



# Reasons for Decision

These reasons are issued in accordance with Article 18, paragraph 11 of the Disciplinary & Grievance Regulations 2023.

## Hearing

<b>Charged Party</b>	Bayley Brown-Montgomery
<b>Hearing Date</b>	5 October 2023
<b>Findings</b>	Not guilty of Offence 1b. Guilty of Offences 1a, 5 and 29.

## Summary and Tribunal Findings

### Background

1. Bayley Brown-Montgomery of Floreat Athena FC (Floreat Athena) seeks to challenge Disciplinary Infringement Notice dated 6 September 2023.
2. Mr Brown-Montgomery was charged with three offences arising out a fixture dated 2 September 2023 between Floreat Athena and Inglewood United FC (IUFC) in the 'Australia Cup' First Team competition. The offences with which Mr Brown-Montgomery was charged are:
  - 1b – Serious Foul Play with high risk of injury
  - 5 – Incites a brawl or melee
  - 29 - Temporarily refuses to leave, unreasonably delays leaving or returns to the field of play, the technical area or the surrounds of the field of play after being shown a red card.
3. In addition to being charged by Football West with the above offences, Mr Brown-Montgomery received a red card during the fixture. The Tribunal understands that having accumulated two red cards in a Competition season, by virtue of Article 7, paragraph 9 of the Disciplinary & Grievance Regulations 2023, Mr Brown-Montgomery is liable to serve an Automatic Match Suspension of 2 matches.

### Summary of Events

4. The summary below has been adopted from the Football West Outline of Submissions received by the Tribunal:
  - 4.1. On 2nd September 2023, Floreat Athena played IUFC in the State Cup final. The match took place at the State Football Centre and kicked off at 6:30pm.
  - 4.2. Mr Brown-Montgomery was player number 16 for Floreat Athena
  - 4.3. The Football West appointed Match Official was David Bruce.
  - 4.4. In the 96th minute, the Match Official issued a red card to Mr Brown-

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- Montgomery for the offence of Serious Foul Play after he made contact with an IUFC player who was dribbling the ball past him.
- 4.5. After this contact, both players turned to face each other, and Mr Brown-Montgomery moved towards the IUFC player, making further contact with him which resulted in that IUFC player falling to the ground.
  - 4.6. Players from both sides reacted to this action, resulting in a melee involving approximately 8-9 players from both sides.
  - 4.7. The melee was contained to pushing, grabbing and swinging arms. It was quickly diffused by the players and the Match Official.
  - 4.8. Once order was restored, the Match Official issued a red card to both Mr Brown-Montgomery and IUFC player (number 10).
  - 4.9. On being shown the red card both players promptly left the field of play but engaged in a verbal exchange while walking down the tunnel towards the changing rooms.
  - 4.10. This verbal encounter escalated into another physical confrontation, with both players pushing each other. This led to a second melee erupting within the tunnel, involving both players, coaching staff, and spectators.
  - 4.11. After this incident had escalated and the final whistle had been blown, Mr Brown-Montgomery returned to the field of play and was observed shaking hands with a number of players.
5. Whilst there were two melees that took place during the relevant fixture, Football West confirmed during the hearing that the charge against Mr Brown-Montgomery with respect to Offence 5 arose in relation to the first melee only.

## Referee's report

6. The referee's report was received by the Tribunal. The report follows the above narrative but includes references to specific actions of players including Mr Brown-Montgomery after he made contact with the IUFC player (contact which the Tribunal notes resulted in the IUFC player falling to the ground).

## Hearing on 30 October 2023

7. A hearing was conducted on 30 October 2023. Jamie English represented Football West. The referee was not present for the hearing.
8. The Tribunal had the following documents before it:
- 8.1. Request for General Purposes Tribunal Hearing
  - 8.2. Statement of Grounds for Contesting Infringement – Mr Brown-Montgomery (Dated 13 Sept 2023)
  - 8.3. Disciplinary Infringement Notice
  - 8.4. Referee Incident Report

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8.5. Football West Outline of Submissions

8.6. Video of Incident

9. Mr Brown-Montgomery was supported by Kim Macpherson of Floreat Athena during the Tribunal.
10. The Tribunal initially heard from Mr Brown-Montgomery, who provided an account of the incident explaining his view and position of the initial tackle and subsequent contact he made with IUFC player which saw them fall to the ground.
11. In describing the above actions, Mr Brown-Montgomery confirmed that in his view, the tackle did not warrant a red card for either serious foul play or the charged offence of serious foul play with high risk of injury. With reference to the video, Mr Brown-Montgomery submitted that the tackle was not made with sufficient force to be excessive or likely to endanger the safety of the opponent, given the angle of his leg and where he made contact with the IUFC player. He also said that he had no intent to cause a serious injury nor engage in a deliberate foul for a cynical purpose (ie, to stop the flow of play).
12. Mr Brown-Montgomery submitted that with respect to the subsequent contact he made with the IUFC player, he did not deliberately make contact with the player for any malicious purpose, but in an attempt to secure the football which was still in play. He said that he 'only had eyes for the ball'.
13. Vaso Vujalic gave evidence in support of Mr Brown-Montgomery which was in line with the above. The Tribunal did not take issue with his evidence but notes that Mr Vujalic's evidence was based viewing the video footage.
14. With respect to the melee on the field, Mr Brown-Montgomery relied upon his lack of malicious intent in his second contact with the IUFC player to suggest that his actions did not incite the melee. The tribunal notes that it was suggested generally by Mr Brown-Montgomery and Floreat Athena (in oral and written submissions) that the melee was 'minor in nature' and did not involve any injuries to players.
15. Mr Brown-Montgomery disputed Football West's characterisation of his actions during the melee. Given the nature of the charges laid (being "incites a brawl or melee"), the Tribunal is not required to decide on Mr Brown-Montgomery's actions during the melee, and it has not chosen to do so.
16. Con Poullos (CP) gave evidence in support of Mr Brown-Montgomery, primarily with respect to the two melees that occurred at the venue.
17. Mr Brown-Montgomery confirmed in his evidence that he returned to the field of play

