

DISCIPLINARY AND ETHICS COMMITTEE OF THE FOOTBALL FEDERATION OF AUSTRALIA

DETERMINATION IN THE FOLLOWING MATTER:

Player and club	Jamie Young, Brisbane Roar
Alleged offence	Serious foul play (eg when challenging for the ball)
Date of alleged offence	Saturday 02.02.2019
Occasion of alleged offence	2019 Hyundai A-League match between Brisbane Roar and Adelaide United
Date of Disciplinary Notice	Sunday 6 January 2019
Basis the matter is before the Committee	A referral: see clause 3.3(a) and 11.21(b)
Date of Hearing	Wednesday 13.02.2019
Date of Determination	14.02.2019
Committee members	John Marshall SC, Chair Lachlan Gyles SC Rob Wheatley

A. INTRODUCTION

1. Jamie Young, the Brisbane goalkeeper, was sent off with a direct red card in his match on Saturday 2 February 2019 against Adelaide. According to the report of the referee in the 64th minute there was a long ball played through by Adelaide. Young came outside of his penalty area, missed the ball and "cleaned up" Goodwin of Adelaide; Young used excessive force and made contact to Goodwin's upper body and head with the use of his arms and shoulder. The video footage confirms the description of the incident provided by the referee including that the goalkeeper "cleaned up" the opposing player; the contact between the goalkeeper and the opposing player was brutal.
2. As a result of the red card, the Match Review Panel (MRP) reviewed the incident and following review determined that the offence constituted "Serious foul play (eg when challenging for the ball)" and proposed a sanction of 3 matches, being the minimum mandatory one match suspension plus 2 additional matches.
3. The player did not accept the proposed sanction and referred the question of the appropriate sanction to be determined at a hearing of this Committee.
4. For the reasons explained below the Committee has determined that the appropriate sanction is only a total of 2 in light of significant mitigating circumstances which came to light during the hearing.

B. FORMAL MATTERS AND JURISDICTION

5. The Committee has jurisdiction under clause 4.3 of the FFA "Hyundai A-League Disciplinary Regulations" applicable to the 2018-2019 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.

6. In this matter there has been a referral under clause 11.21(b) of the Disciplinary Regulations. Prior to a referral under clause 11.21(b) the player will have been given a direct red card by the referee. The consequence is that the player will have an automatic Mandatory Match Suspension (in this case 1 match). No part of the above process is able to be referred to the Committee and hence cannot be appealed.
7. The MRP issued Jamie Young (**the player**), with a Disciplinary Notice dated 4 February 2019. The Category 1 Offence stated on the Disciplinary Notice is Offence 3 (R3 for Players) – *Serious foul play (eg when challenging for the ball)*. The Disciplinary Notice appears below.

The Match Review Panel (**MRP**) provides this Disciplinary Notice (**Notice**) to you in accordance with the Hyundai A-League Disciplinary Regulations (**Regulations**).

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

1. You were issued with a direct Red Card in or around the 64th minute of your Club's match against Adelaide United on Saturday, 2 February 2019;
2. In accordance with "Annexure A – 6. Players Table of Offences" of the Regulations, the MRP has determined that the Red Card Offence constitutes Offence No. 3 being "*Serious foul play (e.g. when challenging for the ball)*" (the **Offence**);
3. The Minimum Sanction for the Offence under the Regulations is the Mandatory Match Suspension;
4. The MRP has proposed a sanction of three (3) Hyundai A-League matches, being the Minimum Sanction for the Offence plus two (2) additional matches.

Player Options

5. As the MRP has proposed a sanction above the Minimum Sanction stipulated at "Annexure A – 6. Player Table of Offences" for the Offence, the Player or Club may:
 - (a) accept the sanction proposed at paragraph 4 above; or
 - (b) refer the matter to the Disciplinary and Ethics Committee for hearing and determination of the sole question of either:
 - (i) what additional sanction should be imposed above the minimum sanction (inclusive of the Mandatory Match Suspension which must be served), applying the Range at the Table of Offences; or
 - (ii) whether Exceptional Circumstances apply and therefore a sanction outside the Range at the Table of Offences should be imposed, provided always that the Mandatory Match Suspension must be served.
6. You must notify FFA of your election by forwarding the enclosed Election Form to FFA by **2.00pm (AEDT) Tuesday, 5 February 2019**.
7. If FFA does not receive the properly completed Election Form by the time specified in paragraph 6 above, you are deemed to have accepted the proposed sanction.

C. THE HEARING

8. On the evening of Wednesday 13.02.2019 the Committee heard the referral of the above matter. At the conclusion of the hearing the Committee announced its

decision. These are the written reasons of the Committee in the "*shortest form reasonably practicable*" (see clause 22.3(c)).

