

DECISION OF FLORIDA RUGBY UNION APPEAL OFFICER

In Re: Amoni Vea

February 29, 2016

Background:

I am the duly appointed Appeal Officer in this matter.

This matter arises out of an incident that occurred on February 6, 2016, during a Senior Men's Club match between Fort Lauderdale Rugby Club ("FLRC") and Orlando Rugby Club. During the match, Amoni Vea (the "Player") crashed into the back of the match referee, Jeremy Brown (the "Referee"), knocking the Referee to the ground apparently dazed as there was a few seconds delay before the Referee blew his whistle to stop play. After briefly asking the Player if the collision was intentional (the Player denied that the collision was intentional), the Referee decided to resume play and the match was concluded without further incident.

Post-match after reviewing the match video, the Florida Referees Association referred the matter to the Florida Rugby Union ("FRU") for review and consideration of the incident. After review, the FRU, without a hearing, suspended the Player for 96 weeks. FLRC and the Player appealed citing the lack of due process and the FRU then submitted the incident to the FRU Disciplinary Committee ("FRU D/C") for a de novo review. The FRU D/C scheduled and conducted a hearing, which FLRC and the Player did not attend. The FRU D/C concluded that the player had violated Law 10.4(e) – dangerous tackle and imposed a 2-week ban. The Player and FLRC appealed the decision of the FRU D/C claiming that the incident was not a matter that could be reviewed post-match under the World Rugby Regulations ("WRR") and the FRU separately appealed the decision of the FRU D/C. Upon review, I concluded that (1) the WRR do not preclude the post-match review of the incident and (2) that the decision of the FRU D/C decision in this matter is an error in law and in fact and, therefore, I decided to review the matter de novo as permitted by the WRR. The procedural history is set out in Appendices 1 and 2, attached hereto and incorporated hereto.

Hearing:

A de novo hearing to consider the matter was convened by conference call at 4 p.m. PT/7 p.m. ET on Thursday, February 25, 2016.

Participating in the call were:

1. The Player;
2. The Referee;
3. Martin Gardner, Alex Carvallo, and James Southgate of FLRC; and

4. Kerri O'Malley, President of FRU.

The Player's wife, Geraldine, was also present during the call, but did not participate.

Submitted Evidence:

Prior to the hearing, the following pertinent materials were submitted:

1. The Referee's statement in the form of an email addressed from the Referee to Roy Monk, President of the Florida Referees Association (the "Referee's Statement"), a copy of which is Appendix 3, attached hereto and incorporated herein;
2. An undated statement from the Player, a copy of which is Appendix 4, attached hereto and incorporated herein;
3. A statement from Mrs. Amoni in the form of February 9, 2016, email addressed to Mr. Gardner;
4. A statement from Kyle McCormick, #8 from the Orlando Rugby Club ("ORC #8"), in the form of an email dated February 25, 2016, addressed to Mr. Gardner;
5. An undated statement from Mr. Gardner;
6. A video of the entire match (the "Match Video");
7. A clip of the Match Video showing only the incident (the "Video Clip");
8. A frame by frame break down of the Video Clip which is annotated with FLRC's analysis of the incident submitted by FLRC in support of the argument by the Player and FLRC that the collision Player with the Referee was accidental and, therefore, not foul play, a copy of which is Appendix 5 (the "Frame by Frame Analysis"); and
9. A frame by frame breakdown of a portion of the Match Video which is annotated with FLRC's analysis of a tackle in the match made by Mr. Amoni submitted by FLRC in support of the argument by the Player and FLRC that the collision Player with the Referee was accidental (the "Tackle Analysis").

Video:

Only one camera recorded the match action. The camera appears to have been situated at midfield in a stationary position. The Match Video shows only game action. Presumably, the stoppages in play were not recorded in order to conserve power and memory. The Video Clip lasts only 4 to 5 seconds.

Testimony and Presentation of Evidence:

After I called the hearing to order and ascertained who was present on the call, I explained to the Player that he was charged with foul play in violation of Laws 10.4(m)—Act Contrary to Good Sportsmanship and 10.4(s)—Physical Abuse of a Match Official by virtue of his crashing into the Referee. I then asked the Player if he admitted or denied the charge. The Player denied the charge and said he was sorry that he had crashed into the Referee, but it was merely an accident.

