

DECISION OF THE APPEAL COMMITTEE ON THE APPEAL BY COLLINS INDECHE & KABRAS RFC AGAINST THE DECISION OF THE JUDICIAL OFFICER MR AGGREY CHABEDA MADE ON 11-02-25 ARISING FROM A RED CARD ISSUED AT A KENYA CUP MATCH BETWEEN KABRAS RFC AND HARLEQUINS RFC PLAYED AT THE ASK KAKAMEGA GROUNDS ON 08-02-25

At a hearing conducted virtually on 03-03-25;

Coram:

Edward Rombo – Appeal Officer

Waiyaki Hinga – Appeal Officer

Collins Indeche – Appellant/Player

Edwin Esilaba – Kabras RFC

Max Adaka – Kabras RFC

Carlos Quondani – Kabras RFC

Paul Odera – KRU Director of Rugby

Kevin Wambura – KRU League & Fixtures Committee

Peris Mukhokha – Harlequins RFC

Wayne Mungai - Harlequins RFC

It was noted that the 3rd Appeal Officer Mr Andrew Musangi was unable to join the proceedings as he was abroad on other work related duties. It was however agreed by all the parties that the officers present could proceed to hear the case and render a decision in the absence of Mr Musangi.

1. BACKGROUND

In a Kenya Cup match played at the ASK Kakamega grounds on 08-02-25 Collins Indeche playing for Kabras RFC [hereinafter referred to as “the player”] was ordered off by the referee Vincent Muiruri for what was deemed as a dangerous tackle as provided for under Law 9.13 the facts as per the Referee’s Ordering Off

Report being that the player swung an arm at the opponents head on the ground with considerable force with a high risk of danger with no mitigating factors.

2. HEARING

From the Judicial Officers report and decision we note the following findings recorded:

- (i) The player denied having committed the foul/offence;
- (ii) The offence committed properly was a violation of Rule 9.12 rather than the 9.13 indicated on the Sending Off Report;
- (iii) The video footage that the Player adduced was not conclusive as to whether the referees got it wrong as it was not sufficiently clear to refute the referees decision to order a sending off;
- (iv) The offence was adjudged as a mid-range as guided by the WR Regulation 17.17 to 17.21 and Appendix 1 thereof.
- (v) The JO therefore imposed a sanction of 6 weeks suspension commencing from 08-02-25.

THE APPEAL BY THE PLAYER AND KABRAS RFC

After the decision by the JO the player and Kabras RFC lodged this appeal by an email dated 16-02-25 which is hereby reproduced as follows:

TO: KENYA RUGBY UNION

P.O BOX

“ATTN:HEAD OF DISCIPLINE OR DESIGNATED”

NAIROBI

RE: KABRAS SUGAR RFC APPEAL AGAINST THE DECISIONS MADE BY THE REFEREE AND THE DISCIPLINARY COMMITTEE WHICH WAS COMMUNICATED ON 8 FEB 2025 AND SUBSEQUENT DECISION ON 11 FEB 2025 WITH THE REGARDS TO THE RED CARD GIVEN TO KABRAS PLAYER JERSY NUMBER 7 ON 08 FEB 2025 AT KAKAMEGA SHOW GROUND A.S.K BETWEEN KABRAS RFC AND KENYA HARLEQUINS.

NOTICE OF APPEAL

1. DETAILS OF THE DECISION OR MATTER APPEALED AGAINST

- 1) On 08 February 2025, Kabras RFC hosted Kenya harlequins for enterprise cup at Kakamega showground.
- 2) 2nd half of the game, the Centre referee Mr. Vincent Muiruri issued a red card to Kabras Sugar RFC player jersey number 7 ... ***“The was a swing arm, contact was straight to the head and was reckless and unnecessary”***
- 3) The center referee later prepared and filed a report to which the designated disciplinary officer, Mr. Aggrey Chabeda invited us for the hearing which we responded without failing.
- 4) According to the referee’s report which says there was straight contact to the head and the footage showed no direct contact to the head
- 5) KABRAS SUGAR RFC above- named being dissatisfied with the whole Decision/rulings/Determination made by the disciplinary committee and the referee on 8th February 2025 and the subsequent decision on the 12th February 2025 regarding the red card given to Kabras Sugar RFC player number 7 (Collins Indeche).

II. GROUNDS OF APPEAL

1. The initial charge by the ref was for the swing arm straight to the head and the footage shows the is no swing arm.
2. In the refs report it claims there was no mitigating factor but the was a primary tackler no 11 that made the initial tackle trying to hold the player up it is upon this stage the player in question arrived and went in for the tackle in the video you clearly see the ball carrier struggling to go down.
3. During the DC Mr. Aggrey Chabeda clearly said that the ref got it wrong he doesn’t see a swinging arm, but he sees a late tackle and it is at this stage that we are arguing that this was not the initials charge against our player.
4. According to the players report to Mr. Aggrey Chabeda he tackled below the shoulder line and ripped the ball and we don't understand how the player is charged for late tackle because in the video there is no ball passed, and you can see even when the player was down the ball is still there.

III. PAYMENTS OF FEES

We already deposited the fees as required in schedule 3 of the KRU regulations.

REASONS WHEREFORE the Appellant herein Kabras Sugar RFC prays that this appeal be allowed in its place.

a. The decision made by the disciplinary committee and the Centre referee to be reviewed and consider the footage.

