

DISCIPLINARY AND ETHICS COMMITTEE OF THE FOOTBALL FEDERATION OF AUSTRALIA

DETERMINATION IN THE FOLLOWING MATTER:

Player and club	Rhyan Grant of Sydney FC
Alleged offence	Serious foul play (eg when challenging for the ball)
Date of alleged offence	29 December 2019
Occasion of alleged offence	Match between Sydney FC and Melbourne City FC, 29 December 2019
Date of Disciplinary Notice	30 December 2019
Basis the matter is before the Disciplinary Committee	A referral under Clauses 3.3(a) and 11.21 of the Hyundai A-League Disciplinary Regulations
Date of Hearing	3 January 2020
Date of Determination	6 January 2020
Disciplinary Committee Members	Anthony Lo Surdo SC, Chair (Acting) Deborah Healey David Barrett

A. INTRODUCTION

1. Rhyan Grant, from Sydney FC (**SFC**) (**the Player**) was sent off with a direct red card in his match on Sunday, 29 December 2019 against Melbourne City FC (**MCFC**). According to the report of the referee, in the 24th minute of the game, MCFC was attacking SFC with possession, centre field in its defensive half when the Player mistimed his tackle and lunged in with excessive force, front-on with a straight right leg, over the ball, making direct contact with his studs to the right shin of MCFC Player Atkinson and thus endangering the opponent's safety.
2. The referee stopped play and initially cautioned the Player by showing him the yellow card. Following a VAR review and an on-field review by the referee, the referee determined that he had incorrectly assessed the tackle to be "reckless" rather than "serious foul play" and subsequently sent off the Player who left the field of play without incident.
3. As a result of the red card, the Match Review Panel (**MRP**) reviewed the incident and 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.

4. 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.
5. The minimum sanction for the offence under the FFA "Hyundai A-League Disciplinary Regulations" applicable to the 2019/2020 A-League season (**the Disciplinary Regulations**) is the Mandatory Match Suspension (**MMS**) in this case of 1 match.

B. JURISDICTION AND ADMISSIBILITY

6. The Committee has jurisdiction under clause 4.3 of the Disciplinary Regulations to determine matters which have been referred to it pursuant to those 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.
7. The MRP issued the Player with a Disciplinary Notice, dated 30 December 2019 (**Disciplinary Notice**). 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 informed the Player that:
 - in accordance with "Annexure A – 6. Players Table of Offences" of the Regulations, the MRP had determined that the Red Card Offence constitutes Offence No. 3 being "Serious foul play (e.g. when challenging for the ball)" (**the Offence**);
 - the Minimum Sanction for the Offence under the Regulations is the MMS;
 - the MRP had proposed a sanction of three (3) Hyundai A-League matches, being the Minimum Sanction for the Offence plus two (2) additional matches;
 - as the MRP had 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; or
 - (b) refer the matter to the 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 MMS 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 MMS must be served;
 - He must notify FFA of his election by forwarding an enclosed Election Form to FFA by 2.00pm (AEDT) on Tuesday, 31 December 2019.
8. Clause 11.21(b) of the Disciplinary Regulations requires that any election to refer a matter to the Committee must be notified to the FFA within the time stipulated in a disciplinary notice. In this case, the time stipulated in the Disciplinary Notice was 2.00 pm (AEDT), on Tuesday, 31 December 2019. On 30 December 2019, SFC elected to refer the matter to the Committee under clause 11.21(b) of the Disciplinary Regulations.
9. The referral has accordingly been made within time and is thus admissible to determination by the Committee.

10. In these circumstances, the Committee is of the view that it has both jurisdiction to determine the matter the subject of the referral and that it is admissible to determination by it. Neither party contended to the contrary.

C. THE HEARING

11. On the afternoon of Friday, 3 January 2020, the Committee heard the referral of this matter. At the conclusion of the hearing (following deliberations and pursuant to clause 22.4 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 22.4(c) of the Disciplinary Regulations).
12. At the hearing Disciplinary Counsel was Mr Ivan Griscti. The Player was represented by Mr Peter Paradise, solicitor. The Player also attended the hearing in person together with his coach, Mr Steven Corica and the Chief Executive Officer of SFC, Mr Daniel Townsend.