As the Player and FLRC had requested that they be permitted opening statements, the Player and FLRC were permitted to make statements. The gist of the statements is that the collision of the Player and the Referee was accidental without premeditation and that there had been nothing untoward during the match that would lead anyone to conclude that the Player would target the Referee and that to suggest that the Player would deliberately target the Referee is illogical.

I then moved on to the examination of the Referee asking if there was anything beyond the Referee's Statement that he wanted to add to the record. He did not. I then asked the Player and the FLRC if they had any questions they wish me to consider putting to the Referee. After some discussion, I did not direct any questions to the Referee and he was thanked for his participation and dismissed from the hearing.

FLRC then presented the Frame by Frame Analysis and the Tackle Analysis. With respect to the Frame by Frame Analysis, FLRC noted the limitations of the video (*i.e.*, the one camera, the narrow focus, and speed of the recording, which was stated to be 30 frames per second). FLRC then argued that the Video Clip and the Frame by Frame Analysis show that the Player was completely focused on the ball carrier, ORC #8, and did not see the Referee. FLRC presented the Tackle Analysis, which shows the Player making a tackle on an Orlando RC opponent running directly at the Player. The point that FLRC appeared to be arguing is that the Tackle Analysis showed the preparation and mechanics the Player would utilize when he intended to make contact with an opponent and that none of these preparations and mechanics was present when the collision with the Referee occurred suggesting that the collision was accidental. The presentation concluded saying that evidence establishes a reasonable doubt that foul play occurred.

I then examined the Player. The Player began playing rugby in his native Tonga when he was 5 years of age and he has played for 26 years. The Player has played at a high level of competition, including professionally in Australia, including a stint playing for New South Wales Country. The Player also represented his country, Tonga, in 2009 and 2010. I then asked the player about his health and, in particular, his eyesight. This discussion revealed that the Player has good eyesight and does not use or require correction of his vision and that his last vision test was last month when he obtained a Florida driver's license.

In response to my questions, the Player and FLRC state the Player has a clean disciplinary record and my research does not find that the Player has been the subject of any discipline.

Ms. O'Malley of the FRU was then given an opportunity to make any presentation she wished to make. The gist of Ms. O'Malley's statement is that it was inconceivable that the Player did not see the Referee before the Player crashed into the Referee arguing if the Referee had in fact been a tree, the Player certainly would have avoided hitting the tree.

The Player and FLRC were given the opportunity to make a final statement. It was reiterated by the FLRC that the incident was an accident and that the character of the Player is such that he would never assault a match official. The hearing was concluded.

Consideration of the Evidence:

As an initial matter, since this matter is being heard on the basis of a citation of the Player by the FRU Referees Association, in order to find that the Player committed Foul Play, I must find that, on the balance of probabilities, the Player committed the act of foul play.¹

Based the balance of probabilities, I find that the Player committed foul play in violation of Laws 10.4(m) and (s).

During the match, FLRF wore white jerseys and most of the FLRC players wore white shorts; Orlando wore orange and blue jerseys and white shorts; and the Referee wore a black jersey with a yellow collar, yellow side panels, and white piping and black shorts.

I have reviewed the evidence extensively and I cannot accept the argument of the Player and FLRC that the Player did not see the Referee and the collision was accidental.

Human beings have peripheral vision and, even if the Player was focused ORC#8, the Player should have, and I believe did, see the Referee standing more or less in front of the Player. Again, the Player testified that his vision is good and without the need for correction.

Further, the Frame by Frame Analysis is very helpful. The pictures initially show the Player running with his arms in a normal position to the side of his body with the forearms and hands extended to the front of his body. In frame #8, the Player's left arm is dropping parallel to his left side and in Frames 9, 10, and 11, the left arm is behind the Player's body in a safe position as the Player's left shoulder slams into the back of the Referee. I believe and find that the contact was deliberate.

I note that I do not need to decide why the Player committed foul play in order to find that he did in fact commit foul play.

