

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

Player and club	Isaias Sanchez Cortes, Adelaide United FC
Alleged offence	Offence No. 3, Serious Foul Play
Date of offence	7 January 2023
Occasion of offence	Match between Central Coast Mariners FC and Adelaide United FC
Date of Disciplinary Notice	9 January 2023
Basis the matter is before the Disciplinary Committee	A referral: see clause 3.3(a) and 11.21(b)
Date of Hearing	19 January 2023
Date of Determination	19 January 2023 (oral pronouncement of determination) 21 January 2023 (written reasons for determination)
Disciplinary Committee Members	Anthony Lo Surdo SC (Chair) Stephen Free SC David Barrett (Former 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 the referral under clause 11.22(b) Isaias Sanchez Cortes (**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**) has 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 but to refer the issue of sanction for the determination of the Committee.
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 19 January 2023, 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 Nicholas Condylis, 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, dated 9 January 2023; and
 - (d) the Player's disciplinary record.
9. Mr Condylis, for the Player, relied upon the following evidence:
 - (a) video footage of the incident;
 - (b) a written statement from the Player, dated 18 January 2023;
 - (c) a written character reference, dated 14 January 2023 from Mr Mark Milligan, a former professional player and currently assistant coach of Adelaide United FC; and
 - (d) the Player's disciplinary record.
10. The Committee was also assisted by the written submissions provided by the parties. Further oral submissions were provided at the hearing by both parties. In their submissions, the parties referred the Committee to earlier decisions of the Committee including *Grant* (6 January 2020) *Miller* (22 April 2022) and *Sasse* (19 October 2022) which they contended provided the Committee with guidance as to appropriate sanctions in this case.
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 46th minute of the match, a Central Coast Mariners (**CCM**) player won a loose ball in mid-field and played it to CCM Player Farrell. The Player ran towards the ball with the intent, in his words, of preventing Player Jacob from turning towards goal and starting an attack and to force Player Farrell to lose the ball or to play the ball backwards. At that time, Player Farrell had his back to the Player as he was attempting to shield the ball.
13. As the Player approached Player Farrell, he made contact with the studs of his left boot on the left ankle of Player Farrell and, as Player Farrell was falling to the ground, the Player's right leg followed through and the studs of his right boot made contact with the right calf of Player Farrell.

14. 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.
15. 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 key events leading up to and culminating in the sending off of the Player are depicted in the following images taken from the video footage. However, as we explain below this is an example of a situation where the stilled images may tend to exaggerate the gravity of the incident, as compared with a full viewing in context.
16. The first image shows the Player approaching Player Farrell from behind. Player Farrell has made first contact with the ball with his right foot and has placed his body behind the ball in an attempt to protect it. It also shows the Player's left foot impacting Player Farrell's left ankle destabilising both players.



17. The second image depicts the Player's right leg following through with the studs of his right foot making contact with Player Farrell's right calf.



18. The last image shows Player Farrell coming to ground following contact by the Player.



19. Player Farrell 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 Farrell has suffered any injury from the incident.
20. The video footage also depicts the Player showing immediate remorse and contrition towards Player Farrell after the incident and Player Farrell accepting the apology before the Player left the field of play.

D. SUBMISSIONS

21. What follows is a summary of the parties' 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.
22. The matters submitted by Disciplinary Counsel included:
- (1) the video footage shows the ball diverted towards Player Farrell by a CCM teammate following a clearance by Adelaide United. Player Farrell positions himself to take a touch of the ball with his right foot on the attacking side of left wing and with his back to goal. He takes a touch of the ball with his right foot and the Player tackles from behind, the studs of his left foot making forceful contact with Player Farrell's left ankle/Achilles and the studs of his right foot making contact with Player Farrell's right calf;
 - (2) 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 who, shielding the ball, was in a vulnerable position;
 - (3) intent is not a necessary element to serious foul play; the key issue is the risk to the safety of the opposition player;