For Kabras sugar RFC

w.o

WILSON OMONDI

KABRAS SUGAR RFC TEAM MANAGER

RESPONSE FROM KRU

KRU responded via emails from the Director of Rugby Paul Odera where he stated as below:

The Kenya Rugby Union (KRU), confirms that we received the sending-off report from the referee. We instituted the judicial hearing under the provisions of the KRU regulations. KRU was represented by Kevin Wambura. The Oral decision was shared with the player and the club representatives at the hearing. In addition, we confirm receipt of the judicial decision by Aggrey Chabeda, which was shared with the player and the club representatives. In addition to this, the Judicial Officer was furnished with video evidence which he reviewed before making his ruling.

Paul Odera - Bsc, BphilED, MscEM
Director Of Rugby

RESPONSE FROM HARLEQUINS RFC

Harlequins submissions were contained in a memorandum sent on 27-02-25 as follows:

27th February, 2025

**Kenya Rugby Union Disciplinary Committee, Kenya Rugby Union, RFUEA Grounds,
Ngong Road, Nairobi**

Dear Chairperson, KRU Disciplinary Committee

Subject: Response to Notice of Appeal - KRU Disciplinary Decision_Collins Indeche

We acknowledge the appeal submitted by Kabras Sugar RFC regarding the sanction under Law 9.12, which prohibits physical abuse, including striking with any part of the arm. After thoroughly reviewing the referee's report, the disciplinary decision, and the available footage,

and consulting with our affected player, we agree with the original ruling and support the decision of the disciplinary panel.

The referee's report confirms that Collins Indeché (Kabras No.7) made direct contact with the head of our player with considerable force, presenting a high risk of danger with no mitigation factors. The Judicial Officer categorised the offense as mid-range, imposing a six-week suspension after considering both aggravating and mitigating factors. We believe this decision is fair, consistent with the regulations, and necessary to uphold player safety.

Given the evidence and the disciplinary process followed, we see no grounds for overturning or reducing the sanction and will allow the law to take its course. We remain committed to ensuring the integrity of the game and player welfare and trust in the established disciplinary procedures to handle this matter appropriately.

Please keep us informed of any further proceedings regarding this case.

Best regards,

Nekesa Were Hon. Secretary Kenya Harlequin FC

ANALYSIS

From the documentations availed to us we made out the following issues to be determined as follows:

1. Whether the sending off was warranted;
2. Whether the video footage availed corroborated the appellants' contention that there was no foul/offence committed which warranted the sending off.

FINDINGS ON THE ISSUES

Ground 1 – Whether the sending off was warranted;

From the Referees Ordering Off Report as alluded earlier above the player swung an arm at the opponents head on the ground with considerable force with a high risk of danger with no mitigating factors.

From the Disciplinary Decision record of the JO it is evident that he considered the Referees Report and the video footage but in his findings concluded that the video was not clear enough to refute the referees report and decision to issue a red card so on a balance of probabilities he stood by the referee's decision. We

have viewed the said video footage ourselves and also agree with the findings of the JO that it is not clear and conclusive that there was no offence committed or even whether there was any.

Mr Quondani submitted that the player was not the primary tackler and had come in as a secondary tackler when the Harlequins player (later named as Dave Mwangi) was already going down. It was his contention that there was no swinging arm as claimed by the referee and all the player did was to rip the ball from the opponent who even got up and continued playing uninjured. Mr Esilaba also added his voice to the submissions of Mr Quondani by asserting that they went to great lengths to procure the video as they were certain there had been no swinging arm or foul committed by the player. He reiterated that the referee simply got it all wrong and he also took issue with the JO for failing to see it from the video that there was no foul committed.

According to the Harlequins representative Ms Mukhokha their player whom she revealed as Dave Mwangi was indeed hit on the head and the referees decision was correct and so were the findings of the JO. She submitted that there was no reasonable proof or grounds to overturn the decision of the referee who was there where the incident occurred and hence better sighted.

The player himself Collins also reiterated that he did not swing any arm and all he did was to rip the ball off the opponent on the ground. He also stated that the referee got it all wrong.

It is our finding that given all the circumstances including the video evidence, it is not conclusive to show that there was no foul committed or that the referee got it all wrong. As correctly stated by the JO, in the absence of clear irrefutable evidence it was not plausible for him to overturn the referees decision. We must state here that while video footage often assists the centre referee to make some decisions with the use of TMOs, this was clearly not the case that there were no TMOs and so it becomes very difficult for the referees on field decisions to be overturned where there is no clear conclusive evidence. It is clear that the JO

found no compelling evidence from the video to overturn the referees decision. We agree with this position.

Ground 2 – Whether Whether the video footage availed corroborated the appellants’ contention that there was no foul/offence committed which warranted the sending off

As set out above, it is our finding that the video evidence was not conclusive as to whether there was no foul committed and hence find no ground to fault the referees decision in this case. We need not add anything more. We do not see any fault with the JO reaching his conclusion that he had no valid reasons to overturn the referees decision or also on the sanctions imposed given that the entry point for a foul where the head is involved means a midrange sanction and higher.

DETERMINATION

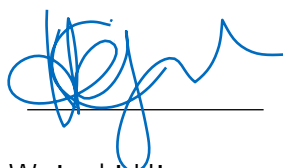
Upon hearing the parties and given the findings detailed above, we determine as follows:

1. We find no reasons to interfere with the decision of the Judicial Officer.
2. We hereby dismiss the appeal and re-affirm the decision of the Judicial Officer made on 11-02-25 together with the sanctions contained therein.

Dated this **5th** day of **March** 2025



Edward Rombo
Appeal Officer Kenya Rugby Union



Waiyaki Hinga
Appeal Officer Kenya Rugby Union