6. Determination of the Seriousness of the Offense under Regulation 17.19.2

Because I have found that the Player committed Foul Play, I must, as required by WRR 17.10.2, make ***“an assessment of the seriousness of the Player's conduct that constitutes the offending and categorize that conduct as being at the lower end, mid-range or top end of the scale of***

¹ WRR 17.17.14. The balance of probability standard means that the trier of fact is satisfied an event occurred if it considers that, on the evidence, the occurrence of the event was more likely than not. Note: this is a lesser standard that would be applicable under American criminal law when an accused must be found guilty beyond a reasonable doubt.

seriousness in order to identify the appropriate entry point for consideration of a particular incident(s) of Foul Play where such incident(s) is expressly covered in Appendix 1..."

The assessment is as follows:

- (a) Was the offending intentional or deliberate? ***I believe, and find, that the act of foul play was deliberate.***
- (b) Was the offending reckless? ***As I have found the Offense to be deliberate, I do not need to undertake this analysis.***
- (c) What is the gravity of the Player's actions in relation to the offending? ***Very serious as the Player ran into the unsuspecting Referee's back lowering his left shoulder into the Referee's back as the contact was made***
- (d) What is the nature of the action, i.e., the manner in which the offense was committed, including part of body used? ***Running into the back of the Referee while leading with the shoulder***
- (e) Was there provocation? ***This question is inapplicable under the circumstances.***
- (f) Whether the Player acted in retaliation? ***This question is inapplicable under the circumstances.***
- (g) Did the Player act in self-defense (that is whether he used a reasonable degree of force in defending himself)? ***This question is inapplicable under the circumstances.***
- (h) What was the effect of the Player's actions on the victim (for example, extent of injury, removal of victim Player from the game)? ***The Referee reported back and neck pain the week after the incident. In response to the neck pain, the Referee reports that he used pain medication.²***
- (i) What was the effect of the Player's actions on the Match? ***The match continued as the Referee was unsure as to what had occurred.***
- (j) What was the vulnerability of the victim Player, including part of victim's body involved/affected, position of the victim Player, and ability to defend himself? ***The Referee was completely surprised by the blow to his back and took no action to defend himself.***
- (k) What was (1) the level of participation in the offending; and (2) level of premeditation? ***With respect to the level of participation, I believe it was intentional and the Offense was solely the act of the Player, and therefore I will classify the level of participation as high. Having carefully reviewed the evidence, I do not think that the act was premeditated in that I doubt***

² Referee's Statement.

that the Player went into the match with any plan or scheme to strike or injure the Referee or anyone else.

(l) Was the conduct of the offending Player completed or did the conduct amount to an attempt? *Completed.*

(m) Should any other feature of the Player's conduct in relation to or connected with the offending be considered?

Rugby takes protection of referees very seriously and the decision rendered by the iRB Appeal Officer (the "AO") in the Matter of Auselalia Vaiomanu (iRB Pacific Rugby Cup 2014) is instructive and useful since the facts of the Vaiomanu matter are very similar to the facts of this case.

In its submittal of the appeal of the initial decision rendered in the Vaiomanu matter, the iRB (now World Rugby) stated that the iRB has the obligation "...to uphold the Laws of the Game, the image of the Game and the sacrosanct role of the referee. Clearly any such physical attacks on referees pose both a risk to the individual victim but also have a broader detrimental impact on the willingness of persons to act as Match Officials now and in the future. It is perhaps indicative of how seriously the Game treats any verbal abuse, threats or physical abuse of match Officials that these offences, although all captured under Law 10.4(s) and 10.4(m) appear at the head of the iRB Sanction Table which thereafter reverts to the alphabetical ordering of the Laws commencing with Law 10.4(a)." (Emphasis added.)

In the Vaiomanu matter, Samoa A played Argentina A. After the match Mr. Vaiomanu was cited by the iRB appointed Citing Commissioner for running into the referee and dropping his shoulder into the referee's back. After a hearing, the appointed iRB Judicial Officer found Mr. Vaiomanu committed foul play and gave 2-week suspension. The iRB appealed for the reason quoted above. Upon appeal, the AO found the offence to be Mid-Range indicating, per Appendix 1 of WRR, a suspension of 48 weeks was warranted.

Influenced by the AO's decision in the Vaiomanu matter, I find the Player's offence to be Mid-Range, indicating a suspension of 48 weeks is warranted.

