

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

Player and club	Yan Sasse, Wellington Phoenix FC
Alleged offence	Offence No. 3, Serious Foul Play
Date of offence	8 October 2022
Occasion of offence	Match between Wellington Phoenix FC and Adelaide Football Club
Date of Disciplinary Notice	10 October 2022
Basis the matter is before the Disciplinary Committee	A referral: see clause 3.3(a) and 11.21(b)
Date of Hearing	18 October 2022
Date of Determination	18 October 2022 (oral pronouncement of determination) 21 October 2022 (written reasons for determination)
Disciplinary Committee Members	Anthony Lo Surdo SC (Chair) Ben Jones Robert Wheatley (Player)

**A. INTRODUCTION AND JURISDICTION**

1. The Committee has jurisdiction under clause 4.3 of the "A-League Men Disciplinary Regulations" applicable to the 2022-23 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 11.22(b) of the Disciplinary Regulations. Prior to a referral under clause 11.22(b) Yan Sasse (**the Player**) had been given a direct red card by the referee. The consequence is that the Player will have an automatic Mandatory Match Suspension (**MMS**) (in this case 1 match). No part of the above process is able to be referred to the Committee and hence cannot be appealed.
3. Further, the Match Review Panel (**MRP**) have formed the view that, on the material available to it, an additional sanction of two matches over and above the MMS is warranted. The Player has elected not to accept the proposed additional sanction.
4. The function of the Committee in such circumstances is solely to determine the question of whether an additional sanction should be imposed over and above the MMS, and if so, what that additional sanction should be. In doing so it is not constrained by the recommendation of the MRP and can impose a greater sanction if it thinks fit, or a lesser one. Guilt or innocence is not up for review. That issue

has been finally determined by the earlier process. The Committee has no jurisdiction to deal with that question and will not express any view on it.

5. The Committee is satisfied that it has jurisdiction to deal with this referral. Further, neither party contended to the contrary.

## **B. THE HEARING**

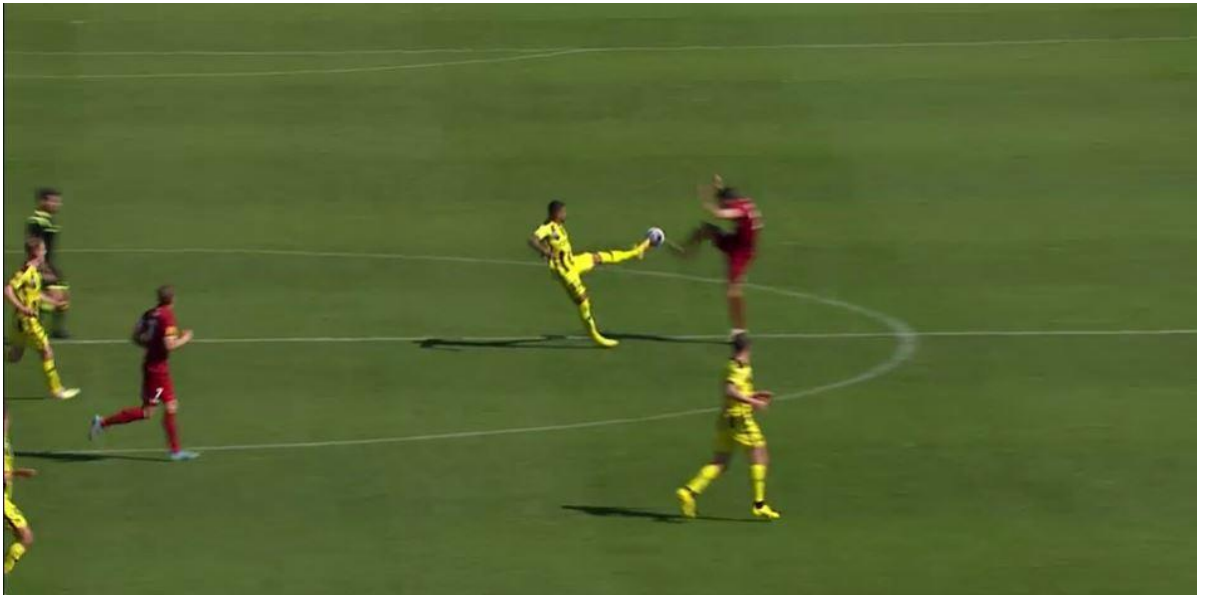
6. On the evening of Tuesday, 18 October 2022, the Committee heard the referral of the matter by AVL.
7. At the hearing Disciplinary Counsel was Mr Ivan Griscti, of Counsel, and the Player was represented by Mr Simon Philips, of Counsel.
8. Disciplinary Counsel relied upon the following evidence:
  - (a) video footage of the incident;
  - (b) the referee's report;
  - (c) a disciplinary notice; and
  - (d) the Player's disciplinary record.
9. Mr Philips, for the Player, relied upon the following evidence:
  - (a) video footage of the incident;
  - (b) a written statement from the Player, dated 17 October 2022;
  - (c) written letters of support from Shaun Gill, Football Operations Manager, Wellington Phoenix FC, dated 12 October 2022 and Alex Baumjohann, a former team mate of the Player, dated 12 October 2022;
  - (d) the Player's disciplinary record;
  - (e) an extract from the Player's Instagram account;
  - (f) oral evidence provided by the Player; and
  - (g) prior determinations of the Committee.
10. 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 *Urena* (10 May 2021), *Ansell* (20 May 2021), *Grant* (6 January 2020), *Mourdoukoutas* (17 June 2021) and *Miller* (22 April 2022) which they contended provided the Committee with guidance as to appropriate sanctions.
11. At the conclusion of the hearing (following deliberations and pursuant to clause 22.4 of the Disciplinary Regulations) the Committee verbally announced the result, being the MMS plus an additional match suspension. 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**

