

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

Player and club	Storm Roux, Central Coast Mariners
Alleged offence	Offence No. 4, Assault on a Player
Date of offence	22 January 2024
Occasion of offence	Match between Central Coast Mariners and Melbourne City
Date of Disciplinary Notice	22 January 2024
Basis the matter is before the Disciplinary Committee	A referral: see clause 3.3(a) and 11.22(b)(ii)
Date of Hearing	31 January 2024
Date of Determination	31 January 2024 (oral pronouncement of determination) 1 February 2024 (written reasons for determination)
Disciplinary Committee Members	Lachlan Gyles SC (Chair) Stephen Free SC Chris Harold (Former Player)

**A. INTRODUCTION AND JURISDICTION**

1. The Committee has jurisdiction under clause 4.4 of the "A-League Men Disciplinary Regulations" applicable to the 2023-24 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". As explained further below, what is involved in that exercise must be understood by reference to other provisions of the Disciplinary Regulations.
2. In this matter there has been a referral under clause 11.23(b) of the Disciplinary Regulations. Storm Roux (**the Player**) was given a direct red card by the referee. The Match Review Panel (**MRP**) issued a Disciplinary Notice advising that the Red Card Offence constituted an Offence No. 4 being "Assault on a play (eg violent conduct when not challenging for the ball) or against any other person other than a Match Official, including attempted Assault" (**the Offence**). The "Minimum Sanction for the Offence" under the Disciplinary Regulations is 2 matches, being the Mandatory Match Suspension plus one additional match. The MRP proposed a sanction of 3 A-League Men Matches (ie the Mandatory Match Suspension plus an additional match).
3. In response to the Disciplinary Notice, the Player declined to accept the proposed sanction of the MRP and exercised his right under clause 11.23(b) to refer the matter to the Disciplinary & Ethics Committee. Under clause 11.23(b) of the

Disciplinary Regulations the subject of the referral is said to be the 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 always be served) applying the Range at the Table of Offences in accordance with these Regulations; or
  - (ii) whether Exceptional Circumstances apply and therefore a sanction outside of the Range at the Table of Offences should be imposed, provided always that the Mandatory Match Suspension must be served."
4. The Player did not before us rely on clause 11.23(b)(ii) and argue that Exceptional Circumstances justified a sanction outside the Range at the Table of Offences. The Player instead argued that the offence should be reclassified under the Table of Offences, in which case a different Minimum Sanction would apply. In the alternative the Player relied on clause 11.23(b)(i) to argue that there should be no additional sanction imposed above the Minimum Sanction (as opposed to the one additional match proposed by the MRP).
  5. The Committee was therefore required to resolve two substantive questions:
    - (a) Should the offence be reclassified under the Table of Offences as "serious unsporting conduct" (item 5) rather than "assault on a player" (item 4)? If so, what sanction should apply?
    - (b) If the offence is treated as an "assault on a player", what additional sanction, if any, should be imposed beyond the Minimum Sanction of 2 matches?
  6. Issue (a) gave rise to a question which has been raised in previous decisions of the Committee as to the scope of the Committee's power, in a referral of this kind, to reclassify an offence (see discussion in *Burgess*). That question, which is a vexed one, arises because clause 11.23 describes the "sole question" on a referral in a way that suggests it is not open to the Committee to revisit the classification of an offence, whereas other provisions of the Regulations (and at least some previous decisions of the Committee) suggest otherwise. At the hearing Disciplinary Counsel indicated that he did not submit that the Committee lacked power to reclassify the offence. For the reasons set out below the Committee did not need to resolve the question of interpretation of the Regulations because it was satisfied that it would not be appropriate to reclassify the offence, assuming it had the power to do so.
  7. The Committee is satisfied that it has jurisdiction to deal with this referral. Neither party contended to the contrary.

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

8. On 31 January 2024, the Committee heard the referral of the matter by AVL.
  9. At the hearing Disciplinary Counsel was Mr Ivan Griscti, of counsel, and the Player was represented by Mr Simon Philips, of counsel.
  10. The relevant evidence was comprised of:
    - (a) video footage of the incident;
    - (b) evidence given by the Player at the hearing;
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- (c) the referee's report;
  - (d) the assistant referee's report;
  - (e) the 4<sup>th</sup> official's report;
  - (f) the disciplinary notice;
  - (g) evidence in support of the player from officials at his club; and
  - (h) the disciplinary record of the Player.
11. The Committee was also provided with written submissions of the parties, which were of considerable assistance in clarifying the issues and respective contentions. Further oral submissions were provided at the hearing by both parties.
  12. At the conclusion of the hearing (following deliberations and pursuant to clause 22.4 of the Disciplinary Regulations) the Committee announced the result, being that the referral was upheld to the extent that no additional sanction should be imposed above the Minimum Sanction. These are the written reasons of the Committee, noting the requirement in the Disciplinary Regulations that such reasons must be in the "shortest form reasonably practicable": clause 22.3(c).