7. Factors in Aggravation and Mitigation

Having determined the entry point, I now must consider aggravating factors and mitigating factors as required by WRR 17.19.4 and 17.19.5, respectively.

Aggravation

Possible aggravating factors include:

(a) The Player's status generally as an offender of the Laws of the Game: *The Player appears to have a clean disciplinary record.*

(b) The need for a deterrent to combat a pattern of offending in the Game: ***See the above discussion of the Vaiomanu matter.***

(c) Any other off-field factors that the judicial officer considers relevant and appropriate: ***None.***

Mitigation

Having considered possible aggravating factors, I consider possible mitigating factors. Possible mitigating factors include:

(a) The presence and timing of an acknowledgement of culpability/wrong-doing by the offending Player: ***The Player denied the allegation. Mr. Vaiomanu also denied the alleged foul play.***

(b) The Player's disciplinary record and/or good character: ***FLRC and his wife all offered evidence the Player's good character. Additionally, ORC#8 gave a statement in support of the Player, which I consider evidence of the Player's good character.***

(c) The youth and inexperience of the Player: ***The Player is very experienced.***

(d) The Player's conduct prior to and at the hearing: ***The Player's conduct and participation in the hearing was polite and well-mannered.***

(e) The Player having demonstrated remorse for his conduct to the victim Player including the timing of such remorse: ***The Player denies the allegation of foul play but did state his concern for the health of the Referee.***

(f) Any other off-field factors that the judicial officer considers relevant and appropriate: ***None.***

Sanction

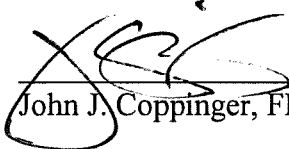
This matter is very similar to the Vaiomanu matter, except that the AO found Mr. Vaiomanu to be young and inexperienced, while the Player is over 30 and experienced; however, these differences are not enough to prevent me from deciding that the sanction given by the AO in the Vaiomanu matter is sufficient in this matter. Therefore, I impose a suspension of 32 weeks, which is the same sanction imposed in the Vaiomanu matter. For the avoidance of any doubt, 32 weeks means 32 meaningful, scheduled matches.

Meaningful Sanction

As is often the case in amateur rugby, determining a meaningful sanction can be difficult given uncertainties over scheduling matters. Therefore, I direct both (1) the Player and FLRC and (2) FRU to provide a briefing as to how this sanction should be applied given the typical FRU schedule. I will issue a further ruling once I have an understanding of the FRU calendar.

Rights of Appeal

Under the rules and regulations of USAR, the Player has the right to appeal. There are procedural requirements for such an appeal (including a deadline for the appeal), which are found at <http://usarugby.org/documentation/membership/disciplinary-procedures.pdf>. Any appeal should be addressed to Nigel Melville, CEO of USAR, whose contact information is found on the USAR website (<http://usarugby.org/>).



John J. Coppinger, FRU Appeal Officer

Appendix 1

(Attached)

John J. Coppinger

From: John J. Coppinger
Sent: Tuesday, February 16, 2016 2:43 PM
To: 'Kerri O'Malley'; Martin K. Gardner; Martin Gardner
Cc: etodd@usarugby.org
Subject: RE: AO for Florida appeal

Ladies and Gentlemen,

As noted, I am the designated Florida Rugby Union ("FRU") Appeals Officer to consider this matter. (Appeals at the GU level are required before any appeal can be taken to the USAR level.)

Briefly, this is a recap of events to date.

Mr. Veal, a Fort Lauderdale RFC ("FL") player, apparently made contact with the back of a match referee during the match (the "Incident"). At the time of the Incident, the referee took no action and the match proceeded to conclusion.

Post-match, the Florida Rugby Referee Society ("FRRS") referred the Incident to the FRU for consideration. The FRU, without holding a hearing, banned Mr. Veal for 96 weeks as the result of the Incident (the "Administrative Sanction").

Mr. Veal and FL contend that they were entitled to appeal the 96-week sanction and that one of the grounds for such an appeal is that it was not possible for the player to be sanctioned under World Rugby 17 ("WR 17") given the facts of the case and, therefore, FRU had no right to have the matter considered de novo by the FRU D/C.

