

**DISCIPLINARY AND ETHICS COMMITTEE OF FOOTBALL AUSTRALIA**  
**DETERMINATION IN THE FOLLOWING MATTER:**

<b>Player and club</b>	Nicholas Ansell of Melbourne Victory
<b>Alleged offence</b>	Offence No. 3, Serious Foul Play (eg when challenging for the ball)
<b>Date of alleged offence</b>	9 May 2021
<b>Occasion of alleged offence</b>	Match between Melbourne Victory and Perth Glory
<b>Date of Disciplinary Notice</b>	10 May 2021
<b>Basis the matter is before the Disciplinary Committee</b>	A referral: see clause 3.3(a) and 11.21(b)
<b>Date of Hearing</b>	17 May 2021
<b>Date of Determination</b>	17 May 2021 (oral pronouncement of determination) 20 May 2021 (written reasons for determination)
<b>Disciplinary Committee Members</b>	Lachlan Gyles SC, Chair Anthony Lo Surdo SC, Vice Chair Robert Wheatley

**A. INTRODUCTION AND JURISDICTION**

1. The Committee has jurisdiction under clause 4.3 of the "A-League Disciplinary Regulations" applicable to the 2020-21 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 11.21(b) of the Disciplinary Regulations. Prior to a referral under clause 11.21(b) the player was given a direct red card by the referee. The consequence is that the

player has served an automatic Mandatory Match Suspension (**MMS**) (in this case 1 match).

3. Further, the Match Review Panel (**MRP**) formed the view that, on the material available to the MRP, an additional sanction of up to 1 match over and above the MMS was warranted and the player has elected not to accept the proposed additional sanction. It is clear that the function of the Committee in such a case is solely to determine the question of what additional sanction should be imposed over and above the MMS which must be served. Guilt or innocence is not up for review. That issue has been finally determined by earlier processes. The Committee has no jurisdiction to deal with that question and will not express any view on that topic.
4. Nevertheless, it is for this Committee to determine the additional sanction to be imposed (not merely whether some or all of the additional sanction proposed by the MRP ought to be imposed over and above the MMS).
5. Further, it is open to the Committee to upgrade or downgrade the offence; albeit not to eliminate the MMS.
6. The Committee is satisfied that it has jurisdiction to deal with this referral. Further, neither party contended to the contrary.

#### **B. THE HEARING**

7. On the evening of Monday, 17 May 2021, the Committee heard the referral of the above matter.
8. At the hearing Disciplinary Counsel was Mr Ivan Griscti, of counsel, and Nicholas Ansell (**Player**) was represented by Mr Simon Philips, of counsel. Messrs Trimboli and Kean also attended the hearing by AVL in support of the Player.
9. Disciplinary Counsel relied upon the following evidence:
  - (a) video footage of the incident from several different angles;
  - (b) the referee's send off report;
  - (c) a disciplinary notice issued to the Player, dated 30 April 2021; and
  - (d) the Player's disciplinary record.
10. Mr Philips, for the Player, relied upon the following evidence:
  - (a) a letter from the Player, dated 17 May 2021;

- (b) a letter from the Melbourne Victory Head Coach Steve Kean, dated 17 May 2021;
  - (c) a letter from the Melbourne Victory Chief Executive Officer Trent Jacobs, dated 17 May 2021; and
  - (d) oral evidence provided by the Player which, for the most part, was consistent with and in amplification of his written statement.
11. The Committee was also assisted by the written submissions of each of the parties, to which they were afforded the opportunity of addressing orally. In those submissions, each of the parties referred the Committee to earlier decisions of the Committee involving Rhyan Grant (6 January 2020) and Marco Urena (11 May 2021) to which we return later in this determination.
12. 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 22.3(c) of the Disciplinary Regulations).