- (4) it is difficult to see how the Player could have made a proper challenge for the ball at the time he executed the challenge. The ball was not there to be won. It was not a mis-timed tackle because it was a challenge that had no realistic possibility of winning the ball without also endangering the safety of the opponent;
 - (5) the challenge is made worse because the Player lunges in with his right foot above the ground and his studs make forceful contact with Player Farrell's calf and heel;
 - (6) Player Farrell was exposed to significant risk of injury by the tackle. The contact from the Player's studs could have caused injury as can be seen from the way he fell to the ground. Afterwards, there was also a risk of injury due to Player Farrell landing awkwardly;
 - (7) the need to protect a player who is in a vulnerable position has been illustrated many times in decisions of the Committee, such as *Young, Mandi, O'Donovan, Grant, Urena, Ansell, Sasse* and *Topor-Stanley*;
 - (8) the Player slipped not due to any issue with the surface, but rather because he lunged forward and at speed; it was inevitable he would lose control of his landing and make contact with his opponent;
 - (9) there was a potential to cause serious injury. The challenge is properly described as reckless;
 - (10) there are no extenuating circumstances relevant to the commission of the offence;
 - (11) the Player apologised to Player Farrell and appeared keen to ensure that Player Farrell was not injured. Player Farrell appears from the footage to have accepted the apology;
 - (12) the Player is very experienced, having played over approximately 16 seasons in Spain, Qatar and Australia. His disciplinary record is not poor but it is not impeccable. He has received an indirect red card already this season. The present red card is his second direct red card, his previous one being in Spain in the 2009/2010 season. In over 375 games, the Player has received 93 yellow cards, five indirect red cards and two direct red cards;
 - (13) the Player's remorse and his record do not warrant a reduction of the sanction;
 - (14) the reference from Mr Milligan indicates that the Player is of good character which stands in his favour;
 - (15) the current case differs from the facts in *Grant, Miller* and *Sasse*. In *Grant*, the ball was able to be won but the tackle lacked execution. In *Miller*, the Player was in possession of the ball at the time of the incident and he was attempting to protect it. It was a less serious incident than the present. *Sasse* lost balance in the challenge which ultimately led to his dismissal. However, his foot was planted on the ground at the time. It is an objectively more severe incident than the present; and
 - (16) in the circumstances, the sanction of 3 games is appropriate.
23. The matters submitted on behalf of the Player included:
- (1) an objective analysis of the video footage reveals that: a CCM player won the ball in midfield and played a first time pass to Player Farrell who was

located about 15m inside CCM's attacking half of the field; as the pass approached Player Farrell, the Player moved towards Player Farrell and closed the space between himself and Player Farrell; when Player Farrell received the ball, the Player was positioned almost immediately behind Player Farrell, who was shielding the ball with his body and positioning himself between the Player and the ball; when the Player reached Player Farrell, his left foot landed on Player Farrell's left foot causing him to lose his balance and also causing Player Farrell to start falling forwards; the Player's right foot does not make contact with the ground but swings just above the ground and makes contact with Player Farrell's right calf before both players fall to the ground;

- (2) the incident should be characterised as one where the Player has lost his balance while applying pressure on Player Farrell;
- (3) there is no evidence of any intent or malice on the Player's part. The Player's intention had been to put pressure on Player Farrell to force him into an error or to pass the ball backwards away from Adelaide United's defensive goal. It is a case of the Player being overly enthusiastic in his attempt to pressure Player Farrell and stepping on that player's left foot led to the Players subsequent loss of balance and collision with Player Farrell;
- (4) the appropriate sanction is the MMS or the MMS plus one additional match. The key consideration in this offence, which differentiates it from several other determinations of the Committee, is that the Player has not engaged in any lunging action, has not approached Player Farrell with his studs showing, did not make front on contact, did not slide at high speed and did not deliberately leave the ground with both feet to execute a tackle;
- (5) the incident did not, in fact, cause any injury to Player Farrell. After the tackle, Player Farrell was able to continue playing in the match without any concerns, even scoring a goal in or around the 58th minute;
- (6) the Player has a good disciplinary record which warrants a lesser sanction. As a professional player who has played approximately 380 professional matches over approximately 17 years in both Australia and abroad, the Player has only received one other direct red card in his career. Whilst he has received five red cards for the cumulation of two yellow cards in a match, only two of these indirect cards occurred in the past nine years. This is a good record for a person of the Player's experience, especially considering that the Player typically plays as a defensive midfielder and consequently has a greater risk of receiving red cards than players in more attacking roles;
- (7) the Player has shown immediate and continuing remorse and contrition;
- (8) 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 *Miller*, *Grant* and *Sasse*. In particular, it was submitted that there were similarities between this offence and that in *Miller* which warranted a similar sanction of the MMS only and that the present offence was less serious than that in both *Grant* and *Sasse* where the Committee imposed a sanction of 2 matches (MMS plus one); and

(9) the appropriate sanction is the MMS (already served) or, alternatively, the MMS plus one additional march.

24. No submission was made by Disciplinary Counsel or by the Player that there were Exceptional Circumstances within clause 11.22(b)(ii) of the Disciplinary Regulations.

E. CONSIDERATION AND FINDINGS

25. The sole issue in this matter is what, if any, sanction should be imposed over the MMS.

26. 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.

27. 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.”

28. Serious foul play is defined in the LOTG as:

“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.”

29. 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.”

30. 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

31. 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.

32. Intent is not a necessary element to serious foul play. The primary issue is the risk of safety to an opposing player, although the presence or absence of intent is a matter that may be relevant to the assessment of nature and severity of the offence.