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immediately after the match concluded. He said that he did so for two reasons – concern for his safety following the second melee, and because he believed he was told he could join his teammates for the post-match presentation. Mr Brown-Montgomery accepted that he was aware of the rule that prevented a person who had received a red card from returning to the field of play for 15 minutes after the conclusion of the match and confirmed that one of his own teammates subsequently escorted him off the field.

## Findings

### Offence 1b – Serious Foul Play with High Risk of Injury

18. The Tribunal is not satisfied that Offence 1b – Serious Foul Play with High Risk of Injury is made out on the evidence before it.
19. The tribunal accepts Mr Brown-Montgomery's contention that the challenge did not carry a high risk of injury. Mr Brown-Montgomery's challenge did not involve Mr Brown-Montgomery leaving the ground or using two feet which would have been more likely to carry 'a high risk of injury' to the IUFC player in the circumstances of the match.
20. However, the Tribunal is satisfied that in executing the challenge as he did, Mr Brown-Montgomery engaged in Serious Foul Play within the meaning of Offence 1a.
21. Given the speed and body position of the IUFC player, a challenge of the nature that Mr Brown-Montgomery chose to apply, shortly after the IUFC player had regained balance from a previous challenge by another Floreat Athena player, endangered the safety of the IUFC player. The Tribunal therefore finds Mr Brown-Montgomery guilty of Offence 1a.

### Offence 5 – Incites a brawl or melee

22. Having viewed the video footage of the incident at some length, the Tribunal rejects Mr Brown-Montgomery's contention that he did not intend to make contact with the IUFC player (the shoulder contact). There is no indication in the footage that Mr Brown-Montgomery's contact with the IUFC player was incidental to an attempt by Mr Brown-Montgomery to attain possession of the football.
23. The Tribunal is satisfied that once the IUFC player turned to face Mr Brown-Montgomery, Mr Brown-Montgomery made a conscious decision to use his shoulder to make contact with the IUFC player. The tribunal notes that Mr Brown-Montgomery did not then attempt to run to the ball but stopped play to protest to the referee. The contact was unnecessary and was an escalation to the initial challenge.
24. The tribunal finds that following, and as a result of, this deliberate contact, more than three players engaged in a physical confrontation – the definition of a melee within the meaning of Offence 5. Having performed an action that causes three or more other

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persons to engage in a physical confrontation, the Tribunal is satisfied that Mr Brown-Montgomery is guilty of Offence 5.

Offence 29 – Temporarily refuses to leave, unreasonably delays leaving or returns to the field of play, the technical area or the surrounds of the field of play after being shown a red card

25. There is no dispute that Mr Brown-Montgomery left the field immediately after receiving a red card. The charge against Mr Brown-Montgomery relates to his return to the field of play or the surrounds of the field of play after being shown a red card.
26. The tribunal's view of Offence 29 is that one of strict liability. Given Mr Brown-Montgomery's admission that he was on the field (albeit in understandable and mitigating circumstances), the tribunal finds him guilty of Offence 29.

## Penalty

27. Football West imposed a sanction on Mr Brown-Montgomery of 11 weeks suspension, calculated as follows:
  - 27.1. 2 matches AMS (may not be challenged)
  - 27.2. 9 matches additional suspension.
28. Football West's penalty was consistent with the "Penalty" set out in the Disciplinary & Grievance Regulations for the offences with which Mr Brown-Montgomery was charged.
29. The "Tribunal Penalty" available under the Disciplinary & Grievance Regulations in relation to the offences for which Mr Brown-Montgomery was found guilty by the Tribunal are:
  - 29.1. Offence 1a: AMS (ie, 1 match)
  - 29.2. Offence 5: AMS plus 7 matches
  - 29.3. Offence 29: 3 matches in addition to the suspension imposed by the original offence.
30. The total period of suspension based on the prescribed "Tribunal Penalty" is therefore 12 weeks.
31. The Tribunal has determined to impose the following sanctions:
  - 31.1. Offence 1a: AMS (ie, 1 match)
  - 31.2. Offence 5: AMS plus 7 matches
  - 31.3. Offence 29: 3 matches
32. The Tribunal determines that Mr Brown-Montgomery may serve the suspensions concurrently, resulting in a total period of suspension of 8 weeks (including the 2-week

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Automatic Match Suspension).