### C. FACTS

13. The Player was issued with a direct red card in the 48<sup>th</sup> minute of the match between his club Melbourne Victory and Perth Glory on Sunday 9 May 2021. The Referee, Kurt Ams in his incident report records that the Player had kicked the ball 3 to 4 metres in front of him, and then in an attempt to regain possession, he ran with speed and lunged with excessive force, sliding front on with a straight right leg, making contact with the right boot of Perth Glory player No.19 Timmins, which clearly endangered the safety of his opponent. He says that, without hesitation, he sent off the Player for serious foul play by showing him the red card in accordance with Law 12. He records that the player left the field without incident.

### D. SUBMISSIONS

14. What follows is a summary of the parties' written submissions.

The matters submitted by Disciplinary Counsel included:

15. Serious Foul Play is defined in the Laws of the Game as follows:

***Serious foul play***

*A tackle or challenge that endangers the safety of an opponent or uses excessive force or brutality must be sanctioned as serious foul play. Any player who lunges at an opponent in challenging for the ball from the front, from the side or from behind using one or both*

*legs, with excessive force or endangers the safety of an opponent is guilty of serious foul play.<sup>1</sup>*

16. The challenge falls within the definition of Serious Foul Play. The Player lunged at an opponent in challenging for the ball from the front and by sliding in did so at speed and without being able to control his movement. The greater momentum caused by sliding in rendered Timmins vulnerable particularly as the Player's studs were up.
17. Intent is not a necessary element to serious foul play – the key issue is the risk to the safety of the opposition player.
18. The sanction ought to recognise the potential for harm and, importantly, send a message of deterrence to players.
19. The contact narrowly missed being with Timmins' ankle or lower leg, in which case there would have been a serious risk of injury. It is fortunate that Timmins played the ball just prior to contact as this meant his foot was slightly raised and the contact was therefore with his foot rather than his ankle or higher.
20. The need to protect the player who is in a vulnerable position has been illustrated many times in decisions of the D & E Committee: see for example, relatively recent decisions in Young, Mandi, O'Donovan, Grant and Urena.
21. The Player has a decent disciplinary record, particularly noting his role as a defender.
22. He has played professionally since 2012/13 and has received two previous red cards, one of these for denying a goal scoring opportunity.
23. Whilst the Player sought to plead his case with the Referee he did not engage in any dissent following the incident.
24. The Player's response after the incident and in his statement is less remorse and more in the nature of protestations of innocence. The contact is described as "minimal" which is not consistent with the video footage.
25. The player maintains he was focused on winning the ball and did not intend to hurt or cause injury. This is not disputed.

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<sup>1</sup> IFAB Laws of the Game p112

26. The Player has received letters of support from Mr Trent Jacobs, Chief Executive, and Mr Steve Kean, Head Coach.
27. Those letters indicate that the Player is of good character, a leader within the club and a role model for younger players. He has been a key member of the squad during a difficult period with many challenges, including the Covid 19 pandemic. He volunteers his time for club community events.
28. These are matters generally in his favour.
29. The prior case of Rhyan Grant (6 January 2020) and Marco Urena (11 May 2021) are most relevant.
30. The circumstances in the present case are fairly to be regarded as less dangerous than both these cases – where the players’ boots were higher off the ground.
31. In both those case the Committee considered that the player’s actions would have been likely to attract a 3 game suspension but for other factors such as positive disciplinary records and other evidence including contrition and evidence regarding contribution to the football and wider community.
32. However, some of the distinctions sought to be made on the Player’s behalf (in particular at paragraph 29 of the Player’s written submissions) are either not helpful or not supported by the video evidence:
  - Winning the ball (arguably both players got their foot to the ball) is not an answer to dangerous play;
  - The Player’s foot was off the ground with studs showing – this means his foot was raised – not very high but it is at ankle height and as observed above, contact with the ankle was avoided by reason of Timmins’ foot being off the ground as part of his follow through from going to kick the ball;
  - The contact was not minimal – the Player has substantial momentum and it caused Timmins to be lifted off the ground;
  - The suggestion that responsibility for the contact can arguably be shared between the two players is surprising. Timmins played the ball in the manner that did not pose any risk to any other player, whereas Ansell’s actions in sliding in – with greater momentum - was the cause of the contact; and
  - It is not clear that steps were taken to mitigate risk to the opponent – it is possible that any attempt to limit the exposure of his studs may have occurred after the contact.

