

DISCIPLINARY COMMITTEE OF THE FOOTBALL FEDERATION OF AUSTRALIA

DETERMINATION IN THE FOLLOWING MATTER:

Player and club	Dane Milovanovic South Melbourne FC
Alleged offence	Unsporting conduct toward a match official
Date of alleged offence	19.09.2015
Occasion of alleged offence	Match between South Melbourne FC and Olympia FC
Date of Disciplinary Notice	25.09.2015
Basis the matter is before the Disciplinary Committee	A referral: see clause 4.1(a) of the National Disciplinary Regulations
Date of Hearing	Thursday, 01.10.2015
Date of Determination	Friday, 02.10.2015
Disciplinary Committee Members	John Marshall SC, Chair Lachlan Gyles SC Alvin Ceccoli

A. INTRODUCTION

1. This matter concerns an incident which occurred between Dane Milovanovic (**the player**) and a referee during a match in the National Premier Leagues Finals Series Competition between South Melbourne FC and Olympia FC on 19.09.2015.
2. The National Premier League Finals Series is a relatively new competition and this is the first time the Disciplinary Committee has dealt with a matter arising from it.
3. It is not, however, the first time the Disciplinary Committee has dealt with unsporting conduct towards a match official.

B. JURISDICTION

4. The National Premier Leagues Finals Series Competition is regulated by the "National Premier Leagues Finals Series Competition Regulations" (**Competition Regulations**). By clause 1.3(a) of the Competition Regulations, the FFA has jurisdiction over all matches in the National Premier Leagues Finals Series Competition. By clause 2(a), the Competition Administration has the power to impose sanctions on "Final Series Members" which includes players in the National Premier Leagues Finals Series Competition. Where sanctions are to be imposed the person to be sanctioned is to be given the opportunity to be heard and make submissions (clause 2(b)(iii)) which necessarily involves a hearing before one of the FFA Judicial Bodies. By clause 17.1 of the Competition Regulations the National Disciplinary Regulations are made applicable. Clause 4.1 of the National Disciplinary Regulations authorises the Competition Administrator to refer matters to the Disciplinary Committee. The Disciplinary Committee referred to in the

National Disciplinary Regulations is this Committee with the powers and functions conferred by the FFA Statutes and, in particular, article 25. The FFA Statutes are expressly incorporated by clause 2(c).

5. In this matter there has been a referral to the Disciplinary Committee under clause 4.1 of the National Disciplinary Regulations by virtue of the Disciplinary Notice issued to the player (see paragraph 6 of the Disciplinary Notice).

C. THE HEARING

6. On the evening of Thursday 01.10.2015 the Committee heard the referral of the above matter. At the conclusion of the hearing the Committee indicated it would reserve its decision. This is the written decision of the Committee.
7. At the hearing Disciplinary Counsel was Ivan Griscti. The player and his representative participated in the hearing by video link.

D. THE FACTS

(1) Undisputed facts

8. The player disputes aspects of the events. However, this much is not in dispute:
 - (1) Immediately before the end of the match there was a throw in which, after a few plays, resulted in a clearing kick by a defensive player. At that point the referee signalled for the match to be over.
 - (2) The ball travelled along the ground towards the player who was in front of goal but well outside the penalty area.
 - (3) After the referee had signalled for the match to be over and the player realised the match was over, the player took a touch to line up a kick and then struck the ball with great force in the direction of the goal.
 - (4) The referee was between the player and the goal and the ball travelled in the direction of the referee. The referee took some kind of action to move out of the way.
 - (5) The player then moved towards the referee, in his words, to complain.
 - (6) The player and the referee made contact. The contact was at the level of their chests and their heads.
 - (7) The referee indicated that the player was dismissed from the field.
 - (8) The player did not then immediately leave the ground. He continued to remonstrate with the referee.

(2) The player's version

9. The player provided a statement before the hearing. The player's version included these assertions:
 - (1) The player did not deliberately kick the ball at the referee. He claimed "*he did not hear the whistle at all*" in his statement but when giving evidence he agreed he had heard "*one of the three whistles blow*" before he kicked the ball.