As the result of complaints of Mr. Veal and FL regarding the lack of due process in connection with the Administrative Sanction, the FRU had the FRU D/C consider the matter de novo. A hearing was scheduled, noticed, and ultimately held. Mr. Veal and FL declined to participate in the hearing.

Following the hearing, the FRU D/C has imposed (1) a 2-week/match ban on Mr. Veal for violation 10.4(e)—dangerous tackle and (2) a one year probation on FL.

FRU has appealed contending the determination that Mr. Veal committed a violation of Law 10.4(e)-dangerous tackle is in error and that Mr. Veal in fact committed a violation of Laws 10.4(m)-acts contrary to good sportsmanship and 10.4(s)-physical abuse of match official.

Mr. Veal and FL reiterate that no sanction is possible under WR 17 given the facts of the case.

FL further appeals that the probation is not warranted.

Given the convoluted history, I am inclined to consider the matter de novo as follows:

1. Given the facts of the case, is any consideration of the matter barred by WR 17?
2. Assuming the answer to question #1 is no, is the conduct of Mr. Veal foul play in violation of Law 10.4 as alleged by FRRS?

Mr. Veal and FL are instructed to file any written memoranda in support of their contention that no consideration of the matter is permitted under WR 17 no later than 8 pm ET/5 pm PT tomorrow, Wednesday, 2/17/16. If Mr. Veal and FL need additional time, they should contact me. If appropriate, I will then determine how to consider question #2.

For the avoidance of doubt, Mr. Veal is subject to the 2-match ban given by the FRU D/C pending the resolution of this matter.

Please contact me with any questions or comments

John J. Coppinger, Esq.
Donahue Fitzgerald LLP



1999 Harrison Street 25th Floor, Oakland, California 94612-3520
jjcoppinger@donahue.com | Office: (510) 451-3300 | Cell: (510) 390-4100
Facsimile: (510) 451-1527

Important: This electronic mail message, including any attached files, is being sent by or on behalf of a lawyer; it is confidential and it may contain or constitute information protected by the attorney-client and/or the attorney work-product privileges. If the person actually receiving this message, or any other reader of this message, is not the named recipient, or the employee or agent responsible to deliver it to the named recipient, you are not authorized to retain, read, copy or disseminate this communication or any part of it. If you have received this communication in error, please immediately notify Donahue Fitzgerald LLP at (510) 451-3300. Thank you.

From: biorugger@gmail.com [<mailto:biorugger@gmail.com>] **On Behalf Of** Kerri O'Malley
Sent: Tuesday, February 16, 2016 8:43 AM
To: John J. Coppinger; Martin K. Gardner; Martin Gardner
Subject: AO for Florida appeal

John,

The Florida Rugby Union would like to designate you as the AO for Florida for an appeal. We were recently notified by Fort Lauderdale rugby that they want to appeal a decision by our disciplinary committee and the actions of our committee (attached). I have copied Martin Gardner on this as representative for Fort Lauderdale. The Florida Rugby Union would also like to appeal the decision and the findings of the committee, which I have attached here. Our appeal is on the committee's findings & sanction for Mr. Amoni Veal. The FRU will suspend any team probation linked to this sanction on Mr. Veal until this appeal is heard and a new decision is made.

Thank you for your assistance,

Kerri O'Malley
President, Florida Rugby Union

Appendix 2

(Attached)

DECISION OF FLORIDA RUGBY UNION APPEAL OFFICER

In Re Amoni Ve

Ladies and Gentlemen,

This decision addresses:

1. The contention of Amoni Ve and Ft Lauderdale Rugby Club (“FLRC”) that it is not possible for the Florida Rugby Union (“FRU”) to cite Mr. Ve for crashing into a match official during a match in violation Laws 10.4(m) (which is misconduct) and 10.4(s) (which, in this instance, is physical abuse of a match official); and
2. FRU’s appeal of the decision of the FRU’s Disciplinary Committee (“FRU D/C”) suspending Mr. Ve for two weeks/matches for violation Law 10.4(e) for this incident in which Mr. Ve crashed into a match official during a match.

Contention that Citation of Mr. Ve is Not Permitted

As noted, Mr. Ve and FLRC contend the Mr. Ve is not subject to citation for the following reasons. I disagree for the reasons noted.