D. THE FACTS

(a) The Evidence

13. The evidence at the hearing comprised extensive video footage of the incident from several angles, the Disciplinary Notice, the referee's match report, the Player's disciplinary record, documents evidencing the charitable and community involvement of the Player (including videos featuring the Player and referred to in the written submissions relied upon by the Player as "RBG Video A" and "RBG Video B"), a video of the incident and the events leading up to it taken by SFC, oral evidence given by the Player and by Mr Corica and Mr Townsend (a summary of which appears below), a reference from David Merlino, Director, Operations of Football Wagga Wagga, dated 2 January 2020 and a "Letter of Support" dated 1 January 2020 from Mr Graham Arnold, the Head Coach of the Australian Men's National Team.

(b) The Incident

14. The Committee considered video of the incident and the events leading up to it from a number of different angles including the vision considered by the VAR and by the referee when conducting an on-field review of the initial decision by the referee to caution the Player by showing him a yellow-card.
15. The following images taken from the video provide a visual summary of the events surrounding the incident and of the incident itself. In or about the 24th minute of the game, MCFC was attacking SFC with possession, centre field in its defensive half when the Player made a mis-timed lunging tackle, front-on with a straight right leg, over the ball, making direct contact with his studs to the right shin of MCFC Player Atkinson.
16. The first image depicts the Player challenging for the ball with attacking Player Atkinson of MCFC to the immediate left of the screen and advancing on the ball. At this time, the image shows the Player commencing to lunge at the ball.



17. The next image depicts the Player's right leg and foot outstretched with his foot over the ball with studs showing.



18. The last image depicts the Player's right foot with studs showing making direct and forceful impact with the right lower leg or shin of MCFC Player Atkinson.
19. The contact with MCFC Player Atkinson was significant causing him to fall to the ground and requiring on-field medical attention. Player Atkinson was, however, able to resume play after receiving medical treatment as played for the duration of the game.



20. The video footage also shows the Player approaching MFC Player Atkinson shortly after the tackle and whilst Player Atkinson was receiving medical treatment enquiring after the welfare of the player in an act of contrition or remorse.

(c) The Player's Disciplinary Record

21. The Player has a positive disciplinary record. He has participated in over 250 senior football matches at an elite level including 178 games for SFC since his debut in season 2008/2009. He would undoubtedly have played more games but for the fact that he played limited games in season 2013/2014 due to an injury and did not play in season 2017/2018 at all due to injury.
22. The Player has also represented his country in the Australian National U-20's team and the Australian National U-23's team and debuted in the Australian Men's Football Team, the Socceroos, on 20 November 2018.
23. In a senior career spanning over 10 years the Player has received 35 yellow cards and no red cards but for the incident in question. This is an exemplary record especially for a person who has played in mostly defensive positions over the course of his career to date.

(d) Evidence from the Player

24. The Player gave evidence in person at the hearing which may be summarised as follows:
- he has played football since the age of four;
 - he has played 178 games for SFC since his debut and over 250 senior games and has received no red cards in his playing career;
 - he has participated on a voluntary basis in community activities including the "Purple Hearts Foundation" and "Waves for Wellness" in addition to the numerous promotional and other community activities undertaken through SFC;
 - he recalls making a first tackle which immediately preceded the tackle the subject of the red card. He wanted to nullify a pass effected by a MCFC player. He made

a sliding tackle which made contact with the ball, but found himself with his back to the ball and did not immediately see the location of the ball until after he got to his feet from effecting that first tackle;

- when he sighted the ball, he was conscious that someone was approaching the ball at the same time and tried to get their first. He did so by lunging at the ball in what he thought was a 50/50 challenge;
- he thought that he would make contact with the ball and might also make contact with the opposing player;
- he recalls trying to change the position of his right foot from studs up to "more side on" in the attempt to mitigate the impact of the challenge;
- within seconds of the challenge on MCFC Player Atkinson, he went over to apologise and ask if he was okay. The Player patted MCFC Player Atkinson "on the bum" and said he was sorry;
- he wanted to apologise to MCFC Player Atkinson in the dressing rooms after the match, but was unable to gain access to the rooms;
- under cross-examination, the Player accepted that at the moment of contact with MCFC Player Atkinson both his feet were off the ground. In re-examination, the Player said that his left leg was planted initially but that with the follow-through both his feet lifted.

