

Fulham Football Club v Jordan Levi Jones

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In summary, Lane J:

- Confirmed that the standard of civil liability is set at a materially higher level than a mere breach of the Rules of the Game of Association Football which are not drafted with civil liability in mind. By closely aligning the concept of serious foul play in the Laws of the Game with actionable negligence, Recorder Craven wrongly lowered the ambit of the inquiry required to answer the question of whether, in all the circumstances, Mr Harris's tackle was not only a breach of the Rules of Game but negligent.
- Held that it is absolutely vital for a judge considering a sports injury claim to have regard to the context and realities of a fast-moving, competitive game of sports. The question of civil liability cannot be considered in a vacuum or with the benefit of hindsight.
- Concluded that Recorder Craven failed to discharge his duty to give reasons for his decision to prefer the expert opinion of the Claimant's expert over that of the Defendant's expert. The decision confirms that a judge must be guided by the expert evidence towards their conclusion. They should not reach their own independent conclusion without regard to the expert evidence and then reject the expert opinion of the expert whose opinion may differ to their own.
- Held that a finding that Fulham's player "could not be sure" what he might contact when deciding to make a challenge was not enough to meet the test for mens rea and set a standard for reckless or quasi-reckless behaviour in the context of professional football which was far below what is needed to establish liability.
- Emphasised that, as a matter of law, the court must give some consideration to the reactions (or lack of reactions) of the referee adjudicating the football match. Recorder Craven expressly refused to take into account the referee's decision not to award a yellow or red card or even call for a foul. Lane J concluded that the fact the referee decided to take no action had to be engaged with by the court, in determining the question of whether there was actionable negligence.

This is a really significant decision dealing with the circumstances in which a court may reach a finding of civil liability following an allegedly dangerous/reckless tackle in a competitive game of football. We are delighted that the judge found in Fulham's favour on all four of our Grounds of Appeal and agreed that civil liability must be a rare finding in this arena.

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