12. In or around the 25<sup>th</sup> minute of the game the ball was passed from an Adelaide United player and directed towards Adelaide Player Lopez. The ball was played in the air and bounced between the Player and Player Lopez. The Player ran towards the ball which had bounced up to around waist height. The Player reached out with his left leg and foot. Player Lopez was directly in front of the Player and beat him to the ball, clearing it with his right foot. No contact was made between the

Player's left leg and foot and Player Lopez. However, in the course of reaching with his left leg and foot for the ball, the Player's right foot left the ground and he fell backwards. His out-stretched right leg and foot with studs showing made contact with Player Lopez's standing leg on and above his left ankle.

13. The referee issued a direct red card for an R1 - Serious Foul Play. After VAR confirmation, the Player left the field of play with no further incident.
14. So much is apparent from the referee's report and from the video footage of the incident which we have had the benefit of seeing from several different angles. The events leading up to and culminating in the sending off of the Player is depicted in the following images taken from the video footage.
15. The first image depicts the Player challenging for the ball in the air with his left leg and foot out-stretched at or perhaps slightly above waist height.



16. The second image depicts the Player falling backwards and his right leg and foot with studs showing making contact with Player Lopez's standing leg on and above his left ankle.



17. Player Lopez required on-field medical assistance. After a short time, he got to his feet, resumed the match and played for its duration. There is no evidence that Player Lopez has suffered any injury from the incident.

**D. SUBMISSIONS**

18. What follows is a summary of the parties' written submissions. It 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 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.
19. The matters submitted by Disciplinary Counsel included:
  - (1) the challenge by the Player comprised "Serious foul play" because the Player sought to challenge for the ball in a manner that had no regard for the safety of his opponent. The Player was obviously aware of the presence of Player Lopez and chose to challenge in a manner that meant he lost control of his body. Player Lopez, being stationary, was in a vulnerable position;
  - (2) intent is not a necessary element to serious foul play; the key issue is the risk to the safety of the opposition player. Whilst there is no suggestion of intent to harm, the challenge was dangerous and exposed the opponent to risk of injury. The contact was forceful and occurred as a result of the challenge in which the Player lost control of his body, in particular, his extended left leg;
  - (3) the sanction ought to recognise the potential for harm and, importantly, send a message of deterrence to players;
  - (4) the need to protect players in vulnerable positions has been recognised many times in decisions of this Committee;
  - (5) to the extent that it may be said that the contact was unintentional, the circumstances arose due to the nature of the initial challenge;
  - (6) the Player slipped not due to any issue with the surface, but rather because he lunged forward in such a manner-extending himself, and at speed; that it was inevitable he would lose control of his landing and make contact with his opponent;
  - (7) there was a potential to cause serious injury. The challenge is properly described as reckless;
  - (8) the Player has a reasonable disciplinary record from his playing time largely in Brazil, with a season in Turkey. Since 2016, he has played 95 games and received 15 yellow cards. He has one previous red card for violent conduct in 2020. Other than the red card, the Player's disciplinary record improved after his first three seasons;
  - (9) the Player's limited playing history (95 games) should be taken into account when comparing the Player's disciplinary record against those of *Grant*, *Urena* and *Ansell*;
  - (10) the Player has expressed remorse and contrition for his actions;
  - (11) his references indicate that the Player is of good character which stands in his favour;