9. At the hearing Disciplinary Counsel was Ivan Griscti and the player was represented by Simon Phillips.
10. The evidence at the hearing comprised video footage of the incident from several angles, the Disciplinary Notice, the referee's incident report, the player's disciplinary record, the player's statement with accompanying testimonials and character references and other documents collated in a spiral binder prepared by the FFA. In that spiral binder are the written submissions on behalf of the player and Disciplinary Counsel and those submissions make reference to further materials. All those further materials have been treated as being before the Committee as evidence for what utility and relevance they may have.

D. FACTS

(1) The incident leading to the red card

11. As noted above, in the 64th minute Adelaide had put through a long ball; the player who made the kick was approximately 20 m inside his own (Adelaide's) half. The ball was well flighted and took its first bounce approximately 15 m outside the Brisbane penalty area. During the time that the ball was in flight it would have been apparent to the goalkeeper that Craig Goodwin of Adelaide would outrun the Brisbane defenders and be the first to the ball putting Goodwin in a possible goalscoring position. That much can be determined from the video footage.
12. The images taken from the video footage which appear below show what happened thereafter.

Image 1



13. The image above shows the position of the players at the time the ball took its 1st bounce from the long flight. The goalkeeper had already moved to the edge of the penalty area and was intent on charging at the ball outside his penalty area.

Image 2

14. In the image above the ball has moved past the goalkeeper and the goalkeeper is on a collision course with the opposing Adelaide player. It is not completely clear from this image whether the goalkeeper's left foot is still on the ground or whether he has already left the ground as part of his left foot take-off, but most likely it has not.

Image 3

15. In the image above the goalkeeper has collided with the opposing player and made contact with his right arm against the shoulder, neck and (significantly) the head of the opposing player.

Image 4



16. The above image, which is from a different angle, shows the relative positions moments before the ball beats the keeper and the collision occurs.

Image 5



17. In the image above the goalkeeper has collided with the opposing player, driving the opposing player backwards onto the ground. The high-speed, high momentum impact is evidenced by the fact that the goalkeeper is airborne in the above image..

Image 6

18. The above image, from yet another angle, shows the forearm of the goalkeeper making contact with the head and neck region of the opposing player.

(2) Oral evidence of the player

19. The player attended the hearing in person. He also provided a detailed written statement. He was an impressive witness and his statement was well-prepared by him. He presented as intelligent and articulate as well as passionate about football. The substance of his evidence was:
- (a) When the ball was kicked through he made a decision to run out of his box in an attempt to get to the ball first.
 - (b) As he ran towards the ball he could see that the opposing Adelaide player would beat the Brisbane defenders to the ball which meant that the only 2 players who could get to the ball first were either himself or the opposing Adelaide player.
 - (c) Also as he ran towards the ball he realised that he had to readjust the angle of his run. The flight of the ball and the bounce the ball took the ball further to his left than he had originally anticipated. His second last step was off his right foot and was not straight but pushed off towards his own left so as to change direction (towards his left) in order to get closer to the ball. His last step was off his left foot and was to jump in the air.
 - (d) As he jumped he made an action which he says was an attempt to head the ball. His arms were raised. He missed the ball making no contact with it.
20. Before continuing further the Committee notes that it accepts the above. The Committee also concludes there was significant error of judgment and whilst the player believed he had a sporting chance to get the ball the reality is that the flight and bounce of the ball was almost inevitably going to lead to the result that he would not get the ball. The Committee also concludes that by his action in running

out of the box to an area where could not use his hands coupled with the angle of his run, the speed of his run and the movement of the opposing Adelaide player significantly increased the likelihood of a high speed collision.

21. The player continued his evidence and described as best he could what happened next including what his thought process was:
 - (a) Whilst in the air he realised that he had misjudged the movement of the ball and that there was about to be a collision. Realising that there was about to be a collision and that "collisions at high speed can have impactful consequences physically to the parties involved" he took steps which he says were "necessary to protect myself".
 - (b) He says that he lowered his right arm from its extended position towards his body so as to protect his vital organs.
 - (c) Following that there was the collision with the opposing Adelaide player.
22. In relation to the above Disciplinary Counsel pointed out that the goalkeeper had his arms raised and that his right arm comes into contact with the opposing player's head and shoulder region. The Committee agrees with those points.
23. The player says that at no point did he ever intend to injure the opposing Adelaide player and in fact no injury seems to have been sustained. The Committee accepts both these points.
24. The player also quite fairly conceded that with the benefit of hindsight the better decision would have been to stay in the box rather than to come out for the ball. He goes on to say that the decision he made to come out was not motivated by any desire to take out the opposing player and although there was a collision, when he made the decision to come out of the box he did not intend for there to be a collision. Whilst the Committee accepts that, it only goes so far because the actions of the goalkeeper inevitably led to a collision.

