

## KENYA RUGBY UNION - DISCIPLINARY DECISION



Match	Menengai Oilers RFC-vs-Blak Blad RFC.		
Player's Club	Menengai Oilers RFC	Competition	Kenya Cup
Date of Match	16 March 2024	Match Venue	ASK Show Grounds, Nakuru.
Rules to apply	<ul style="list-style-type: none"> <li>• LAWS OF RUGBY,</li> <li>• KENYA RUGBY UNION REGULATIONS,</li> <li>• KENYA RUGBY UNION KENYA CUP COMPETITION MANUAL.</li> <li>• WORLD RUGBY REGULATION 17.</li> </ul>		

PARTICULARS OF OFFENCE									
Player's surname	Jadha	Date of Birth	2019 (Age 26 years)						
Forename(s)	Abdon								
Referee Name	Constant Cap	Plea	<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Admitted</td> <td style="text-align: center;">Not admitted</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	Admitted	Not admitted	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Admitted	Not admitted								
<input type="checkbox"/>	<input checked="" type="checkbox"/>								
Offence	9.18 A player must not lift an opponent off the ground and drop or drive that player so that their head and/or upper body makes contact with the ground.	<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">SELECT: Red card</td> <td style="text-align: center;">Citing</td> <td style="text-align: center;">Other</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table> <p>If "Other" selected, please specify:</p>	SELECT: Red card	Citing	Other	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SELECT: Red card	Citing	Other							
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
Summary of Sanction	<p>The Judicial Panel categorized the act as a mid-range offence on the scale of seriousness and having considered aggravating and mitigating circumstances imposed upon the player a six (6) week suspension in accordance with R.17.21.3 and in line with the player's schedule.</p> <p>Specifically in line with R.17.21.3 (d) and (e) where the Match is a playoff, final or similar Match for which the Player's team has not yet qualified, the panel notes that the season has entered the knock out stage and therefore, applications of the sanction shall be counted if the Player's team participates and will not be counted if the Player's team does not participate in which case the Match(es) in which the Player's team next participates will instead be included in the sanction and where the Player is scheduled to play in a different form of the Game to that from which the sanction arises and those Matches in the other form of the Game fall within the period of the suspension.</p> <p>No award was made as to costs.</p> <p>Player to note the right of appeal to the decision.</p>								

HEARING DETAILS			
Hearing Date	20 March 2024.	Hearing venue	Virtual – via Zoom.
Chairman/JO	Willy Ombisi.		
Other Members of Disciplinary Committee	George Mbaye		
Appearance Player	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	Appearance Union / Club	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Player's Representative(S)	Simpson Osiemo – Club Chairman. Dr. Kiroro Mindo – Hon Secretary. Enos Otieno – Team Manager.	Disciplinary Officer and/or other Attendees	<ul style="list-style-type: none"> <li>• Kevin Wambura – KRU Competitions Administrator.</li> <li>• Alfred Okwemba – Kenya Rugby Referees Association.</li> </ul>
List of documents/materials provided to Player in advance of hearing	<ol style="list-style-type: none"> <li>1. Email &amp; Memo – Notice of Disciplinary Hearing – 18 March 2024.</li> <li>2. Referees Report on Ordering Off of Abdon Jadha – 16 March 2024.</li> <li>3. Assistant Referee's Report on an Ordering-off – 16 March 2024.</li> <li>4. Technical Zone Official Report,</li> <li>5. Victim Player Report on Incident.</li> <li>6. Black Blad Team Physio Incident Injury Report.</li> <li>7. Kenya Cup Competition Match Sheet – Menengai Oilers RFC vs Blak Blad RFC.</li> <li>8. Footage / Clip of the Incident in real time and slow motion.</li> <li>9. Citing Commissioners report on the incident.</li> <li>10. Still Photo of incident.</li> <li>11. Still Photo injury to victim.</li> </ol>		

## SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/DVD FOOTAGE

### Referee's Report on an Ordering-off:

- Cited Law 9.18 - A player must not lift an opponent off the ground and drop or drive that player so that their head and/or upper body contact with the ground.
- The Referee also completed a disciplinary report describing the offending and proceeds to state "*...it is clear to me that this was a red card offence, and I subsequently gave one to the tackler who had visibly taken the player above the horizontal and driven him to the ground...*"

### Assistant Referee's Report on an Ordering-off:

- The Assistant Referee's Report also completed a disciplinary report that confirms the same incident identifying number 6 as the offending player and the red card issue by the Referee.

### Technical Zone Official Report:

- The Technical Official Report identifies the player in jersey 18 as Vicent Mwikali.