Contention #1: “The FRU have mistakenly applied a Citing Sanction in contravention of World Rugby regulation 17.17.2.”

WRR 17.17.2 is not the final word on the subject as WRR 17.11 clearly contemplates unions citing players.

Contention #2: “The FRU have mistakenly applied a Citing Sanction in contravention of World Rugby regulation 17.11.1.”

I assume that this argument is based on WRR 17.11.1(a)(i) and WRR 17.17.4(b), which provide that if the subject incident was “detected” by the match officials, no citation is possible.

In this instance, Mr. Ve crashed into the back of the referee knocking the referee to the ground and it does not appear from the video that the referee ever saw Mr. Ve. Is being the possible victim of foul play mean that the referee “detected” the incident? Certainly not. For the purpose of WRR 17, “detect” means that the referee made a determination that foul play occurred and then acted on the determination by penalizing the offender, temporarily suspending the player (yellow card) or ordering the player off (red card).

Contention #3: “Further to the above, the FRU have not afforded the rights to both Player and Club required under regulation 17.11(iv) and are not in accord with World Rugby regulation 17.11.” Since WRR 17.11.1 clearly contemplates citings by unions, I have to assume that Contention # 3 is an argument that that FRU failed to follow the proper process in making the citation and the citation is, therefore, improper. Under the WRR, rugby disciplinary matters

are to be determined on a substantive, not procedural, basis. Procedural defects will not allow offenders to avoid responsibility for their actions.

WRR 17.28.2 provides:

“Procedures or proceedings under this Regulation and/or Regulation 18 or any decision of a Disciplinary Committee, Judicial Officer, Appeal Committee or Appeal Officer shall not be quashed or held invalid by reason only to any defect, irregularity, omission or other technicality unless such defect, irregularity, omission or technicality raises a material doubt as to the liability of the findings or decisions of a Disciplinary Committee, Judicial Officer, Appeal Committee or Appeal Officer or results in a miscarriage of justice.”

Section 4.3 of Appendix 1 of WRR 18 provides:

Any procedures, findings or decisions of Disciplinary Tribunals pursuant to disciplinary processes under these Regulations shall not be quashed or invalidated by reason only of any departure from the procedural Regulations, defect, irregularity, omission or other technicality unless such departure, defect, irregularity, omission or technicality raises a material doubt as to the reliability of the findings or decisions of these bodies or results in a miscarriage of justice.

Further, a de novo review certainly ensures that the player will receive appropriate consideration.

Contention #4: *“Neither Club nor Player received a copy of the Citing report, raises question if one exists.”* Again, this is a procedural defect and it is not fatal.

Contention #5: *“Neither Club nor Player was given the opportunity to be heard, be represented or present evidence.”* This is certainly true in the first instance when the FRU tried to deal with the matter administratively, but not true in the second instance when the FRU D/C reviewed the matter de novo.

Contention #5: *“Regulation 17.11 (iv) and (v) clearly states that “failing which the citing complaint will be dismissed”. FTL and Player contend that the FRU failed in providing the prescribed rights and as sections (iv) and (v) are linked, the FRU was required to meet ALL requirements, the FRU’s failing automatically results in the complaint being dismissed.”* Again, procedural defects are not fatal.

Contention #6: *“Further, there is no provision for a De Novo hearing.”* This is simply not true.

WRR 18.7.4 provides:

The Appeal Committee shall have full discretionary power to hear and receive such further evidence as it thinks fit, provided it is established by the appellant that such evidence was not, on reasonable enquiry, available at the time of the original hearing.

Section 4.1 of Appendix 1 of WRR 18 provides:

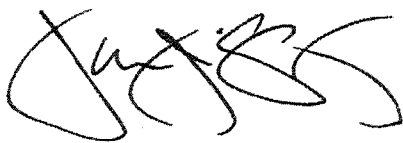
The Appeal Committee or Appeal Officer shall have the power to order that a de novo hearing in whole or in part would ordinarily only be appropriate where it is established that it is in the interests of justice that a re-hearing of the case in whole or in part is necessary.

FRU's appeal of the decision of the FRU's Disciplinary Committee suspending Mr. Veal for two weeks/matches for violation Law 10.4(e) for this incident in which Mr. Veal for crashing into a match official during a match

Under general principles of appellate review, there are two types of review: (i) *de novo*, in which the matter is considered anew (essentially reconsidered) in whole or in part; or (ii) the usual consideration of whether there was a manifest error in law or in fact requiring a reversal in whole or in part of the underlying decision.