33. The Player in his statement, and also in the submissions, seeks to minimize the incident – the contact is described as minimal or slight, there is a suggestion in submissions it could have warranted a yellow card and there is the submission that somehow Timmins bears some responsibility for the contact.
34. These matters are all inconsistent with the video evidence and demonstrate a failure to comprehend the concept of serious foul play. Most circumstances of serious foul play occur when a player is making a genuine attempt to play the ball. The issue is endangering the safety of the opponent.
35. This is a case where reasonable minds may differ as to whether a match in addition to the minimum match suspension is warranted.
36. The challenge was a dangerous one and it exposed the opponent to risk of injury.
37. A total of two games would be a maximum suspension for such a challenge.
38. The Player's record and his character evidence are positive matters that assist him, however, the attempts to minimize the circumstances and partially blame the opponent do him no favours.
39. On balance, it is considered that a total suspension of two games is appropriate, however, it is accepted that a one match sanction is also within the scope of what may be considered to be reasonable.

The matters submitted on behalf of the Player included:

40. He does not accept that the sanction of one (1) match in addition to the MMS is reasonable in the circumstances and submits that the sanction should be the MMS only. He relied upon the following exculpatory factors.
41. In his report, the Referee stated that the Player "lunged with excessive force, sliding front-on with a straight right leg, making contact with the right boot of Perth Glory player No.19 Timmins, which clearly endangered the safety of his opponent".
42. The Player accepts that the challenge could be perceived as a foul and that the appropriate sanction for the offence could (depending on the subjective assessment of those viewing the incident) range from a yellow card to a red card. This is supported by the suggestion of the Fourth Official that the video assistant referee may overturn the red card immediately after the incident.
43. The Player and Melbourne Victory accept the MMS as an appropriate sanction and, therefore, did not make an Obvious Error (Red Card) Application.

44. Melbourne Victory and the Player, understand that when assessing an incident, a referee is required to take into account a number of factors. This understanding is based on a number of discussions throughout the course of the season with officials, and has informed the way in which players and coaches approach matches.
45. Generally, it is accepted that the main consideration for judging the severity of a player's actions is the point of contact made with an opponent. Where the contact is foot-on-foot, there is a (global) expectation a yellow card is the appropriate response. The referee also needs to consider the speed at which a challenge occurs, assess how straight a player's leg is when challenging for the ball and whether contact was made with a player's standing leg.
46. Considering the relevant elements of the incident, on one hand the Player does approach the ball at speed. However, there are a number of factors to suggest that the nature of the incident was not as severe as the two (2) match sanction indicates.
47. Throughout the motion of sweeping the ball to Mr Butterfield, the Player kept his foot low and at all times played the ball and not the man (as demonstrated in still photos below). He won the ball. Nicholas did not unduly



expose his studs in the challenge. Nicholas took steps to mitigate the potential risk for Mr Timmins (closing off his foot and veering his run away from Mr Timmins). The severity of the contact was substantially lessened due to the fact that Mr Timmins' foot was not grounded (at the point of contact it is in the air, part way through the motion of swinging for the ball).



48. The contact between the players is slight (setting aside the reaction of Mr Timmins), as the majority of contact is made on the front and side of each players boot. This is evident from the fact that Mr Timmins did not sustain any significant injury as a result of the incident. Following the incident, the medical staff attended to Mr Timmins on the field, but the video footage indicates that he did not receive any specific treatment and did not receive any treatment off the pitch. Mr Timmins was able to return to the pitch immediately following the restart.



49. The Player submitted that he approached the ball with the intention to sweep or veer slightly left (in order to pass the ball to Mr Butterfield) and avoid a front on collision with Mr Timmins. He did not approach the ball with the intent of a front on collision. Had this been his intention would have continued



his slide straight through Mr Timmins, which would have run the risk of much more serious contact with his standing leg. It is noticeable that the only contact between the players is with Mr Timmins raised right leg.