### Citing Commissioner's Report:

- Cited the same incident but even though cited player in jersey number 18.
- The report in part states:  
*"...The two Oilers players (players no 18 and 6) lift him, tilt him past the horizontal angle and drive him head-first, dangerously into the ground. BB no 11 lands on his head and shoulder and lies prone on the ground and holds his head. Medics rush in immediately to assist him on the pitch after which he is substituted and withdrawn...."*

The Citing Commissioner report further notes "*.... actions in the two-man tackle mirror the actions of MO 6. They both simultaneously and in concert, lift, tilt and drive BB 11 headfirst into the ground. (They both execute the dangerous actions of the tackle). I subsequently attempted to isolate the actions of each player to check if, the individual actions of any one player impact the other and would inadvertently lead to change of an otherwise good tackle into a dangerous one. However, I can only see a similarity in the individual lift, tilt and drive actions...."*

The report notes the following on the question of if there could have been a change in the dynamics of an otherwise good tackle to be used as mitigation *"... momentum of the ball carrier is not a significant factor in as to change the dynamics and loss of control in the tackling action by the tacklers. The tackle is dominant, and BB 11 is stopped on his tracks. The two tacklers also have a clear line of sight of BB 11's runup into contact from their position at the edge of the ruck and had sufficient time to brace themselves for a clean tackle...."*

### DVD Footage:

- Footage of incident was presented. These were two clips, one in slow motion and one in normal speed.
- Review of the two clips confirms the offending as described in the various reports.

## ESSENTIAL ELEMENTS OF OTHER EVIDENCE (e.g. medical reports)

### Victims Player Report on Incident:

- The Victim Player report describes the incident and injury resulting from the incident.

### Blak Blad Team Physio Report on Incident:

- The Physio report describes the incident and action taken including removal of the player after asking the Victim HIA assessment questions (Maddocks questions). A concussion was ruled out though got a minor cut from the tackle on his ear, and from later reports from him he complained about some shoulder pain.

## SUMMARY OF PLAYER'S EVIDENCE

### **Player Representative Dr. Kirori Mindo (Club Hon. Secretary) on Behalf of the Player:**

1. Confirmed receipt of the email and memo – Notice of Disciplinary Hearing dated 18 March 2024. Included in the e-mail was:
  - Referees Report on Ordering Off of Abdon Jadha – 16 March 2024.
  - Assistant Referee's Report on an Ordering-off – 16 March 2024.
  - Technical Zone Official Report,
  - Victim Player Report on Incident.
  - Black Blad Team Physio Incident Injury Report.
  - Kenya Cup Competition Match Sheet – Menengai Oilers RFC vs Blak Blad RFC.
  - Footage / Clip of the Incident in real time and slow motion.
  - Citing Commissioners report on the incident.
  - Still Photo of incident.
  - Still Photo injury to victim.
2. Stated that they understood the reasons for the Disciplinary Hearing and having examined the documents are ready to proceed.
3. Admitted that the foul play as read out did occur did happen but was committed by player in jersey number 18 and not player wearing jersey number 6.
4. Reviewed the video of the incident and there is clear mistaken identity as:
  - Player in jersey 18 is the tackler and not one in jersey 6.
  - Player in jersey is the one who commits the offending.
  - Player in jersey 6 is in a low tackle position and attempts to drive back the victim player and had no clear vision of victim player and was also not aware his feet had been lifted.
  - Player in jersey 6 did not lift the victim but made a legal tackle that drove victim back.
  - The speed of the incident and Referees position was such that he had no clear vision of the incident.
5. Attempted to play different video in his possession which was not possible, and he withdrew the same.

**FINDINGS OF FACT**

1. The panel noted the pleadings of the Players Representative and the position of the regulations with regards to:
  - The standard of proof for all matters being on the balance of probabilities as outlined in R.17.15.1.
  - The integrity of Law 6.5(a) of the Laws of the Game and the referee’s position as the ultimate judge of fact and law during the Match is unassailable as outlined in R.17.15.2 and the purpose of subsequent review of an incident that occurred during a Match.
2. Further, the panel noted that:
  - Both the Referee and Assistant Referee clearly identify the incident and players involved.
  - The Citing Commissioners report of the incident is clear on the players involved including clarifying the actions of each player individual player involved in the incident. It further tackles the issue of possible mitigating circumstances.
  - The medical report confirms the extent of impact of the dangerous tackle on the victim.
  - The footage available confirms the consistency of the reports against the incident of foul play.
3. Considering the above, the panel finds that on a balance of probabilities, the incident of foul play by player in jersey 6 did occur.

**DECISION**

Breach admitted.	Proven	Not proven	Other disposal (please state)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## SANCTIONING PROCESS

### ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 17.18.1(a & b) (or equivalent Tournament rule)	
Intentional/deliberate <input type="checkbox"/>	Reckless <input checked="" type="checkbox"/>
State Reasons	
Incident clips examined and reports from the Citing Commissioner and Referee indicate the incident was not intentional/deliberate but was out of recklessness.	
Gravity of player’s actions - R 17.18.1(c) (or equivalent Tournament rule)	
<ul style="list-style-type: none"> <li>▪ Offending could have caused grave injury to the victim.</li> <li>▪ Resulted in a minor cut on the victim’s ear.</li> </ul>	
Nature of actions - R 17.18.1(c) (or equivalent Tournament rule)	
Lifting, tilting past the horizontal angle, and driving head-first, dangerously into the ground.	
Existence of provocation - R 17.18.1(d) (or equivalent Tournament rule)	
No provocation.	
Whether player retaliated - R 17.18.1(e) (or equivalent Tournament rule)	
Not an act of retaliation.	
Self-defence – R 17.18.1(f) (or equivalent Tournament rule)	
Not an act of Self Defence.	
Effect on victim – R 17.18.1(g) (or equivalent Tournament rule)	
<ul style="list-style-type: none"> <li>▪ Victim hit the ground head / shoulder first. Resulted in a minor cut on the victim’s ear.</li> <li>▪ Victim was treated and withdrawn from game based on recognise and remove head injury criteria.</li> </ul>	
Effect on match – R 17.18.1(h) (or equivalent Tournament rule)	
Match was stopped for victim to be treated and removed from field of play.	
Vulnerability of victim – R 17.18.1(i) (or equivalent Tournament rule)	
Vulnerable – victim could not control fall. Fell on Head/Shoulder.	
Level of participation/premeditation – R 17.18.1(j) (or equivalent Tournament rule)	
Act was not premeditated.	
Conduct completed/attempted – R 17.18.1(k) (or equivalent Tournament rule)	
Conduct of dangerous tackle completed.	
Other features of player’s conduct – R 17.18.1(l) (or equivalent Tournament rule)	
Not applicable.	

## ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point: 9.18. A player must not lift an opponent off the ground and drop or drive that player so that their head and/or upper body make contact with the ground.

<u>Top end*</u>	<u>Weeks/Matches</u>	<u>Mid-range</u>	<u>Weeks/Matches</u>	<u>Low-end</u>	<u>Weeks/Matches</u>
<input type="checkbox"/>		<input checked="" type="checkbox"/>	Ten (10)	<input type="checkbox"/>	

If Top End, the JO or Panel should identify, if appropriate, an entry point between the Top End and the maximum sanction and provide the reasons for selecting this entry point, below.

In making this assessment, the JO/Committee should consider World Rugby Regulations 17.18.1(a), 17.18.1(g), and 17.18.1(h) or the equivalent provisions within the Tournament Rules referred to above.

Reasons for selecting Entry Point above Top End
Not applicable

### RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of commission of foul play – R 17.19.1(a) (or equivalent Tournament rule)	Player’s disciplinary record – R 17.19.1(b) (or equivalent Tournament rule)
Player did not acknowledge the offending, rather stated it was perpetrated by another player.	It was indicated the player had a good disciplinary record and no information to the contrary was provided.
Youth and/or inexperience of player – R 17.19.1(c) (or equivalent Tournament rule)	Conduct prior to and at hearing – R 17.19.1(d) (or equivalent Tournament rule)
Though had played senior rugby for five years, he was not played any representative rugby.	The player had conducted himself appropriately both before and during the hearing.
Remorse and timing of remorse – R 17.19.1(e) (or equivalent Tournament rule)	Other off-field mitigation – R 17.19.1(f) (or equivalent Tournament rule)
It was indicated that the player reached out to the victim to check on him after the game.	The Club indicated that it held an internal disciplinary review process and had sanctioned the player.

Number of weeks deducted:

5
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Summary of reason for number of weeks/matches deducted:

- Disciplinary record of the player. 1<sup>st</sup> time offence.
- Players In-experience
- Club demonstrated they had undertaken internal disciplinary review process and had sanctioned the player.

## ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player's status as an offender of the Laws of the Game – R 17.20.1(a) (or equivalent Tournament rule)
It was indicated the player had a good disciplinary record and no information to the contrary was provided.
Need for deterrence – R 17.20.1(b) (or equivalent Tournament rule)
The need for a deterrent to combat dangerous tackles including lifting an opponent off the ground and dropping or driving that player so that their head and/or upper body contact with the ground.
Any other off-field aggravating factors – R 17.20.1(c) (or equivalent Tournament rule)
1. The player did not acknowledge the offence. Player further stated and named a teammate as the one who made the tackle.


Number of additional weeks: 1

## SANCTION

**NOTE:** PLAYERS ORDERED OFF OR CITED BY A CITING COMMISSIONER ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING – R 17.12.5(f) / 17.13.7 (or equivalent Tournament rule)

Total sanction	6 matches as per playing schedule as per R.17.21.3 (d) and (e).	Sending off sufficient <b>N/A</b>
Sanction commences.	<b>20 March 2024.</b>	
Sanction concludes	As per R.17.21.3 (d) and (e).	
Matches/tournaments included in sanction	Kenya Cup, Great Rift Ten-a-Side, Enterprise Cup, National Sevens Circuit.	

Costs	<b>None</b>
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Signature (JO or Chairman)	 <hr style="width: 100px; margin: 0 auto;"/> Willy Ombisi	Date	20 March 2024.
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**NOTE:** YOU HAVE 48 HOURS FROM NOTIFICATION OF THE DECISION OF THE CHAIRMAN/JO TO LODGE AN APPEAL WITH THE TOURNAMENT DIRECTOR – R 17.24.2(a) (or equivalent Tournament rule).