### C. FACTS

13. In the 10<sup>th</sup> minute of injury time at the conclusion of the Match (ie 90+10<sup>th</sup> minute) the Player was on the substitutes bench, having been substituted midway through the second half. A scuffle broke out between players on the pitch directly in front of the Mariners bench. As the scuffle continued, the Player and other substitutes on the bench (including Alou Kuol), ran from the technical area to the edge of the pitch adjacent to the scuffle.
14. A Melbourne City player, Tolgay Arslan, who was still on the field then ran to the sideline and confronted Alou Kuol, with both players then grappling with each other. Mr Roux, along with others, started to intervene and forced himself into that particular front of the broader melee.
15. There was an issue of fact about precisely what type of physical contact the Player made with Mr Arslan. The report of the Assistant Referee stated that he observed the Player "place his right forearm around the neck of [Arslan] and aggressively pull him to the ground". As Disciplinary Counsel emphasised, the Assistant Referee was in very close proximity to the incident and was well placed to make observations about what was occurring, although it should also be appreciated that the Assistant Referee was confronted with a scene in which many players were involved in varying degrees of push, shove and pull.
16. The Player's evidence was to the effect that he grabbed the front of Arslan's shirt, in an attempt to stop him assaulting Kuol. The Player accepts, as is evident from the video footage, that he pulled Arslan to the ground, and in doing so his arm was around the shoulder and neck of Arslan.
17. The Committee accepts the evidence of the Player on this point, which is consistent with the video footage. It is likely that the Assistant Referee saw the arm of the Player around the neck of Arslan as he was being pulled to the ground. However, this was not the result of the Player placing his forearm around the neck of Arslan, as such. It was rather the result of the Player grabbing the front of Arslan's shirt, and then twisting and pulling him to the ground in a way that resulted in his arm coming into contact with, and being around, the neck for this part of the scuffle.

18. While this is a subtle distinction, and the Committee is in no way critical of the Assistant Referee's report, it is a relevant matter when it comes to sanction (as well as the potential reclassification of the offence).
19. As Arslan was dragged to the ground by the Player, he and others fell onto the cushioned barriers beside the pitch. That was fortunate, given that otherwise the action had the potential to hurt Arslan and/or others entangled in the melee. Again, this is a matter that has some relevance when it comes to sanction (as well as the potential reclassification of the offence).

#### **D. SUBMISSIONS**

20. The Committee has had regard to all of the written and oral submissions of the parties. In light of the narrow issues in the hearing, and the obligation to keep these reasons in the shortest form practicable, it is unnecessary to summarise the submissions and we make reference where appropriate to particular submissions elsewhere in these reasons.

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

21. On the question of reclassification, the Player relied on *Mastrantonio* where the Committee was required to deal with an equivalent argument as to whether an offence should be classified as an assault on a player, or as serious unsporting conduct. The Committee in that matter stated that a category 4 offence of assault on a player will be made out where a player "makes intentional contact with another player, otherwise than when challenging for the ball, and uses excessive force in doing so." The Committee there went on to observe, by reference to Law 12 of the FIFA Laws of the Game that using "excessive force" is "when a player exceeds the necessary use of force and/or endangers the safety of an opponent".
22. Mr Philips for the Player argued in the present matter that the contact and force involved in the Player's interaction with Arslan was not "excessive" and did not "endanger the safety of an opponent".
23. The Committee is not persuaded that it would be appropriate to reclassify the offence from one of "assault" to one of "serious unsporting conduct". As we have set out above, we find that the Player took hold of Arslan, by holding onto his shirt and pulling him over, and pulled him to the ground. While there are extenuating circumstances which are relevant to the question of sanction, it is plain that this constituted an "assault" by any understanding of that concept, including because it involved force that was excessive and an action (pulling to the ground) that endangered the safety of Arslan. We would therefore not reclassify the offence, assuming we had power to do so.
24. As to the appropriate sanction, we consider that no additional sanction beyond the Minimum Sanction of 2 matches is warranted. If the Player had intentionally placed his arm around the throat of an opponent, in an action that could very easily become a throttling action, that would be a more serious form of assault. Here we have found that the contact with the neck was incidental to the act of holding the opponent's shirt and then pulling him to the ground. While that was an aggressive act, it was a less serious one and was done as part of a misguided attempt to intervene between the ongoing confrontation by Arslan of Kuol.
25. The conduct of the Player is made more serious by the fact that he was a substitute and got himself involved in the scuffle. He is also a very experienced

professional player and should have been able to exhibit a greater level of discipline and control over his actions. It was a poor example to set for both his younger teammates and for players in the lower levels of the game.

26. There are extenuating circumstances that soften the aggravating factor that the Player was a substitute. The incident occurred immediately in front of the Mariners' bench. The Player did not enter the field of play or travel very far in search of trouble. The Player and Kuol put themselves in a position where they might become part of a scuffle involving the onfield players, but it was Arslan who initiated the physical interaction with those substitutes. The Committee also accepts that the Player was acting in defence of a teammate who was being physically confronted. While this does not excuse the actions of the Player (as he accepted), it is relevant to the determination of sanction.
27. The Committee also places weight on the exceptionally good disciplinary record of the Player. It is also to the Player's credit that he expressed his regret about the incident and acknowledged his culpability in the incident, while seeking in a measured way to explain his actions.
28. Taking all of these considerations into account, the Committee considers that no additional sanction should be imposed above the Minimum Sanction.

#### **F. RESULT**

29. The sanction proposed by the MRP should be varied, such that there should be no additional sanction imposed above the Minimum Sanction for a category 4 offence. The result is that the Player is suspended for 2 matches.



Lachlan Gyles SC, Disciplinary & Ethics Committee Chair

Stephen Free SC, Committee Member

Chris Harold, Committee Member

**1 February 2024**

