

DISCIPLINARY COMMITTEE OF THE FOOTBALL FEDERATION OF AUSTRALIA

DETERMINATION IN THE FOLLOWING MATTER:

Player and club	Nick Mrdja, Melbourne Victory FC
Alleged offence	Item R2 of clause 6.2 of the Disciplinary Regulations (violent conduct)
Date of alleged offence	18 February 2010
Occasion of alleged offence	Match between Melbourne Victory FC and Sydney FC
Date of Disciplinary Notice	22 February 2010
Basis the matter is before the Disciplinary Committee	A referral: see clause 3.3(a) and 10.2(b)
Date of Hearing	Wednesday 3 March 2010
Date of Determination	Wednesday 3 March 2010
Disciplinary Committee Members	John Marshall SC, Chair Peter Raskopoulos Anthony Lo Surdo

A. INTRODUCTION AND JURISDICTION

1. The Committee has jurisdiction under clause 4.4 of the "FFA A-League Disciplinary Regulations" applicable to the 2009-2010 A-League season ("**the Disciplinary Regulations**") to determine matters which have been referred to it pursuant to the Disciplinary Regulations. When a matter is duly referred, clause 3.3(a) provides that the Committee must determine the matter and "impose such sanctions as are authorised and appropriate to the determination".
2. In this matter there has been a referral under clause 10.2(b) of the Disciplinary Regulations in relation to the matter described in the table above.
3. The Match Review Panel ("**MRP**") issued a notice which stated:

The purpose of this Notice is to advise you of the following:

1. the MRP has reviewed the incident (**Incident**) in or about the 74th minute in the A-League Match between the Club and Sydney FC on Thursday, 18 February 2010 (**Match**) which resulted in a direct red card being issued to Nik Mrdja (**Player**);
2. the MRP found the Incident is a Red Card Offence, namely "Assault on a Player (e.g. violent conduct when not challenging for the ball)";
3. the minimum sanction for the Offence under the Regulations is two A-League Matches (the Mandatory Match Suspension plus an additional one A-League Match); and
4. The proposed sanction is two A-League Matches (being the Mandatory Match Suspension plus an additional one A-League Match).

Player Options

5. You may either:
 - (a) accept the sanction proposed at paragraph 4; or
 - (b) refer the matter to the Disciplinary Committee for determination on
 - (i) the alleged Offence; and
 - (ii) the sanction to be imposed.
4. Mr Mrdja ("**the Player**") has not accepted the MRP's notice and disputes the offence and the proposed sanction.

B. THE HEARING

5. On the evening of Wednesday 3 March 2010 the Committee heard the referral of the above matter. At the conclusion of the hearing (following deliberations and pursuant to clause 20.4 of the Disciplinary Regulations) the Committee verbally announced the result of the hearing. These are the written reasons of the Committee in the "shortest form reasonably practicable" (see clause 20.3(c)).
6. At the hearing, Disciplinary Counsel was Mr McLure and the Player was represented by Mr Papas together with Mr Miles and the Player himself.

C. FACTS

7. We have had the benefit of seeing Fox Sports footage of the incident from several different angles. That footage became an unnumbered exhibit.
8. For the FFA there were numbered documentary exhibits 1-5 and for the Player there was a character letter from Lawrie McKinna, further Fox Sports footage and his oral evidence.
9. In around the 74th minute of the game an incident occurred between player Mrdja and opposing player Shannon Cole. The incident was brought to the attention of the referee, Peter Green, by the assistant referee, Hakan Anaz.

10. The still frames below from the footage (not necessarily in this sequence) show the contact:





11. The Player said his shirt was held by the opposing player Cole and he was trying to break free and/or shrug off Cole. He also said the main reason for throwing his arm back was to hold position, to make a strong move to head the ball.

D. SUBMISSIONS

12. The matters submitted by the FFA included:
 - (1) It was open to find that the Player intended to elbow the opposing player; and
 - (2) In any event there was excessive force sufficient to justify the charge.
13. The matters submitted on behalf of the Player included:
 - (1) As there was contact and the movement of the Player's arm was intentional all the elements of a foul were present but there was not "violent" conduct and it did not amount to "using excessive force". Accordingly the charge should be dismissed;
 - (2) Alternatively in lieu of a red card a yellow card should have been issued;
 - (3) Further alternatively even if the matter was a red card offence it was a situation where player Mrdja was challenging for the ball and hence the relevant minimum penalty should be one match not two matches; and
 - (4) There were Exceptional Circumstances in that the Player has an outstanding record and has reached the latter stages of his career.
14. Reference was made to the factors which appear in clause 11.2 of the Disciplinary Regulations.

E. CONSIDERATION AND FINDINGS

15. We find that there was some banter between player Mrdja and opposing player Cole and that the contention that player Cole held player Mrdja's shirt is correct. We do not consider those matters justification for what we find next occurred.

16. Player Mrdja accepts that he moved his right arm backwards and that it was intentional. Whilst he says that he did not intend to make contact with his right elbow to the opposing player we reach a different conclusion. In our view the action was intentional and one designed to strike the opposing player.
17. The two players were in very close proximity and the probable consequence of player Mrdja's action was that opposing player Cole would be hit in the head, as in fact occurred. We do not find it necessary to express a view as to whether player Mrdja intended his elbow to make contact with the face or with some other part of Cole. We find he did intend to throw his elbow and we also find that he did in fact make contact.
18. In this regard our finding is consistent with the assistant referee's, Hakan Anaz, report and indeed we accept his report which was that he saw player Mrdja elbow his opponent in the face.
19. We find that at the time of the offence player Mrdja was not "challenging for the ball" as that term is used in the FIFA Laws of the Game and in the Disciplinary Regulations.
20. In our view the use of the elbow cannot be condoned. We note that the Committee in other matters has also reached the same conclusion.
21. As to the question of the appropriate sanction, first we do not find there to have been established Exceptional Circumstances within clause 11.3 of the Disciplinary Regulations.
22. Second, but for the long and outstanding record of player Mrdja who tells us he has never received a red card at any level of football and but for the glowing character reference, we would have been of the view that a sanction longer than the two matches proposed by the Match Review Panel would be appropriate. However no submission was made by the FFA that the two match suspension proposed by the MRP was not adequate. In these circumstances we reach the conclusion that the sanction should be two matches.

F. RESULT

(1) Finding as to offence

23. We find the offence has been established.

(2) Sanction to be imposed

24. The sanction we impose is a total of two matches, ie one match over and above the Mandatory Match Suspension. The total of two matches is the minimum under row 4 of the table of offences.

(3) Suspension and probationary period

25. Under clause 12.2 it is not open to us to suspend part of the sanction. This was accepted by the Player due to clause 12.3(a). In any event we are of the view that it is not appropriate to suspend any part of this sanction.

John Marshall

J E Marshall SC, Disciplinary Committee Chair
3 March 2010