- (2) The player was "*in the motion*" of kicking the ball. He said that it happened "*as I was about to set up; I had made up the decision to shoot*". In his statement he said it was "*a split second decision*".¹
- (3) After he kicked the ball his momentum took him towards the referee and he walked to the referee.
- (4) He intended to complain to the referee about ending the game whilst we were in an "*obvious attacking phase*".
- (5) He had no intention to harm the referee. As they "*came together we bumped chests and we did touch foreheads very slightly*".
- (6) The referee, so he says in his statement, informed him that he had a yellow card and only after he continued to be aggressive was he given second caution and then a red card.²

10. At the hearing the player made some concessions.
11. In some respects, the player's version of events contradicts what is apparent from the video footage, the report of the referee and the report of the assistant referee.

(3) [Reports of the match officials](#)

12. There were two written reports. They are consistent but not identical.
 - (1) Lucien Laverdure who was the match referee provided a report which stated:

Offence: violent conduct

Immediately following the final whistle at the conclusion of the match, South Melbourne player #13 Dane Milovanovic deliberately kicked the ball in a violent manner directly at me from approximately 15 metres away. I was forced to take evasive action to prevent the ball from hitting me. The player approached me shouting angrily until his face was head-to-head with mine at which point he dipped his head making light but deliberate contact to my forehead and forcing me to take a step back. I immediately informed him and also his captain that he was sent off and that I would not be showing a red card.

(underlining added)

- (2) Danielle Anderson who was an assistant referee provided a report which stated:

Offence: violent conduct

After the final whistle, I witnessed South Melbourne player number 13, Dane Milovanovic, deliberately kick the ball in the direction of the referee, Lucien Laverdure, who had to move out of the way of the ball. After kicking the ball, South Melbourne player number 13 continued to run at Lucien in an intimidating and aggressive manner, yelling at him until he was face to face with Lucien. South Melbourne player number 13 subsequently made a deliberate head butt motion at Lucien, making contact with Lucien's forehead. I had a clear, unobstructed view of this from about 10 metres away. Upon approaching Lucien and South Melbourne player number 13, I heard Lucien inform the South Melbourne captain and player number 13 that the number 13 was sent off.

¹ From the video there is a considerable period of time from when the referee indicates the match is over, to when the ball comes to the player, the player takes a touch to set up shoot and when the player actually kicks. It is much more than a second a split second.

² That is not what one sees on the video footage. The player's statement was provided after he had seen the video footage.

(underlining added)

13. It is significant that both the referee and the assistant referee record the offence as "*violent conduct*". That is, category R2 not category R6. That is clear from the actual handwritten referee's report which records the charge as "*after final whistle R2 – Violent conduct*". As will become apparent, for reasons not explained, the FFA treated the send off as a category R6 and not as the significantly more serious category R2. In our view the conduct was properly categorised as R2 as the referee and assistant referee recorded.

(4) Video Footage

14. We have had the benefit of seeing the on-field incident from video footage taken on the day. The following can be seen as captured in frames from the footage:
15. Picture 1 is after the throw in by South Melbourne FC and shows that South Melbourne FC (the player's team) has lost possession and a defender is clearing the ball.

Picture 1:



16. Picture 2 shows the ball having passed the referee and the referee finishing his indication that the game was over; his hand is raised above his head and his other hand is near his mouth having blown the whistle. The player can be seen about to line up a kick.

Picture 2



17. Picture 3 shows the player immediately before he strikes the ball with great force. It is apparent that some time has passed between picture 2 and picture 3. The opposing player shown immediately to the right of the referee in picture 2 has moved approximately 3 metres forward in picture 3 so that he is passed the referee in picture 3. Also the player can be seen to change his body position. In picture 2 he is looking up and must have been able to see the referee. In picture 3 he had made up his mind to strike the ball. It is apparent from the footage that all the other players have realised the game is over. That is reasonably clear from picture 3.