(e) Other evidence

25. The Player tendered and relied upon documents evidencing the charity and community work undertaken by him during his career. That evidence discloses that the Player:
 - (a) has the highest participation rate for charity and community work of any SFC A-League team member during the first quarter of the current season;
 - (b) attended a "Big Blue Charity Lunch" for men's mental health, a visit to the Sydney Children's Hospital to support sick children, a school holiday clinic at Rose Bay and a further school holiday clinic at Macquarie, in April 2019; and
 - (c) contributes a significant amount of his time to the development of football and community in country areas. In a letter dated 2 January 2020, Mr Merlino, Director, Operations of Football Wagga Wagga speaks in glowing terms of the contribution made by the Player to a school holiday clinic undertaken by SFC in Wagga Wagga in October 2017.
26. Mr Corica gave evidence relating to the Player's character. He described the Player as "competitive, professional, a great guy, one of the first people to volunteer for community work, very fair and one of the leaders in the SFC playing group."
27. Mr Townsend also gave evidence relating to the Player's character, describing him as one of the most popular players at the Club who was always happy to provide charitable service.
28. Graham Arnold, the Head Coach of the Australian Men's National Team, provided a "Letter of Support" for the Player, dated 1 January 2020, in which he attests to the Player's willingness to volunteer to represent the national team and community initiatives both in Australia and abroad, including hosting a coaching clinic for underprivileged children in Amman, that the Player "*...always gives 100% but is respectful to other professionals and is not a player demonstrates malice.*"

E. SUBMISSIONS

29. What follows is a summary of the parties' written and oral submissions and does not necessarily encompass every contention put forward by the parties. To the extent that it omits any contentions, the Committee notes that it has carefully considered all of the evidence and arguments submitted by the parties, even if there is no specific reference to those submissions in the following summary.
30. The following submissions were made on behalf of the Player:
- (1) despite connecting with the ball first, the Player accepts that in hindsight, the challenge may have endangered the safety of his opponent and thus that the relevant Category 1 Offence has been committed;
 - (2) the Incident occurred at a time that the Player was searching for the ball on the ground and his immediate reaction was to get to the ball first;
 - (3) the challenge from the Player was made from a standing start and thus did not commit to the challenge with any significant momentum;
 - (4) any upward movement from the Player was required in order for him to meet the ball within the shortest possible time (and not to injure the opposition player);
 - (5) the Player first makes contact with the ball and not the opposition player;
 - (6) the contact with the ball contributes to the impact of the Player's right foot been higher up the shin of the opposition player;
 - (7) at the point of the challenge on the ball, the Player has his left foot firmly planted on the ground when his right foot makes contact with the top of the ball. The Player's contact with the ball cannons it onto the right foot of MCFC Atkinson and the ball subsequently ricochets towards the touchline. In the follow-through, after making contact with the ball, the Player's right foot rolls over the top of the ball and when he realises that his right foot may make contact with the opposition player's right leg the Player immediately attempts to return his right foot to the ground by making a clockwise motion with that foot whilst at all times watching only the ball;
 - (8) the split-second challenge was not intended to intentionally injure the opposition player or endanger the safety of the opponent;
 - (9) as soon as the Player realised that he may have been in a position where he was endangering the safety of the opponent, he attempted to bring his right foot immediately to the ground;
 - (10) the Player showed immediate remorse in that he consoled the opposition player and asked if he was "okay" within 18 seconds of the foul having been committed;
 - (11) MCFC Player Atkinson was not injured, re-joined the match shortly after the foul was committed and played for the entire 90 minutes of the match;
 - (12) that he has an exemplary disciplinary record and not been shown a red card in over 250 professional matches and 178 A-League matches despite playing predominantly as a defender;

