

Misconduct were committed by both the 1st and 2nd Persons and per R20.10.1, they are subject to sanction.

- ii) The Judicial officer, therefore, imposes sanctions as follows:
- a. Under R20.10.1(c), the 1st and 2nd Persons are suspended from all Rugby activity for twenty (20) weeks, effective from the date of this decision.
 - b. Consequently, given the provisional suspension served, their conduct during the hearing and no evidence of previous misconduct record, the Judicial officer reduced that suspension to by forty per cent (40%) to ten(12) weeks from the effective date provided that the 1st Person shall not be in breach of Regulation 20 during this period. Should the Persons be found in breach during this period, the sanction shall be applied in full.
 - c. The 2nd person, having pleaded guilty to the charge they will pay a fine of Kes 30,000 in default its team to not participate in future RSS matches
 - d. No award was made as to costs.

INTRODUCTION

This hearing was convened pursuant to a referral by the KRU on the 11th of May 2024, on a misconduct complaint arising from a letter written by the Tournament Director Mike Mwanja alleging verbal abuse of match officials by the 1st Person. The applicable regulation relied upon by KRU is contained in Regulation 18 & 20 "Misconduct and Code of Conduct".

KRU alleges that:

- i) Pursuant to R20.3, the conduct and behaviour of the 1st and 2nd Persons in the playing enclosure in connection with a match had the potential to bring the Game into disrepute.
- ii) Pursuant to R20.4 (b) the 1st and 2nd person's actions were abusive, insulting, intimidating or offensive towards a referee/other official or person associated with the Union.
- iii) The actions of the 1st and 2nd persons did not uphold the spirit of the Laws of the Game (in breach of clause 1.2 of the Code of Conduct).
- iv) The actions of the 1st and 2nd persons did not promote the Game's reputation nor prevent it from coming into disrepute (in breach of clause 1.9 of the Code of Conduct).

HEARING

Preliminaries:

The hearing was recorded electronically. At the commencement of the hearing, the Judicial officer confirmed the procedure to be followed during the **hearing**. The **Judicial Officer admitted into evidence the following material**.

- i. E-mail dated 20th June 2024 from Kevin Wambura, fixtures administrator
- ii. Notice of disciplinary hearing
- iii. Incident report dated 11th May 2024
- iv. Information request from DDO

- v. Misconduct allegations dated 13th May 2024.
- vi. AR 1 statement dated 23rd May 2024
- vii. AR2 statement dated 31st May 2024
- viii. Statement from centre referee dated 28th May 2024.
- ix. Statement from person 1 dated 17th June 2024.
- x.

Background:

1. The charge emanates from the KRU leagues, fixtures, and competitions administrator, Kevin Odhiambo Wambura, who forwarded a misconduct report, having been submitted to him by the match commissioner Michael Mwanja regarding alleged misconduct by Kabras Sugar Buffaloes head coach Max Adaka in the RSS fixture against Faiba Mobile Rhinos on May 11, 2024, in Nakuru.
2. The following are excerpts from the misconduct report made by the match commissioner.
 - a) During the second half of the match at 1522 hours, the head coach Max Adaka uttered the following words loudly in the technical zone: *"Wewe referee Kuma hii"*
 - b) These words caught the attention of the Match commissioner, who immediately approached the coach and advised him to refrain from making such comments.
 - c) The head coach ignored the advice and instead repeated the tirade with a further expletive *"hawa referees wako na ujinga"*
3. In KRRRA view the statement, amounts to misconduct as defined under regulation 20 for the contravening the following provisions;
 - i. 20.3 For these Regulations Relating to the Game, "Misconduct" shall mean any conduct, behavior, statements and/or practices on or off the playing enclosure during or in connection with a Match or otherwise, that is unsporting and/or cheating and/or insulting and/or unruly and/or ill-disciplined and/or that brings or has the potential to bring the Game and/or any of its constituent bodies, World Rugby and/or its appointed personnel or commercial partners and/or Match Officials and/or judicial personnel into disrepute.
 - ii. 20.4 Misconduct: (b) acting in an abusive, insulting, intimidating or offensive manner towards referees, assistant referees, Citing Commissioners, members of Disciplinary Tribunals or other officials or any person associated with the Host Union, the Rugby Body or the Unions participating in the Match or spectators
 - iii. (j) making any comments (including to the media) that attack, disparage or denigrate the Game and/or any of its constituent bodies, World Rugby and/or its appointed personnel or commercial partners and/or Match Officials and/or disciplinary personnel (including Disciplinary Tribunals and Citing Commissioners

iv. Demeaning to Match Officials and their role.

Through his representative, Mr. Carlos Katwaya informed the Judicial officer that:

- i) The charge was admitted.
- ii) They were served with the Notice to appear as the same was sent through the Club Secretary, Kabras Buffaloes.
- iii) The procedure provided under regulation 20.7.1, which requires that a designated Disciplinary Officer investigate and consider whether the actions of the first and second Persons constituted a charge of misconduct, was undertaken.
- iv) The statement was not malicious but was part of a conversation with the team assistant coach.
- v) In any case, the message did not go beyond the technical zone, and the Coach had apologised for that regrettable remark.
- vi) Within a day of the incident, Mr Adaka was subject to an internal process at the club and a sanction of 50 % of his salary deduction. He was expected to serve a term by training all the local schools.