33. The video evidence is consistent with the evidence of the Player and the submissions made on his behalf that his intention was to ensure that Player Farrell could not turn towards goal and start an attack, to force Player Farrell to lose possession of the ball or to play the ball backwards. This was an attempt to shut

down and jockey an opposing player, rather than a lunging challenge on the ball or at a player's legs. The contact with the left leg was, we accept, a careless misplacement of the Player's landing foot, which then caused him to unbalance leading to his right foot colliding with Player Farrell's right calf.

34. The Player's reaction to the incident corroborates this characterisation. His immediate remorse and the manner of his acknowledgement of a bad tackle are consistent with his attempt to shut Player Farrell down having gone awry because he mis-planted his left foot, rather than any intention to take Player Farrell out or challenge for the ball by deliberately going through Player Farrell. As we explain further below, the remorse is also relevant in its own right as a factor counting in the Player's favour.
35. However, the Player approached at speed and from behind. The Player frankly admitted that he "*needed to slow down earlier or a bit quicker*" and that he misjudged his last step, that is, the step with his left foot which he intended to plant on the ground in an effort to stop or slow down but which in fact made forceful contact with the left ankle of Player Farrell. Even if the Player had managed to plant his left foot on the ground as he proposed, it is highly probable that his momentum would have caused him to make contact with Player Farrell.
36. Challenges from the rear should be executed with caution as they have the potential to cause serious injury. An opponent in those circumstances is particularly vulnerable as, having no or little visibility to the challenge, they are not able to take appropriate measures to either avoid contact or minimise the consequences of that contact.
37. The incident caused an unacceptable risk of injury to Player Farrell who, being stationary and with his back to the challenge was in a position of vulnerability. This brought the conduct within the definition of serious foul play but at the lower end of reckless.
38. As to comparable cases, the Committee makes the following observations.
39. First, as stated expressly in *Sasse*, 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.
40. The assessment of the nature and severity of any given incident is one which can only be made having regard to all the evidence and submissions in each case, and there is necessarily an element of subjective evaluation involved which means that no purely objective, formulaic comparison is possible.
41. For example, much is said about the severity of the incident in *Grant* and the sanction imposed by the Committee. In that case, the exemplary disciplinary record of the player, his long-playing history and other mitigating factors referred to in the decision informed the Committee's conclusion. The Committee noted that but for those mitigating factors the sanction would have been greater than that ultimately imposed.
42. Secondly, none of the previous decisions of the Committee to which reference is made is particularly analogous to the present circumstances.
43. *Grant* involved a lunging type challenge effected from a side-on position in a challenge of the ball where there was some prospect of Grant winning the ball.

44. *Miller* concerned two opposing players challenging for the ball. Having got to the ball before his opponent, Player Miller turned his back on the approaching opponent and attempted to trap the ball by means of a forceful downward movement. At that moment, the opposing player made a sliding play for the ball as a consequence of which Player Miller's foot came into contact with the opposing player's shin. In that case, the Committee found that the challenge by the opposing player for the ball was a contributing factor generally and contributed more specifically to his vulnerability.
45. *Sasse* was also a case where two opposing players, facing each other, were challenging for the ball. Player Sasse approached the challenge with speed. He challenged for the ball with his outstretched left leg and foot at about waist height and, in doing so, lost balance and control of his right leg. His momentum caused his outstretched right leg and foot with studs showing to make contact with the opponent's left foot/ankle.
46. The Committee has set out these brief facts of each of the cases referred to in submissions in an effort to make plain that whilst each of those cases involved incidents of serious foul play, the facts of each case are different those the subject of this hearing and thus, in the view of the Committee, provide little guidance on the appropriate sanction in this case.

The Player's Disciplinary Record

47. The Player is very experienced. He has played professionally for approximately 16/17 seasons in Spain, Qatar and Australia. He has played approximately 380 games. The present red card is his second direct red card, his previous one being in Spain in the 2009/2010 season. He has received 5 indirect red cards, including one in this present season, and 93 yellow cards.
48. The Player has a reasonable record but not an exemplary or impeccable one. In the view of the Committee, that record is neutral for the purposes of the assessment of sanction; that is, it is not a factor that points towards either a higher or lower sanction.

Player's Remorse

49. The Player has shown appropriate remorse and contrition including by his conduct on the field. Disciplinary Counsel does not submit otherwise and the Committee has taken the Player's remorse into account in his favour. It is appropriate to acknowledge that the Player acted commendably by immediately acknowledging that he was at fault and acting with concern and respect towards his opponent and the referee.

Character evidence

50. The written character reference of Mr Milligan stands in the Player's favour and has been taken into account in the Committee's determination.

Conclusion

51. 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.

F. RESULT

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

A handwritten signature in red ink, appearing to be 'A. Lo Surdo', written in a cursive style.

AP Lo Surdo SC, Disciplinary & Ethics
Committee Chair

Saturday, 21 January 2023