



AUSTRALIAN ADVOCACY INSTITUTE

Director of Public Prosecutions

v

Phillip Ball

PLEA

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Revised by Prof. the Hon George Hampel QC

15 April 2010

CASE STUDY – DPP v. Phillip Ball

Instructions to participants

Analyse and prepare how this case may be dealt with for the defence and the prosecution on a plea of guilty to recklessly causing serious injury.

Consider how to present this plea

- What are the sentencing considerations?
- How do they relate to the facts?
- What case theory can be developed?
- How will the plea be best presented?

Instructions for Phillip Ball

At three quarter time, in the Grand Final of the interstate Football League between the Central Dingoos and the Southern Devils, the scores were level.

After first bounce, in the last quarter, the ball was kicked towards the Dingoos' goal. As the Devils' centre half forward, Paul Ford, was jogging back to his position, the Dingoos' half back, Phillip Ball, glanced towards the umpire who was looking the other way, came up from behind Ford, and with a round blow, knocked him out.

As a result, Ford received a fractured jaw and severe bruising to the nose. Play was stopped and Ford was taken to hospital, where he remained an in-patient for 3 days. His jaw took over 2 months to heal. He now suffers from occasional headaches.

The incident was seen by Sergeant Harris, who was a spectator and a local police officer. Ball was charged on summons with the offence of intentionally causing serious injury, which carries a maximum sentence of 20 years imprisonment.

At the first mention of the matter, Ball's solicitor indicated that Ball would be prepared to plead guilty to recklessly causing serious injury, for which the penalty is maximum 10 years imprisonment. The solicitor said his instructions were that Ford called Ball the "black bastard". It was indicated by the prosecution that there would be a factual dispute about the claim that Ford had called Ball "a black bastard" before he was struck.

A week ago Ball's solicitor wrote to the DPP saying that he was instructed that Ball believed that the comment was made by a player but accepts Ford's denial that it was he who made the racial slur.

The prosecution responded saying that there will not be a factual contest. The DPP was prepared to accept the Plea to recklessly causing serious injury and to withdraw the more serious charge.

Paul Ford's victim impact statement reveals that he is 25, married with 2 children, aged 2 & 5. As well as playing football, he is studying Physical Education to become a teacher, and works part-time as a Personal Trainer at a gym. As a result of his injury, he has had to give up his gym job and has missed a semester of his course. He still suffers occasional pain in the jaw. He hopes all this will pass and he will be able to play with his club next season.

Phillip Ball is 26, and has no previous convictions. He has had a spectacular football career, but has been suspended twice, for rough play. He is well liked and respected in the community. Letters from his referees confirm that he is employed as a part-time mechanic. He trains his old school senior football team.

Phillip understands that he has a short fuse on the football field. He sees this as the result of regular abusive racial comments which he experiences. He was brought up by his mother, who was a member of the “stolen generation” and was taken into foster care. Phillip has never known his father. He is conscious of the abuse suffered by his mother and other members of his family.

Phillip is single. He lives with and supports his ailing mother.

As a result of this incident, Phillip has been suspended indefinitely by his club. He will have to find a full time job to keep up the rent on the house. He is concerned that he will not be able to resume his football career.

He has asked his club to reinstate him and has begun an anger management course.

The incident received widespread publicity in the Australian Media. It has been used as an example of “football thuggery” and has been cited in various campaigns designed to deal with such problems. There is strong press presence in court and there was a reference in the news last night to the need for stern penalties and the need to “clean up the game.”

Apparently, the judge before, whom this case is listed, is a keen football follower and was, about 3 years ago, a guest speaker at the League’s annual dinner on the topic of violence by footballers both on and off the field.