Picture 3



18. Picture 4 shows the ball having just moved past an opposing player who can be seen from the video to have turned half-sideways to avoid the ball striking him. After that the ball continues to move towards the referee who also takes action to avoid the ball making contact with him. It can be seen that the referee is putting his hands up and turning partly sideways as the ball approaches him. Thereafter the ball continues and does in fact make contact with a player behind the referee.

Picture 4:



19. Picture 5 shows the player after he has taken two or three strides in the follow on from his kick. In other words he has completed the follow on from the kick. He has chosen to continue towards the referee. He is a considerable distance from the referee in picture 5. After this he moves towards the referee. The positioning of his body with his head forward indicates he has taken an aggressive stance. We conclude he intended to intimidate and threaten the referee.

Picture 5:



20. Picture 6 shows the player leaning forward immediately before contact is made. It is apparent from the video that in the period between picture 5 and picture 6 the player has been remonstrating and, according to the referee, shouting angrily. The referee asserts that he continued to shout until "*his face was head-to-head with mine*". We accept that this occurred. The video completely supports the referee.

Picture 6:



21. Picture 7 shows that the player has moved extremely close to the referee. The conclusion we draw is that he intended to intimidate and threaten the referee. His behaviour was violent. He appears to be yelling a matter of millimetres, not centimetres, from the referee. That is apparent because immediately after picture 7 the player actually makes contact with the referee at the level of his chest and his head.

Picture 7:



22. Picture 8 is after the contact with the referee. There is no apology. The player seems to be pointing to where he was when he had a shot. Presumably he was complaining that the referee should not have ended the game when the player was about to take a shot. In fact the player was and is wrong. The referee had ended the game upon the clearing kick being made by the defender. It was only after the ball passed the referee and the referee had signalled the game was over, that the ball continued to the player. So it is not even that the player had a legitimate complaint. The referee had in fact waited until a clearing kick had been made before ending the game. We make that observation, not because a legitimate complaint could ever justify what the player did, but to show how unreasonable the player's conduct was. It is apparent from the video that the referee was correct to end the game. The player would not accept that; he asserted that "*we were in an attacking phase*".

Picture 8:



23. Picture 9 is after the referee has indicated the player is to be sent from the field. The player can be seen to continue his remonstration. It is only after picture 9 that the player turns and moves away from the referee.

Picture 9:



(5) [Summary of facts we find](#)

24. The conclusions we make as to the facts can be summarised as follows:
- (1) At the end of the match the player, having realised that the match was over, deliberately kicked the ball. The direction of the kick was towards the referee.
 - (2) The ball probably would have struck the referee. The referee said the player deliberately kicked the ball in a violent manner. We accept that the player did deliberately kick the ball after the game was over. The player either kicked it deliberately at the referee or was reckless in that regard. The subsequent conduct of the player makes it unnecessary to reach a conclusion as to which because the subsequent conduct is much more serious.
 - (3) The player verbally abused the referee after kicking the ball. He moved in an aggressive manner to the referee. The referee said that the player

behaved "*in a threatening manner*". We agree. The assistant referee said that the player was "*intimidating*". Again, we agree.