50. The Player also submitted that he was not solely responsible for the contact between the players. The contact is equally due to Mr Timmins follow through in his own challenge (which failed to make contact with the ball). But for Mr Timmins (slightly) mistimed attempt to kick the ball it is unlikely that there would have been any contact between the players.
51. Due to the speed of the challenge, the Player understands why the Referee considered and ultimately produced a red card. However, he submitted that, the speed of his slide alone is not sufficient to conclude that a sanction of two (2) matches, including the MMS, is appropriate.
52. To aid the Committee in assessing the severity of the incident, the Player submitted that the previous decisions in Grant and Urena are relevant, and that those incidents involve more serious offending. The Committee has the ability to consider comparable or analogous incidents that have previously been before the Committee when assessing an appropriate sanction (see [41] of the Grant decision).
53. The Grant incident was in part (but not completely) analogous to the present case as both players end up extending themselves in an attempt to win the ball (the Player sliding in the present case, Mr Grant lunging). However, on any objective view, Mr Grant's tackle is substantially more dangerous conduct than the Player's successful sliding play at the ball.
54. In that incident, Mr Grant spun around, without taking time to assess the situation, and recklessly lunged in a front-on tackle with a straight-leg against Nathaniel Atkinson. Mr Grant grazed the ball, leading with his studs and connected with his opponent on his standing leg halfway up his shin.
55. At [35] of the decision the Committee, it was stated that "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" and "had the potential to cause serious and even career-ending injuries on an opponent". At [36] of the decision the Committee stated that "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".
56. The Player submitted that, when compared to Grant, the offending in Urena was less serious. Mr Urena did not leave his feet, instead he mistimed a lunge across an opponent and ended up making contact with the opponent approximately halfway up their calf and shin.

57. The Player submitted that the offending in Urena (although less serious than Grant) is more serious in nature than the present matter, and in particular that the contact made by Mr Urena is objectively higher up the leg of the opponent.
58. In contrast to both Grant and Urena,
- (a) the Player won the ball and was able to play it to a teammate.
  - (b) the Player's foot was not raised and there was only minimal contact with his studs;
  - (c) it is arguable that responsibility for the contact can be shared between the Player and Mr Timmins;
  - (d) the contact in the present matter is objectively less serious than Grant and Urena; and
  - (e) the Player took steps to mitigate the risk to his opponent and avoid heavy contact, including closing off the bottom of his foot to limit the exposure of his studs. The Committee did not find that such measures were taken in Grant or Urena.
59. There is no evidence to suggest that the Player had any intent to endanger or injure his opponent. He submitted that as a central defender he is often asked to put his own body on the line for his team (in aerial duels and fifty-fifty challenges) and play in a committed manner but plays the game without malice for his opponent.
60. The Player submitted that at all times, the intentions behind his actions were to win the ball and keep possession for his team. This is clear from the fact that he won the ball, but also took steps to reduce the risk of injury for his opponent.
61. Had the Player not believed that he was going to be first to the ball and that the two players would arrive at the ball simultaneously, he would have adjusted his approach to the ball and his technique so that it was more aligned with a traditional challenge for the ball and attempted to play the ball up field (behind Mr Timmins). He would not have attempted to pass to a teammate, back towards his own goal.
62. The Player has a strong disciplinary record which he submits the Committee should take into account. He has played 138 professional matches in just under 10 years in Australia, Korea and Portugal. He has represented Australia at age group level. Prior to this incident, the Player had only received two (2) red cards. His previous red card in the A-League occurred in 2014 and was

different in nature to the current incident. This season, the Player has only received one (1) yellow card.