- (13) the incident is not a repeat offence for the Player;
 - (14) club and country officials have stated that the player is without peer in his work for charity and the community;
 - (15) the yellow card caution should not have been reviewed by the VAR as it was not a clear and obvious error by the referee. The incident was not completely missed. The review was completely incongruous with the instructions issued by the FFA to referees, the VAR and the clubs. The incident was, in effect, re-refereed by the VAR use in slow motion replays without any regard to what happened on the field in real-time and that the Committee should take these circumstances into account when determining sanction;
 - (16) the severity of the additional sanction imposed by the MRP is unfair and inconsistent with the recent decisions involving recent incidents. Five of the incidents referred to are MRP or on field decisions with the exception of the matter of Jamie Young which was the subject of a prior determination of this Committee on 2 February 2019; and
 - (17) an appropriate sanction would be the MMS plus 1 match with the additional match suspended.
31. FFA made the following submissions:
- (1) the challenge falls well within the definition of "Serious Foul Play"
 - (2) intent is not a necessary element - the key issue is the risk the safety of the opposition player;
 - (3) an important issue is the potential for serious injury. Fortunately, there was no such injury on this occasion, but this kind of contact is capable of causing a broken leg;
 - (4) the challenge was reckless, the Player's right leg was high, he had momentum from a leap forward immediately prior to the challenge and then from effectively "launching" into the tackle. At the time of principal contact the Player was airborne and so had no control of his follow-through;
 - (5) the need to protect the player who is in a vulnerable position has been illustrated many times and decisions of this Committee, eg, *Young, Mandi, O'Donovan*;
 - (6) the Player has excellent standing in both football and the community, has very positive character references and his off-field contributions are laudable;
 - (7) the Player has a good disciplinary record with this being his first red card in over 250 games;
 - (8) in relation to the similar incidents identified by the Player, these are largely MRP or on field decisions. These decisions are of no relevance as precedents, a matter upon which the Committee and the Appeal Committee has previously commented and is well summarised in the decision of *La Rocca* (17 February 2016) at [26]-[30];
 - (9) the involvement of the VAR in apparent conflict with FFA guidelines is not a relevant matter for the Committee. The import of the Regulations (in

particular, clause 13.2) is that the incident is assessed afresh by the Committee taking relevant matters into account; and

- (10) a sanction of 1 to 2 additional matches, in addition to the MMS, reflects the reckless nature of the challenge and the risk of injury caused by the contact and that no part of any additional sanction should be suspended. Whilst the Player's record and character evidence are in his favour, the sanction must reflect the need to protect player safety.

F. CONSIDERATION

32. The sole issue in this matter is what, if any, sanction should be imposed over the MMS of 1 match.
33. The Committee has made plain on too many occasions to mention that an important consideration is the safety of all players and, relevant to this situation, the safety of an opposing player.
34. The Laws of the Game (**LOTG**) state, "[a]lthough 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."
35. The action of the Player in tackling or challenging for the ball in this case showed disregard for the danger to, or consequences for the safety of MCFC Player Atkinson and used excessive force. The Player's lunging front-on tackle with a straight-leg over the ball and studs showing was mis-timed and had the potential to cause serious and even career-ending injuries on an opponent.
36. Given the lunging nature of the tackle there was little, if anything, the Player could do to avoid contact or to mitigate the consequences of that contact. Fortunately, in this case, MCFC Player Atkinson avoided serious injury and was able to resume play after a short delay during which he received on-field medical attention.
37. Clause 13.2 of the Disciplinary Regulations 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."*
38. In accordance with clause 13.2 of the Disciplinary Regulations the Committee took into account the following matters:
- (1) *The nature and severity of the Offence*
- Without anything else the Offence would have required a sanction greater than the minimum. The nature of the tackle and, in particular, the force with which it was executed had the potential to cause serious and even career-ending injuries on an opponent. Only good fortune in this case avoided such consequences.

(2) *The intent or otherwise of the Player*

In this case there is no evidence to suggest that the Player had any intent to effect the tackle in the manner in which it was executed nor has Disciplinary Counsel made any submission to this effect. The Player submits that he only had eyes for the ball, a fact supported by the video evidence. He also gave evidence that he is competitive, wanted to get to the ball first and was aware that someone was approaching but did not know who it was. The Player's focus on the ball and his intent to reach it before an opponent had the unfortunate consequence in this case of the Player not being sufficiently conscious of his immediate environment and the impact that a lunging tackle could have on an opponent. In doing so, the Player showed disregard for the danger to, or consequences for the safety of MCFC Player Atkinson. His conduct was reckless but not intentional.

(3) *The Player's past record and whether he is a repeat offender*

The Player's past record is in his favour and he is not a repeat offender. In a senior career spanning over 10 years including 250 senior matches, 178 of which have been in the A-League, the Player has received 35 yellow cards and no red cards but for the incident in question. This is an exemplary record especially for a person who has played in mostly defensive positions over the course of his career to date.

(4) *Remorse*

The Player has shown genuine remorse including apologising to MCFC Player Atkinson immediately after the incident. He also attempted to but was unable to apologise to MCFC Player Atkinson in the dressing rooms immediately after the game.