- (4) The player made contact with the referee. The referee said that was deliberate. So did the assistant referee. We find that the player was at least reckless. There is no doubt contact was made. We do not express conclusion as to whether the contact was deliberate or merely the by-product of his reckless, aggressive, threatening and intimidating behaviour.
 - (5) The referee dismissed the player from the ground.
 - (6) The player did not then immediately leave the ground.
25. We reject the version of events asserted by the player. We find the offence the subject of the disciplinary notice established. The conduct of the player was, at least, "*unsporting conduct towards a match official*". Indeed, we find that the offence charged by the referee "*violent conduct*" has been made out. The referee's report and the assistant referee's report had been served on the player before the hearing and the player had acknowledged having received those prior to the hearing.
 26. During the course of the hearing, the player was asked to comment on several matters which appeared to the Committee to be shown in the video footage. To some extent the player recognised what was apparent from the video, nevertheless he maintained the assertion that he was *in the motion* and could not have avoided kicking the ball "*without risk of damaging his hamstring*". He claimed the referee showed him a yellow card, although later changed to say the referee cautioned him and never showed him any card (red or yellow). He claimed he was shooting at the goal. However, he knew the game was over and the referee was between him and the goal. It could easily be said that he was kicking the ball at the referee since there was no longer any opportunity to score a goal.
 27. No corroborating evidence was put forward to support the player's version of events.
 28. The player was asked about his disciplinary record. A typed version made up from records that the FFA had obtained had been served on him prior to the hearing. It is apparent that those records are incomplete.
 - (1) One record is that in 2010 the player received a direct red card. He was dismissed from the field by the match official for R6 "*abusive, offensive, conduct against a match official*". He was given a total of a four match suspension. The infringement notice was available. The infringement notice referred to a match official's report "*attached*". But unfortunately it was not available. The player was asked about the incident. He said it was five years ago and could not remember anything about it. We did not find that plausible.
 - (2) Another record was in 2012 when the player received a direct red card for violent conduct against a player. It was recorded the player pleaded guilty and received a three match suspension. The player was asked about that. He said that he could not recall much about it yet he claimed "*another player kicked me but the referee got it wrong*". He was then asked why he pleaded guilty to the charge. He claimed he knew nothing else about it.

29. No other red cards appear on his record since 2009. It was put to him by one member of the Committee that we could find it at least implausible that he would claim to have no recollection of the two occasions he was sent off. It was indicated to him that if he was not prepared to be more candid the Committee would not view that favourably. He maintained the claim he simply could not remember anything about them because he had played a lot of football. It is one thing to play a lot of football and not remember the score of any particular game. It is another thing to claim that one has no recollection of a red card. Of course one explanation (potentially unlikely) was that he had so many red cards he could not remember the circumstances of any one of them. He was asked whether he had one, two, five, ten, twenty or more red cards in his playing career. He paused, and said "*about five*". His previous record is against him.

E. CONSIDERATION OF APPROPRIATE SANCTION

30. Clause 11.4 of the National Disciplinary Regulations provides that the Committee, when determining the "appropriate" sanction, "may consider":
- (a) the nature and severity of the infringement;
 - (b) the offender's past record and whether or not this is a repeated Offence;
 - (c) the culpability of the offender (including whether or not the infringement was intentional, negligent or reckless);
 - (d) any reasons prompting the offender to commit an infringement;
 - (e) the remorse of the offender; and
 - (f) any extenuating circumstances.
31. The matter in clause 11.4(b) is the player's past record. As indicated above, his past record is against him.
32. Another factor is that the player has played representative football in the ACT and has represented Australia in national teams at the U17s, U20s and U23s levels. In that environment, he will have come into contact with players and coaches of the highest calibre. His background and the training he must have received would indicate to him how inappropriate and wrong his conduct was.
33. It is relevant now to consider the nature and severity of the particular infringement which is an offence against a referee.
34. This is yet another occasion that this Committee has had to deal with contact by a player with a referee. The first was the decision involving Daniel Vukovic in 2008. The most recent involved Christopher May in July 2014. We do not propose to refer in detail to those decisions. They are available on the FFA website and copies were provided by the FFA to the player prior to the hearing. The Committee views this as almost as serious as the offence of Christopher May. The findings we have made are significantly more serious than any matter, apart from in relation to Christopher May and Daniel Vukovic. In some respects it is less serious than Christopher May but in other respects the intimidating and aggressive approach of the player is as serious.
35. In this case the player made no immediate apology. The contact was not one isolated matter. The ball was kicked in the direction of the referee. The referee then had to move to avoid the ball striking him. The referee was verbally abused. After the verbal abuse the player then moved within millimetres of the referee,

whilst abusing him, and then made contact with the referee. After being sent from the ground the player did not immediately leave the field but continued to remonstrate with the referee. There is no evidence of any apology.