Here, the decision of the FRU D/C that Mr. Veal committed a tackle law violation is clearly in error in law and fact and I could simply review the same evidence considered by the FRU D/C and, if appropriate, find that Mr. Veal violated Laws 10.4(m) (which is misconduct) and 10.4(s) (which, in this instance, is physical abuse of a match official) and impose an appropriate sanction; however, given the procedural problems in the matter to date, I will consider the matter *de novo* as a charge of a violation of Laws 10.4(m) (which is misconduct) and 10.4(s) (which, in this instance, is physical abuse of a match official) by reason of crashing into the match official..

I tentatively set the hearing for 4 p.m. PT/7 p.m. ET on Thursday, February 25, 2016. The hearing will be conducted by conference call. FRU, Mr. Veal, and FLRC all have the right to be represented. The referee is requested to be available to testify and I trust that the FRU will arrange for his availability.



John Coppinger, FRU Appeal Officer
February 22, 2016

Appendix 3

(Attached)

REFEREE STATEMENT

----- Forwarded message -----

From: **Jeremy Brown** <rugbyref0966@gmail.com>

Subject: Re:

To: Roy Monk <roy687@hotmail.com>, Kerri O'Malley <kerri.a.omalley@gmail.com>

Hi Roy,

Just to clarify a few points as we spoke about this afternoon so the facts are all on the table. When the incident occurred I was with my shoulders facing 45 degrees to the breakdown on the blind side of a breakdown along the right hand side of the playing area. There must have been about 10 meters of pitch behind me and the backlines were all lined up on the open sides. My back was fully facing the touchline and I was not aware of any movement from behind me as the ruck was 5 meters in front of me. I was suddenly hit from behind in the middle of my shoulder blades and pushed forward, the hit was so hard I was in a state of pure shock the player stood up and tapped me on my shoulder... It took me about 3 or 4 seconds to get back into the game and manage to blow my whistle to stop the game. The next thing I saw was a FT Lauderdale player asking if I was ok and offering me some water. The player who knocked me to the ground was also stood up and stood behind me. I looked at him and asked him "are you aware of what you have just done" he answered "it was an accident you ran in front of me" and said nothing more. I did not see where the player came from, at what angle he approached me at or anything, my concern was to restart the game and get the ball moving. When I called the scrum the FL 17 stood next to me and I continued to say "I hope you realize that this game is being recorded, I will be checking the video afterwards and I hope for your sake the action was accidental. We can start with a scrum as I am not sure what happened to me, scrum to team who had the ball. The number 9 asked me again whose ball, I repeated attacking team ball. Toby N9 FL asked if I was ok and I replied I thought so.

The following breakdown resulted in another scrum, I was not able to run correctly as my neck was fully tensed up. I again asked the player if he had accidentally run into me, he said he didn't see me, it was an accident" I replied, "I hope you are being honest and did not do this on purpose, I or the FRU will be checking the video later before any decision is made. If you are correct and it was an accident at least you owe me a beer!!"

The game continued and finished, my back was very sore and I started taking pain killers. As a matter of fact, I have had neck pain all week and have been using heat pads to relax a bit. Whilst at the post game get together I was approached by a few FL oldies and I said I would not be taking any actions until the video was seen, I also said that the FRU would likely study the clip too.

It took me about 3 secs to realize I had been barged to the ground, as I was dizzy and out of breath, I had absolutely no idea what had happened that made me land on the ground until the FL 17 stood up from in front of me..

Hope this is enough and in sufficient detail.

Jeremy Brown

irb Educator lic 700

Match Official Educator L1&2

Training & Development Paths

Appendix 4

(Attached)

STATEMENT FROM AMONI VEA

I would like to address an incident that occur on Saturday, February 6, 2016 during the Fort Lauderdale VS Orlando game in which I was involved.

I was on the defense side and the player who was getting the ball which is their #8 (he is a good/stronger runner) stepped forward to run toward my direction and then he changed direction towards the ruck that is when I also changed direction and increased my speed to catch up to him. I was looking at him(#8) the whole time and did not see the ref at all .