For the second person

- vii) The charge was admitted. However, the club had very little control over the remarks. The matter was immediately handled, and the club-imposed sanctions *for the misconduct*.

FINDINGS OF THE JUDICIAL OFFICER

In its deliberations, the judicial officer considered the interests of achieving a just and fair outcome. Procedural and technical considerations would take second place to the paramount object of being just and fair to all parties, as is consistent with a duty to the Game.

The Judicial officer noted that adherence to the Laws, Regulations, and spirit of fair play remains fundamental to the proper administration and preservation of the Game. Accordingly, all stakeholders have a general obligation to address Misconduct matters to ensure that discipline, control, honesty, and mutual respect, which are fundamental to the integrity of the game, are preserved.

With this background, the Judicial officer was called to determine whether the:

- i. Actions of the 1st and 2nd Persons, under the circumstances, amounted to Misconduct as defined in the regulations and whether.
- ii.
 - a. Under R20.3, the conduct and behaviour of the 1st and 2nd Persons in the playing enclosure in connection with a match could bring the Game into disrepute.
 - b. Under R20.4 (b) the 1st and 2nd Person's actions were abusive, insulting, intimidating or offensive towards a referee/other official or person associated with the Union.
 - c. The actions of the 1st and 2nd Persons did not uphold the spirit of the Laws of the Game (in breach of clause 1.2 of the Code of Conduct).
 - d. The actions of the 1st and 2nd Persons did not promote the Game's reputation and prevent it from coming into disrepute (in breach of clause 1.9 of the Code of Conduct).
 - e. The actions of the 1st and 2nd Persons adversely affected the Game of Rugby (in breach of clause 1.14 of the Code of Conduct).

The Findings:

- i) Whether Actions of the 1st and 2nd Persons amount to Misconduct as defined in the Regulations.
 - a) R20.3 defines "Misconduct" as among other meanings conduct, behaviour, statements and/or practices on or off the playing enclosure during or in connection with a Match or otherwise, that is unsporting and/or cheating and/or insulting and/or unruly and/or ill-disciplined and/or that brings or has the potential to bring the Game and/or any of its constituent bodies, World Rugby and/or its appointed personnel or commercial partners and/or Match Officials and/or judicial personnel into disrepute. R20.4 further illustrates practices that may amount to misconduct but recognises that the list may not be exhaustive.
 - b) A clear reading of the words uttered can only lead to one conclusion: that person 1, the head coach, made the said comments alleged.

4. The core purpose of a judicial process like this one is to ensure that the decision making process is done fairly and justly to all parties and blatant breaches of the regulations that are unacceptable are mitigated so as not to bring the game into disrepute. It is paramount that the regulations must be followed is not a choice it is our role to ensure that it is so followed. The Judicial Officer notes with concern that during the Super Series, match officials have come under increasing attack and continued to be the subject of threats, abuses and unfair criticism that goes against the principles of the game. Such attacks have no place in rugby and serve as a disincentive to taking up refereeing.
5. Continued abuses of match officials have been associated with referee discontinuation and noted as a critical factor influencing the recruitment and retention of referees. Sporting organizations, coaches, and players all feel the impact when there is an inadequate supply of referees.
6. It is the Judicial officer 's finding that on a balance of probabilities, the 1st and 2nd Persons did not publish the said statements, committed technical zone violations and were in breach of the code of conduct. The Judicial officer also finds that on a balance of probabilities the 2nd Persons is guilty for not preventing the 1st Person from breaching the said rules ‘
7. In this instance, looking at the above and guided by R18.1.3, R20.3 and R20.4, the Judicial officer is satisfied that the 1st and 2nd Persons’ actions under the circumstances amounted to Misconduct as defined in the regulations and that:
 - a. Pursuant to R20.3, the conduct and behaviour of the 1st and 2nd Persons, in the playing enclosure in connection with a match had the potential to bring the Game into disrepute.
 - b. Pursuant to R20.4 (b) the 1st and 2nd Persons actions were abusive, insulting, intimidating and offensive towards a referee/other official or person associated with the Union.
 - c. The actions of the 1st and 2nd Persons did not uphold the spirit of the Laws of the Game (in breach of clause 1.2 of the Code of Conduct).
 - d. The actions of the 1st and 2nd Persons did not promote the reputation of the Game and prevent it from coming into disrepute (in breach of clause 1.9 of the Code of Conduct).
 - e. The actions of the 1st and 2nd Persons adversely affected the Game of Rugby (in breach of clause 1.14 of the Code of Conduct).

DECISION

The Judicial officer has determined and is satisfied that on a balance of probabilities, acts of Misconduct were committed by the 1st and 2nd Persons and per R20.10.1, they are subject to sanction. The Judicial officer, therefore, imposes sanction as follows:

- i) Pursuant to R20.10.1(c), the 1st Person is suspended from all Rugby activity for twenty (20) weeks, effective from the date of this decision.

ii) Consequently, in view of the provisional suspension served, their conduct during the hearing and no previous misconduct record, the Judicial officer reduced that suspension by 40% to twelve (12) weeks from the effective date i.e. 28th of June 2024 provided that the Persons shall not be in breach of Regulation 20 during this period. Should the 1st Person be found in breach during this period, the full sanction shall apply.

iii) No award was made as to costs.

The 1st and 2nd Persons may note their right to appeal against the decision.

Dated this 24th day of July 2024

George Mbaye
Judicial Officer