63. As a central defender the Player's primary role is to challenge for the ball, attempting to win the ball off opponents and stop them from developing play or scoring. Accordingly, he is at more risk of being involved in incidents that result in scrutiny by referees and, consequently, at greater risk of receiving both yellow and red cards. He submitted that his disciplinary record should be viewed in light of these facts.
64. The Player in no way intended to hurt or endanger his opponent. In the incident, he played the ball in a committed way but without malice. He regrets that his actions meant that his teammates had to carry the load for the rest of the ninety minutes against Perth Glory, in the context of a difficult season for the club.
65. The Player has provided a significant contribution to Melbourne Victory over the last decade. He was promoted to the first team at a young age and is held in high regard by the club, as evident from the letter of support from Mr Jacobs and that, at every opportunity, the club has brought him back after periods played overseas.
66. The Player regularly volunteers to represent the club at events involving the Melbourne Victory community team attend engagements with local schools, school holiday programs and charity partners. Independent of his club commitments, the Player has attended Carey Donevale Primary and Templestone Football Club to present to his former school and local players about his experiences as a professional footballer.
67. In all of the objective circumstances of the incident, the Player accepted that his (unintentional) conduct warranted a straight red card and the MMS of 1 match. However, he submitted that any additional suspension is not warranted, particularly when the subjective and specific individual matters involving the Player, especially his exemplary disciplinary record (which were not available to the MRP) and the nature and severity of offending compared to analogous and comparable incidents are taken into account.

#### **E. CONSIDERATION AND FINDINGS**

68. The only issue for consideration by the Committee is whether there should be an additional sanction of 1 match over and above the mandatory 1 match suspension which the player has already served. Mr Phillips on behalf of the Player submitted that he did not contest the appropriateness of the issuing of the red card by the Referee, nor the mandatory suspension, but that this was sufficient sanction in the circumstances where there was neither intent to harm the Perth Glory player, Mr Timmins, nor recklessness or considerable

force in the challenge, such that would justify an additional period of suspension. Mr Griscti, for his part, submitted that the additional 1 match suspension was justified albeit that minds may differ as to whether that extra week was justified.

69. The action of the Player was described by different persons in different ways, however, perhaps the most appropriate description was a sliding pass. It is plain from the video footage which we were able to see from a number of angles and in slow motion, that the Player intended to, and did, pass the ball to his teammate, the ball being passed to that player's feet. It was therefore not an action which would be appropriately described as a slide tackle or a sliding challenge in the ordinary sense.
70. The Player and his coach, Mr Kean, submitted that he made contact with the ball and it was only after the ball had been passed that he made contact with the foot of the Perth Glory player. They sought to distinguish boot on boot contact from other situations where a player's boot will make contact higher in the leg which would be described as being far more dangerous.
71. The issue as to whether an additional week suspension should have been imposed upon the player was finely balanced. The Committee accepted that the action of the Player was not as serious, culpable or did not endanger the safety of the Perth Glory player as much as the Grant and Urena challenges. In each of those cases the Player received 1 week in addition to the mandatory 1 week suspension and therefore in terms of consistency, the imposition of a reduced sanction was preferred.
72. In addition, the Committee noted that the Player was contrite and that the Referee noted that he left the playing field without complaint. He also has a very good disciplinary record for a player of his experience playing his position and he is entitled to some credit for that. These are both matters that favour the Player.
73. Notwithstanding the fact that the Player appears to have won the ball, the manner in which the Player did so had the potential to endanger the safety of the opposing player and the referee was justified in sending-off the player for what was serious foul play. The Committee accepts, however, that the challenge was not of the magnitude exhibited in either of the *Grant* or *Urena* matters. Further, and but for the Player's disciplinary record, contrition and contribution to his club and the broader football community, a greater sanction including of the nature determined by the MRP in this case may have been warranted.

#### **F. RESULT**

74. The sanction we impose is the MMS, with no additional matches.

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A handwritten signature in black ink, appearing to read "Lachlan Gyles". The signature is written in a cursive style with a large, stylized flourish at the end.

Lachlan Gyles SC, Disciplinary and Ethics Committee Chair

Thursday, 20 May 2021