her face and the smile was in no way capable of a sinister interpretation.
28. Ms Enelaki similarly submitted that the offending was unintentional and that the Player was truly sorry for her actions.

FINDINGS

29. I carefully reviewed all the evidence before me. I found that the Player had lifted E9 off the ground and twisted her into a vertical position. Thereafter she had released her contact thus dropping E9 to the ground. The lower back of E9's head and/or the top of her shoulder area hit the ground with both legs still plainly in the air and above her.
30. The Player made no effort whatsoever to bring E9 down safely or otherwise break her fall.
31. After some on field treatment E9 was able to play on.
32. I was prepared to accept Ms Mika's submissions about the Player's smiley disposition and made no adverse finding against her in that regard.
33. Before retiring to consider my decision on sanction I reviewed the provision of clauses 11.10.2, 11.10.4 and 11.10.5 with the parties and invited submissions in relation thereto whilst indicating my provisional view on the entry point criteria. I also drew attention to the IRB Memorandum of 9 June 2009 in relation to dangerous (tip) tackles.

34. Ms Mika submitted that the offending was reckless but not in any way malicious. She otherwise agreed with my position in relation to the prescribed entry point criteria as set out further below. Ms Nolan accepted that there was no intention in the offending as a whole but in her view there had been an intentional lift and twist. She noted that Memorandum was still in effect and that the IRB considered that this therefore still fell to be applied.

35. In my view the offending was of sufficient seriousness to warrant the imposition of a sanction and I accordingly proceeded to consider the factors set out in 11.10.2 TDP. In this respect I found as follows:

- a) The Player had acted intentionally in lifting E9 and had continued to twist her into a vertical position.
- b) Thereafter the offending could properly be viewed as reckless and without malice or an intention to cause injury. The offending was however at the very upper end of reckless conduct in particular as to the risk of injury.
- c) The gravamen of the offending was E9 being lifted into a vertical position with the attendant risk that serious injury could have resulted and that the Player then wholly failed to do anything to mitigate that risk.
- d) The offending was as set out in paragraphs 15 to 18 above.
- e) There was no provocation.
- f) The offending was not retaliatory
- g) Self-defence was not in issue
- h) No material injury was sustained.
- i) There was no effect on the game.
- j) E9 was taken into what effectively was a fully vertical position and so inherently vulnerable.
- k) There was no premeditation.
- l) The conduct was complete.
- m) There were no other relevant factors constituting the Player's offending.

36. In light of these findings, I categorised the offence as being at the MID RANGE of the scale of seriousness. I make it clear that I did view this as a serious matter and that I had given careful consideration as to whether the offending required a top end categorisation. However given the lack of malice, overall recklessness and the dynamics of the situation I was satisfied that the offending was properly viewed as being mid-range.

37. The mid range entry point for this offence is however a suspension of 8 weeks.
38. I considered the aggravating features set out in 11.10.4 TDP and had further regard to the Memorandum referred to above. In my view, although not within the context of WRWC, there is still a pattern of offending such that a deterrent sanction is required to combat the offending and reflect the objective of safeguarding player welfare where this is possible.
39. A period of 1 week was therefore added to the entry point giving rise to a suspension before mitigation of 9 weeks.
40. Having regard to the mitigating features that I am able to consider in 11.10.5 TDP, in particular the Player's plea, clear record and remorse I determined that the Player was entitled to the maximum 50% credit permissible in mitigation. That deduction is applied to the entry point of 8 weeks giving an overall suspension of 5 weeks.

SANCTION

41. The Player was accordingly suspended for a period of 5 weeks. Having regard to the provisions of 11.10.14 TPD the suspension was imposed to take effect over 4 tournament matches in WRWC 2010.
42. I was informed that the Samoan 7's season is currently in progress and will conclude in October. Having regard to the Player's status as an international 7's player I was satisfied that imposing a further week's ban from 18 to 24 August 2014 would constitute a meaningful period of suspension.

RIGHT OF APPEAL

43. I advised the Player of her right of appeal as set out in TDP. Notice of any such appeal must be received in writing by the DDO within 48 hours of receipt of this judgment.

Jeremy Summers

Judicial Officer
3 August 2014