36. The player in this case did show contrition and did recognise that he had committed an offence.
37. The charge was in row 10 of the table to the National Disciplinary Regulations. Row 10 is for a red card R6 namely "*offensive or insulting or abusive language and/or gestures*". Row 10 is recorded as "*unsporting conduct toward a match official*". The minimum sanction for that charge is four matches. The maximum sanction is contained in paragraph 4 on page 14 of the National Disciplinary Regulations:

...the maximum sanction that may be applied for each Offence is suspension for a period of 24 months, except for Offence No. 11 (Assault of a match official) where the maximum sanction is suspension for life.
38. Accordingly, the maximum sanction for the offence as recorded in the disciplinary notice is 24 months. Some guidance may perhaps be taken from the fact that the *minimum* sanction for assault on a match official is six months.
39. In our view, the referee was right to have indicated the offence was violent conduct (R2). That would have resulted in a disciplinary notice which asserted a sanction in accordance with row 11 (not row 10). Row 11 is for when there is a red card for an R2 offence on the ground. That is what occurred in this situation. Had this case been dealt with under row 11 it would have been treated as "*assault of a match official*". The facts indicate that there was an assault on the referee. The minimum sanction in the case of row 11 is six months.
40. In our view it was open to the FFA to proposed sanctions in the alternative. The factual matters for the alternative sanctions would be identical and therefore there would be no inconsistency in the FFA seeking alternative sanctions. The alternatives would have been a proposed sanction under row 11 and a proposed sanction under row 10. That would have enabled the Committee to have chosen between the row it considered appropriate and therefore increased the flexibility of the Committee. Whilst it is true that there may be some scope for the Committee to change the charge and the grading, it is often practically difficult to increase the grading on the night of the hearing as the player may not have had an opportunity to call evidence that might be relevant to an upgraded charge or higher proposed range of sanctions. That difficulty would be alleviated if the FFA had proposed alternative sanctions at the outset. The Committee suggests that in the future the FFA does consider alternative sanctions in situations like this.
41. Had the FFA characterised the conduct in the disciplinary notice in the way in which the referee had, the minimum sanction would have been six months.
42. It is the view of the Committee, taking into account all the circumstances, including the two previous red cards which the player would not explain and in particular that the player was actually dismissed from the field on the ground of "*violent conduct*" (R2), the appropriate sanction in this case must be lengthy.
43. The offence occurred in the last match the player played in the Australian domestic season. The Victorian Premier League season had concluded. The NPL

Finals Series Competition had commenced and the relevant game was in that short competition and resulted in the player's team being eliminated.

44. A sanction now for a period of time in certain circumstances might carry over to the beginning of the next Victorian Premier League season. However there are factors in the case of the player which may mean that a sanction specified only in terms of the period would expire before the commencement of the next Victorian Premier League season with the consequence that the player might not be affected at all in Australia and may only miss out on an opportunity to play in another country during the Australian off-season. Were that to be the outcome of a sanction the Committee imposed, the sanction would not be appropriate in its operation.
45. The Committee regards the conduct as more serious than in the case of Tiago Calvano. That player had a sanction imposed for eight matches plus a conditional sanction of four matches which would be triggered in certain circumstances. The Committee considers that it would be inappropriate altogether for the player not to serve 10 matches of the suspension period during the period of the Victorian Premier League.
46. In these circumstances, the sanction the Committee imposes has two elements:
 - (1) The period of the sanction is at least four months from the date of the match.
 - (2) The player must serve a 12 match suspension during a period in which matches are played in the 2016 Victorian Premier League season.
47. The consequence of the sanction is that if the four month period does not begin, because of a non-playing period provision (or similar provision), until the commencement of the 2016 Victorian Premier League season, then the sanction will run for four months from the date of commencement of that season and in effect will run much more than 12 matches of the 2016 Victorian Premier League season. On the other hand, if the sanction (due to administrative rules) commences with effect on 19.09.2015, it is the intention of the Committee that its sanction must not conclude until the expiry of the 12th match of the 2016 Victorian Premier League season.

F. RESULT

- (1) [Offence](#)
 48. The offence is established.
- (2) [Sanction to be imposed](#)
 49. The sanction we impose is indicated in paragraphs **46** and **47** above and this includes the Mandatory Match Suspension.

John Marshall

J E Marshall SC, Disciplinary Committee Chair
02.10.2015