- (12) the current case differs from the facts in *Grant*, *Urena*, *Ansell*, *Mourdoukoutas* and *Miller* to the extent that the conduct presently was not made with the leading leg, but those cases are useful to illustrate relevant considerations and a likely range;
  - (13) in the circumstances, a sanction greater than the MMS is warranted and should be in the range of 2 to 3 games.
20. The matters submitted on behalf of the Player included:
- (1) there is no evidence of any intent or malice on his part, and although he was off the ground at the time his right foot made contact with Player Lopez's left foot, he had not intended to leave the ground. The contact with Player Lopez only occurred as a result of his supporting/standing (right) foot sliding out from underneath him and his momentum from the slip carrying his right foot through to Mr Lopez's standing leg;
  - (2) it is not disputed that the Player made forceful contact with his studs to Mr Lopez's standing leg or that this contact occurred with moderate speed. However, the key consideration is that the offence largely occurred as a result of circumstances outside of the Player's control, namely, his right/standing foot slipping on the ground in dry conditions;
  - (3) the Player was not executing a challenge with his right leg, which was his standing leg, but was attempting, albeit unsuccessfully, to win the ball with his left leg in a significantly different position from where the impact with his opponent occurred;
  - (4) in these circumstances, and given the absence of any intent or recklessness, the Player's conduct should be regarded as being at the lower to bottom end of serious foul play;
  - (5) the Player has a reasonable disciplinary record which should be taken into account, albeit his record in the A-League is limited. This match was, in fact, the Player's A-League debut. In the circumstances, including the accidental nature of the conduct the subject of the offence, the Committee should be comfortably satisfied that the likelihood of the Player reoffending is low;
  - (6) the Player understands that although he did not intend to commit the offence, his conduct could have led to serious injury to Player Lopez. Following the incident, the Player checked on the welfare of Player Lopez as he was laying on the ground and has since commented, unprompted on Instagram in which he publicly apologised for the incident;
  - (7) the Player refers to previous decisions of the Committee which, he submits involve offending significantly more serious in nature than the conduct of the Player in which lesser or similar sanctions to those which the MRP has recommended apply to him were imposed. The Player made particular reference to the Committee's decisions in *Grant*, *Mourdoukoutas* and *Urena* each of which he submitted were more serious than the circumstances culminating in his dismissal. He submitted that the incident in *Ansell* was of a lower level of severity than that of *Grant* and *Mourdoukoutas* and that the present case should be treated in a similar manner to both *Ansell* and *Miller*; and
  - (8) the appropriate sanction is the MMS (already served).

21. No submission has been made by Disciplinary Counsel or by the Player that there are Exceptional Circumstances within clause 11.22(b)(ii) of the Disciplinary Regulations.

**E. CONSIDERATION AND FINDINGS**

22. The sole issue in this matter is what, if any, sanction should be imposed over the MMS.
23. The Committee has made plain on many occasions that an important consideration is the safety of all players and, relevant to these circumstances, the safety of an opposing player.
24. 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 who whose play is too aggressive and dangerous.”
25. Serious foul play is defined in the LOTG as:
26. “A tackle or challenge that endangers the safety of an opponent or uses excessive force or brutality...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.”
27. Further, the LOTG and the Disciplinary Regulations defines “reckless” as “any action (usually a tackle or challenge) by a player which disregards (ignores) the danger to, or consequences for, the opponent.”
28. Clause 13.2 of the Disciplinary Regulations requires that when determining any appropriate sanction in accordance with the Range at the Table of Offences, a Judicial Body, which includes the Committee, may consider:
  - (a) the nature and severity of the Offence, including whether it was intentional, negligent or reckless;
  - (b) the Player’s past record and whether or not this is a repeated Offence;
  - (c) the remorse of the Player; and
  - (d) any extenuating circumstances relevant to the commission of the Offence.