(3) Disciplinary record of the player

25. The Committee was provided with the disciplinary record of the player. The player has been a professional footballer for many years apart from the very small number of yellow cards there has been no adverse incident or any significance prior to the red card the subject of this hearing.
26. In this regard the player commenced playing football at a very early age in the Brisbane area. He moved to England at about the age of 15 and first played professional football in English division 1 at the age of 18. He is now 33. This means he has had an extensive professional football career where his prior disciplinary record is essentially without blemish. This is a factor that can be taken into account under clause 13.2 as referred to below.

(4) Statement by opposing player.

27. The opposing player from Adelaide (Goodwin) provided a written statement as follows:

After the game, Jamie Young came to the Adelaide United change room to apologise for the collision. I believe that it was not deliberate nor did he have intent to hurt myself and that it was more the skid of the ball on the surface that he misjudged and couldn't stop his momentum.

(5) *Character evidence*

28. The player has provided a significant amount of material to support his good character and charitable work within the game and associated with the game as well as outside the game. It was noted during the hearing that the character type evidence and the work that he does of a charitable nature was significant. There have rarely if ever been players who have come before the Committee with material of such a powerful nature. The material was extensive and covered a long period of time. Rather than set it out, it can be summarised as being of the most extraordinary kind and such as to significantly alter our approach to the outcome as is permissible under clause 13.2 referred to below.

E. SUBMISSIONS

29. Reference was made to clause 13.2 of the Disciplinary Regulations which provides:

13.2 When determining any appropriate sanction in accordance with the Range at the Table of Offences, a Judicial Body may consider:

- (a) the nature and severity of the Offence, including whether it was intentional, negligent or reckless;
- (b) the Participant's past record and whether or not this is a repeated Offence;
- (c) the remorse of the Participant; and
- (d) any extenuating circumstances relevant to the commission of the Offence.

30. The matters submitted by Disciplinary Counsel included:

- (1) The action taken by the player on his own evidence was to "protect myself".
- (2) Serious foul play was involved as, at least, it was a challenge that endangered the safety of an opponent.
- (3) The actions of the player were reckless.
- (4) The appropriate sanction, and all the evidence is a total of 3 matches which is what was it proposed by the MRP.

31. The matters *submitted* on behalf of the player included:

- (1) An argument that on the available video evidence, the elements of the Offence have been made out and submits that the appropriate offence was Offence No 1 ("Denying the opposing team an obvious goal scoring opportunity"), with the result that the appropriate sanction would be the mandatory match suspension alone. In effect this is an application on behalf of the player to downgrade the offence pursuant to clause 13.2(d) of the Disciplinary Regulations. This submission was not further advanced orally. The Committee finds against this submission.
- (2) In the alternative, even if the Offence with which he has been charged is the appropriate charge, taking into account the circumstances of the offence, his contrition, apology and conduct immediately after the match, his exemplary disciplinary record and his very substantial contribution to both the football and wider communities, the appropriate sanction would still be the mandatory match suspension alone. In support of this alternative argument the player points to the following matters which he said are established (this is a list of the matters submitted not of findings):

- (a) the incident and collision occurred as a result of a split-second error of judgment by the player in misjudging the speed and trajectory of the ball and his own body position in comparison with that of the opposing player;
 - (b) the absence of any malice or intent on the part of the player and his express disavowal of any intention to cause any injury to a fellow professional footballer;
 - (c) the conduct of the player after the incident, and in particular the fact that he sought out the opposing player immediately after the match and apologized for the collision;
 - (d) the fact that the opposing player did not sustain any (or any significant) injury as a result of the incident, and in fact was able to take the free kick which ensued and score a goal immediately afterwards;
 - (e) the fact that the opposing player provided a letter which has been referred to earlier;
 - (f) the player the player has an exemplary disciplinary record; and
 - (g) the player is a person of outstanding personal character and integrity who is a beacon for others in terms of his work for, and standing in, the football and wider community in Australia and overseas.
32. A further submission was made on behalf the player that the incident in this case was less serious than the one that came before the committee earlier this year in Pena. The committee rejects that submission. In the case of Peña there was a finding *"that part way through the action of kicking he realised that the ball had moved and he did all that he could to reduce the motion of the kick. He says that he did not feel that the contact was strong contact at all which he says supports the fact that he attempted, admittedly too late, to prevent contact"*. In that case there was no actual contact with the head and no potential contact with the head of an opposing player. Indeed the steps taken by Pena were such that he made contact with the legs of a player on his own team and that there was not strong contact at all with the opposing player. By way of contrast in this case the last action of the goalkeeper was to protect himself and not the opposing player. The consequence of the action of the goalkeeper was that his forearm made contact with the head of the opposing player. In this case the contact was strong contact as the entire weight of the goalkeeper, with all the momentum of running at speed and landing from above, came down on the opposing player.
33. Related to the above, counsel for the player sought to show video of the incident in Peña. The committee rejected that course. Paragraph 24 of the decision in Peña noted that the finding was *"supported by very close examination of the video and still footage"*. The committee considered it was not open to seek to go behind the finding by showing footage from that case for the reason that it would involve in effect going over the footage with very close examination over a great deal of time from several angles which is what happened at the hearing in Peña. That was so even though counsel said he only wished to show a very short portion of the footage. Indeed that is part of the problem with the application. The comparison to the decision in Peña is to be made by reference to the actual text of the decision and the images recorded in it.

