

GENERAL PURPOSES TRIBUNAL
OF FOOTBALL NEW SOUTH WALES
FINAL DETERMINATION
IN THE FOLLOWING MATTER:

GPT 15/12

Respondent	Mr X
Attendees	Mr Y (Parent) Mr Z (Parramatta FC Support Person) Master D (Fraser Park FC Player, Witness) Mr C (Parent of D) Mrs B (Parent of D) Mr A (Fraser Park FC Support Person)
The basis upon which the matter is before the General Purposes Tribunal	Grievance and Disciplinary Regulations Sections 8.2 and 15.3
Key Words/Phrases	Unsportsmanlike or unprofessional conduct, bringing the game into disrepute
Date of Hearing	23 July 2015
Date of Final Determination	31 July 2015
General Purposes Tribunal Members	Mr Andrew Barnes (Chair) Mr Mendo Cklamovski Mr Louis Fayd'herbe

A. INTRODUCTION

1. Football NSW has established this General Purposes Tribunal pursuant to Section 5 of the Football NSW Grievance and Disciplinary Regulations 2014 ("Regulations").
2. A General Purposed Tribunal (GPT) is responsible for hearing and determining:
 - 2.1. Breaches of Misconduct and Disrepute as set out in Section 8.2 of the Regulations;
 - 2.2. Grievances between Members as set out in Section 8.3 of the Regulations;
 - 2.3. Matters referred by Football NSW's Disciplinary Committee as set out in Section 8.4 of the Regulations;
 - 2.4. Any other matter Football NSW considers important to the interests of football in the State, at its absolute discretion, as set out in Section 8.1 (a) (iii).
3. The GPT makes determinations as set out in Section 8.5 of the Regulations.

B. NOTICE OF CHARGE

4. Football NSW issued a Notice of Charge against Mr X dated 17 June 2015, alleging breaches of:
Section 15.3 (b) and/or (e) of the Football NSW Regulations, and/or Clauses 2.1, 2.2(a) and 2.2(c) of the FFA Code of Conduct
5. The conduct alleged in the Notice was as follows:
During the second half of the rescheduled Round 3 U/15s Grade Match of the National Premier League 2 (NPL2) between Fraser Park Football Club and Parramatta Football Club it is alleged that the Participant (X) from the Parramatta Football Club made two racist comments towards a Fraser Park Football Club Player (D).
The comments were "shut up you Buddhist monk" and "you fucking black Buddha, go back where you from".
6. Mr X pleaded guilty in a Notice of Response dated 24 June 2015, but challenged the content of the reports submitted.

C. DECISIONS OF THE GPT

7. The Tribunal determined that Mr X was guilty by his own admission of a breach of Football NSW Grievance and Disciplinary Regulation 15.3 (e) for his unsportsmanlike and unprofessional conduct. As penalty, X is REPRIMANDED.
8. The Tribunal determined that Mr X was not guilty of a breach of Football NSW Grievance and Disciplinary Regulation 15.3 (b) or the FFA Code of Conduct.
9. The Tribunal determined that the costs of the Tribunal processes be met by Parramatta FC.

D. THE HEARING

10. The Hearing was held at Football NSW on 23 July 2015.
11. All witnesses were cautioned on the need for accurate and honest testimony.
12. Mr X was invited to make submissions on jurisdiction and competence. No submission was made.

E. EVIDENCE & SUBMISSIONS

13. The Tribunal accepted as evidence a set of statements submitted by Football NSW with the Notice of Charges that included:
 - 13.1. Report by Referee – W
 - 13.2. Statement by D (Fraser Park U15 Player)
 - 13.3. Statement by V (Fraser Park U15 Manager)
 - 13.4. Statement by T (Fraser Park U15 Player)
 - 13.5. Statement by X
 - 13.6. Character Reference - S
 - 13.7. Character Reference - E
 - 13.8. Character Reference - F
 - 13.9. Character Reference - G
 - 13.10. Team Sheet – Parramatta V Fraser Park 14/05/2015
14. The Tribunal accepted video evidence of the match.

F. CONSIDERATION & COMMENT

15. The fact that witnesses provide contradictory evidence does not necessarily mean one or more are not being truthful, and it can be the case that witnesses provide evidence in good faith that a Tribunal does not ultimately accept in its final determination.
16. The video evidence provided did not show Master D's reaction (to the alleged incident) reported by T in his report. In other respects it did not assist the Tribunal greatly.
17. Master D was at first very steadfast about the contents of his report, and that it could not possibly have been any other person who said the alleged language to him. While testing his evidence, however, Master D wavered on several key points. He at one point said it could possibly have other players, and shortly after retracted that with some confusion.
18. The statement of V, the Fraser Park U15 Manager, cast further doubt on how accurately Master D was able to identify X as the player having made the alleged comments.
19. X admitted to calling Master D a "monk" because of his haircut. He refuted the use of all other language attributed to him in reports. He also claimed that he was responding to Master D after he himself was called a "filthy wog".
20. Master D denied calling Master X any names and said that he did not speak to him at any time prior to the incident.
21. No other player reported or made a statement on the alleged language. Witnesses mentioned by Master D and his parents, during the hearing, did not attend the hearing.
22. The Tribunal was ultimately left in a situation where the evidence of the only witnesses present was almost diametrically opposite.
23. Mr X has no previous conduct issues, and strongly denied that he had used offensive language.
24. Given the seriousness of the Charge of bringing the game into disrepute, the Tribunal must be comfortably satisfied that it should rely on Master D's evidence over Master X' and conclude that Master X did in fact direct the reported language towards Master D. The Tribunal was not satisfied that it could make that determination.
25. Due to X' qualified admission of guilt at the earliest opportunity and clean disciplinary history, the Tribunal determined that a Reprimand was the most appropriate sanction.

G. Right of Appeal

26. Aggrieved parties to a determination of the FNSW General Purposes Tribunal may lodge an appeal to the FNSW Appeals Tribunal in accordance with articles 8.6 and 9.2 of the FNSW Grievance and Disciplinary Regulations. Any appeal must be submitted on the Notice of Appeal form (Prescribed Form 13) to tribunal@footballnsw.com.au with the relevant Application Fee (\$750) within seven (7) working days of the Final Determination of the GPT being sent to the Club.

Andrew Barnes

Chairman

31 July 2015