The nature and severity of the offence

29. Having regard to the video footage, the submissions made by Disciplinary Counsel and those made on behalf of the Player, and the Player’s written and oral evidence, the Committee accepts that the Player did not act in an intentional manner.
30. However, as submitted by Disciplinary Counsel, intent is not a necessary element to serious foul play and the primary issue is the risk of safety to an opposing player.
31. Whilst, in this case, the challenge did not cause serious injury to the Opposing Player, it nevertheless had the potential to do so.
32. The Player approached the challenge with speed in an attempt to win the ball. He challenged for the ball with his outstretched left leg and foot at about waist height. Player Lopez beat him to the ball. The Player was aware or should have been aware that Player Lopez was directly in front of him and stationary having cleared the ball. Having committed to the challenge in this manner it was difficult for the

Player to withdraw from the challenge and inevitable that there would have been some contact between the players.

33. Having committed to the challenge in the manner in which he did, with excessive speed and with his left leg and foot overextended, the Player lost balance and control of his right leg in dry conditions and the Player's momentum caused his outstretched right leg and foot with studs showing to make contact with the left foot/ankle of Player Lopez.
34. The incident caused an unacceptable risk of injury to Player Lopez who, being stationary, was in a position of vulnerability. This brought the conduct within the definition of serious foul play and at the lower end of reckless.
35. As to comparable cases, the Committee makes the following observations.
36. First, each case turns on its own merits and circumstances. Comparing incidents alone without being cognisant of all of the circumstances that informed the Committee's reasoning process is of little assistance in achieving the objective of consistency in decision making. For example, much is said about the severity of the incidents in *Grant* and *Urena* and the sanctions imposed by the Committee. But in each of those cases, the exemplary disciplinary record of the players and their long-playing history together with other mitigating factors informed the Committee's decision. The Committee noted in each of those cases that but for those mitigating factors the sanction in each case would have been greater than that ultimately imposed.
37. Secondly, none of the previous decisions of the Committee to which reference is made is particularly analogous to the present circumstances except to the extent that *Grant*, *Mourdoukoutas* and *Ansell* each involved players lunging or leaving their feet in the course of effecting a challenge. The conduct of the Player in question here is different in nature and character and accordingly those earlier cases provide little present assistance to the Committee.

#### The Player's Disciplinary Record

38. The Player has a good playing record and Disciplinary Counsel accepts this. However, the Committee also takes note of the fact that the Player has been playing professionally since the 2016 season, has played only 95 professional games and was on debut in the A-League. His disciplinary record whilst in the main positive is not of long standing. It has nevertheless been taken into account in favour of the Player.

#### Player's Remorse

39. The Player has shown appropriate remorse and contrition including by his conduct on the field when he enquired after the welfare of Player Lopez and in an Instagram post in which he expressed sorrow to his teammates, coaches and fans for the incident. Disciplinary Counsel does not submit otherwise and the Committee has taken the Player's remorse into account in his favour.

#### Character evidence

40. The written letters of support from Shaun Gill, Football Operations Manager, Wellington Phoenix FC, dated 12 October 2022 and Alex Baumjohann, a former team mate of the Player, dated 12 October 2022 stand in the Player's favour and have been taken into account in the Committee's determination.

Conclusion

41. Weighing up these factors, the Committee considers an appropriate sanction for this offence to be the MMS plus one additional match. This sanction recognises the recklessness of the conduct and the potential for serious injury to a vulnerable opponent. But for the Player's reasonably good disciplinary record, his contrition and the character evidence given on his behalf, a heavier sanction would likely have been imposed.

**F. RESULT**

42. The sanction we impose is the MMS plus one additional match.

A handwritten signature in red ink, appearing to read 'A. Lo Surdo'.

AP Lo Surdo SC, Disciplinary & Ethics Committee Chair  
Friday, 21 October 2022