F. CONSIDERATION AND FINDINGS.

34. Starting with general matters not specific to this player, an important consideration is the safety of all players and relevant to this situation, the safety of an opposing player. This is a matter of importance which the Committee has pointed out on previous occasions. Whilst no doubt injuries are a consequence of the physical nature of the game, player safety on the field can be improved by all players properly abiding by the laws of the game. No doubt because of the importance of player safety, the laws of the game are not silent on this topic.
35. For example, the laws of the game state:
- Although accidents occur, the Laws should make the game as safe as possible. This requires players to show respect for their opponents and referees should create a safe environment by dealing strongly with those whose play is too aggressive and dangerous. The Laws embody the unacceptability of unsafe play in their disciplinary phrases, e.g. 'reckless challenge' (caution = yellow card/ YC) and 'endangering the safety of an opponent' or 'using excessive force' (sending-off = red card/RC).
36. Further, the laws of the game and the Disciplinary Regulations provide these definitions:
- (1) reckless
- Any action (usually a tackle or challenge) by a player which disregards (ignores) the danger to, or consequences for, the opponent.
- (2) serious foul play
- A tackle or challenge for the ball that endangers the safety of an opponent or uses excessive force or brutality; punishable by a sending-off (red card).
- (3) playing in a dangerous manner
- Playing in a dangerous manner is any action that, while trying to play the ball, threatens injury to someone (including the player themselves) and includes preventing a nearby opponent from playing the ball for fear of injury. A scissors or bicycle kick is permissible provided that it is not dangerous to an opponent.
37. The action of the player showed a disregard for the danger that it posed to the opposing Adelaide player. Further, the player used excessive force. Finally it was play in dangerous manner because it threatened injury to the opposing player. The fact is the player either did anticipate or should have anticipated a collision as a result of his actions. His evidence did not contain a clear admission that he actually foresaw a collision but on one view that was the effect of his evidence.
38. Overall the actions of the player were more than negligent and were reckless although the Committee finds there was no intent to injure. Immediately prior to the point of impact the player took steps to protect himself rather than to ameliorate the consequences to the opposing player. No doubt that was out of self-preservation, which was the effect of the player's evidence, but nevertheless that was part of conduct which resulted in his forearm making contact to the head and neck region of the opposing player. The significant consequences of a head injury are now well documented and well known (that is not to comment on whether or not they were always well documented and well known).
39. In this case the consequences for the opposing player could have been very significant. Thankfully they were not.

40. But for the evidence at the hearing the Committee would have imposed a sanction of 3 matches (possibly more). However as a result of the evidence of his contrition, apology and conduct after the match, his very good disciplinary record and in particular, as his counsel put it, "*his very substantial contribution to both the football and wider communities*" the Committee takes the view that a lesser sanction should be imposed.
41. The Committee considered imposing a 3 match sanction and suspending 1 of those but ultimately came to the conclusion that the likelihood of re-offending was negligible and that the very substantial contribution of the player off the field warranted imposing a sanction of only 2 matches (which of course is less).
42. Having given full weight to all the factors in favour of the player in determining a sanction of 2 matches and not a greater sanction, the Committee did not consider it was appropriate to then suspend one of those two matches.
43. Accordingly, taking into account all the circumstances including the past record of the player and other mitigating factors, the appropriate sanction is that which is recorded under the following heading.

G. RESULT

44. The sanction the Committee imposes is a total of 2 matches which includes the mandatory match suspension.

John Marshall

J E Marshall SC (retired), Disciplinary & Ethics Committee Chair
Thursday 14.02.2019