(5) *Extenuating circumstances*

An "extenuating circumstance" relevant to the commission of an offence is one that provides a partial excuse or explanation for it. Mr Paradise made forceful submissions in this regard by reference to the video footage to the effect that at the point of the challenge on the ball, the Player had his left foot firmly planted on the ground when his right foot makes contact with the top of the ball. The Player's contact with the ball cannons it onto the right foot of MCFC Atkinson and the ball subsequently ricochets towards the touchline. In the follow-through, after making contact with the ball, the Player's right foot rolls over the top of the ball and when he realises that his right foot may make contact with the opposition player's right leg the Player immediately attempts to return his right foot to the ground by making a clockwise motion with that foot whilst at all times watching only the ball.

The Committee is of the view that this submission, which is primarily predicated upon an assertion that the Player made direct and forceful conduct with the ball first, is not supported by the video evidence which it viewed several times during the course of the submissions. What the video evidence establishes is that the Player mis-timed the tackle, made cursory contact with the top of the

ball and made direct and forceful contact with a straight leg, studs showing, to the shin of MCFC Player Atkinson. It is the case that after the collision between the players the ball ricochets towards the touchline. But that ricochet was not caused by the ball being "cannoned" onto the right foot of MCFC Player Atkinson by the Player, rather it was as a consequence of MCFC Player Atkinson making direct and forceful contact with the ball shortly after it was touched by the Player.

Further, and in any event, the Committee is of the view that even if the facts as submitted on behalf of the Player were established, it would not provide a partial excuse or extenuating circumstance for the commission of the offence. The Player committed to the tackle because he considered that it was the most effective means of winning what he referred to as a "50/50" ball. It was mistimed and resulted in forceful contact being made with an opponent. Having committed to the tackle, there was no action that the Player could reasonably have taken that would have mitigated the consequences of his conduct.

- (6) The Player has made and continues to make a considerable and commendable contribution to football and to the wider community.
39. The Committee has not taken into account the recent incidents and sanctions referred to by the Player in respect of sanctions considered and/or imposed by the MRP or by a referee for on-field incidents (*Donbras v Devlin*, 14.12.19; *Duke v Halloran* (27.12.19); *Wuthrich v Ball* (27.10.19); *Cacace v Caceres* (20.10.19); *Illso v Mackay* (2.2.19)). These are matters which self-evidently had not come before the Committee.
 40. According to the Appeal Committee in *O'Donovan* (25 January 2016) at [51] & [52], there is no valid, logical or jurisprudential basis for the Committee to use sanctions imposed by the MRP (or by a referee) as "comparative verdicts" for the purposes of the Committee's own power to impose a sanction. The Committee notes that Mr Paradise on behalf of the Player did not press these submissions at the hearing.
 41. The *Young* incident is, in the view of the Committee, relevantly comparable. It also involved the offence of serious foul play (e.g. when challenging for the ball) although a different challenge in that case by a goal keeper on a striker. Nevertheless, like the present case, it involved heavy contact that was considered serious foul play. There the Committee found that but for the evidence at the hearing, it would have imposed a sanction of 3 matches (possibly more). The sanction in that case of 2 matches was a reflection of the player's contrition, apology and conduct after the match, his very good disciplinary record and the Committee's finding that the likelihood of reoffending was negligible.
 42. It is not for this Committee to determine whether the review by the VAR in this case was in accordance with FFA guidelines. It was a decision made by the referee on the field of play and is not subject to appeal. The fact that the referee initially adjudged the offence to be only cautionable is not a matter that the Committee considers relevant to sanction. The fact remains that the referee conducted an on field review having been alerted by the VAR to the possibility that his decision to only caution the Player was incorrect and, having conducted that review, rescinded the yellow card and showed the Player the red card. It is that red card that is the subject of these proceedings.

43. Having regard to the facts of this case including the Player's evidence of contrition, his exceptional disciplinary record, his significant contribution to the football and wider community, and the fact that his likelihood of re-offending is negligible, the Committee determines that the appropriate sanction is 2 matches, that is, the MMS plus 1 match. The Committee notes that but for the evidence adduced at the hearing on behalf of the Player that it would, in all likelihood, have imposed a sanction of 3 matches.

G. RESULT

44. The sanction the Committee imposes is a total of two matches which includes the MMS.

A handwritten signature in red ink, appearing to read 'A. Lo Surdo', written in a cursive style.

AP Lo Surdo SC, Disciplinary and Ethics Committee Chair (Acting)
6 January 2020