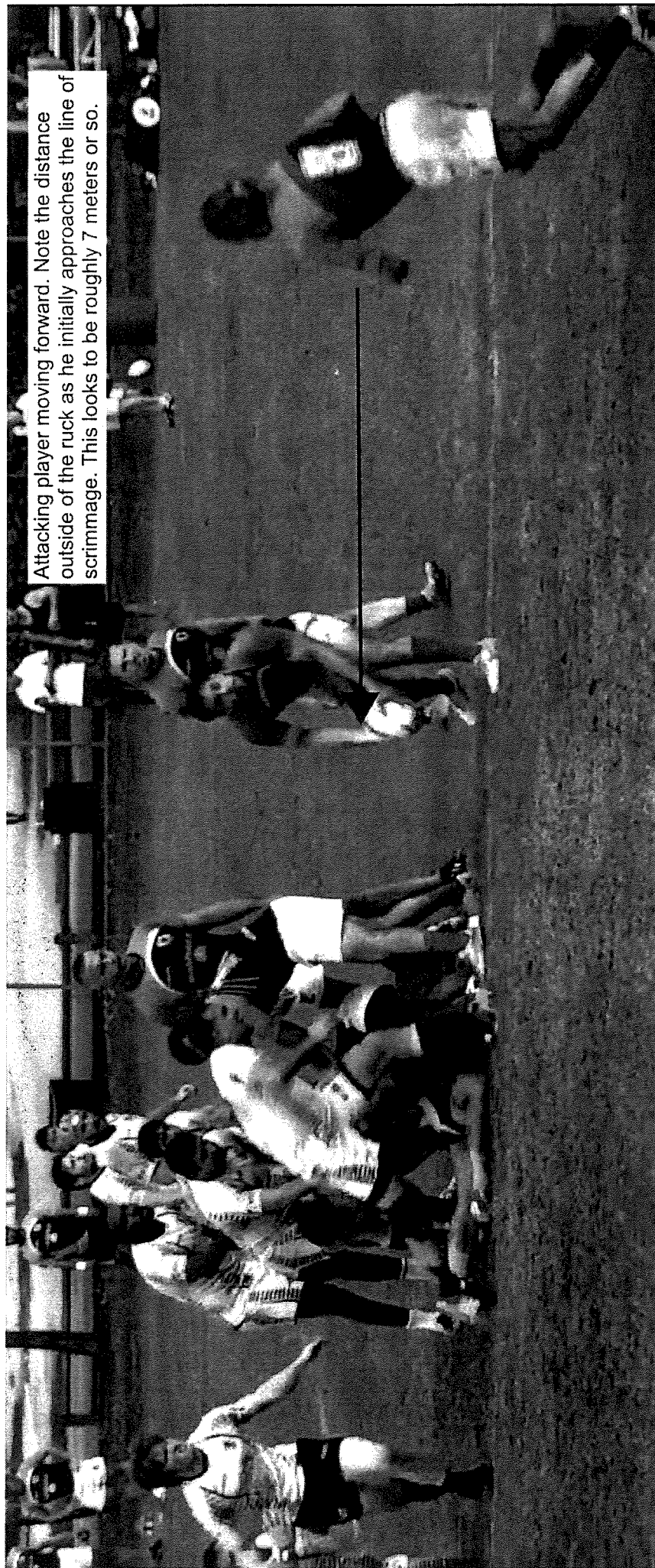
As you can see in the video the ref was backing up to my direction and that is when we both collided. After the collision I return to the ref and checked if he was ok and apologized as it was not my intention. After that we headed to the scrum and he asked me again if I did it on purpose and I replied that I did not see him at all and was sorry for the incident and apologized. He said it was ok and we continued the game.

I want you to know that I did not do this on purpose, I know the rules and have played many years. Please understand that I am a professional player and love rugby and for it to be banned from me hurts me as this was not done on purpose and I am truly sorry for it.

Amoni Vea

Appendix 5

(Attached)



Attacking player moving forward. Note the distance outside of the ruck as he initially approaches the line of scrimmage. This looks to be roughly 7 meters or so.



Attacker catches ball, still moving forward. Less than .1 seconds after the last picture.

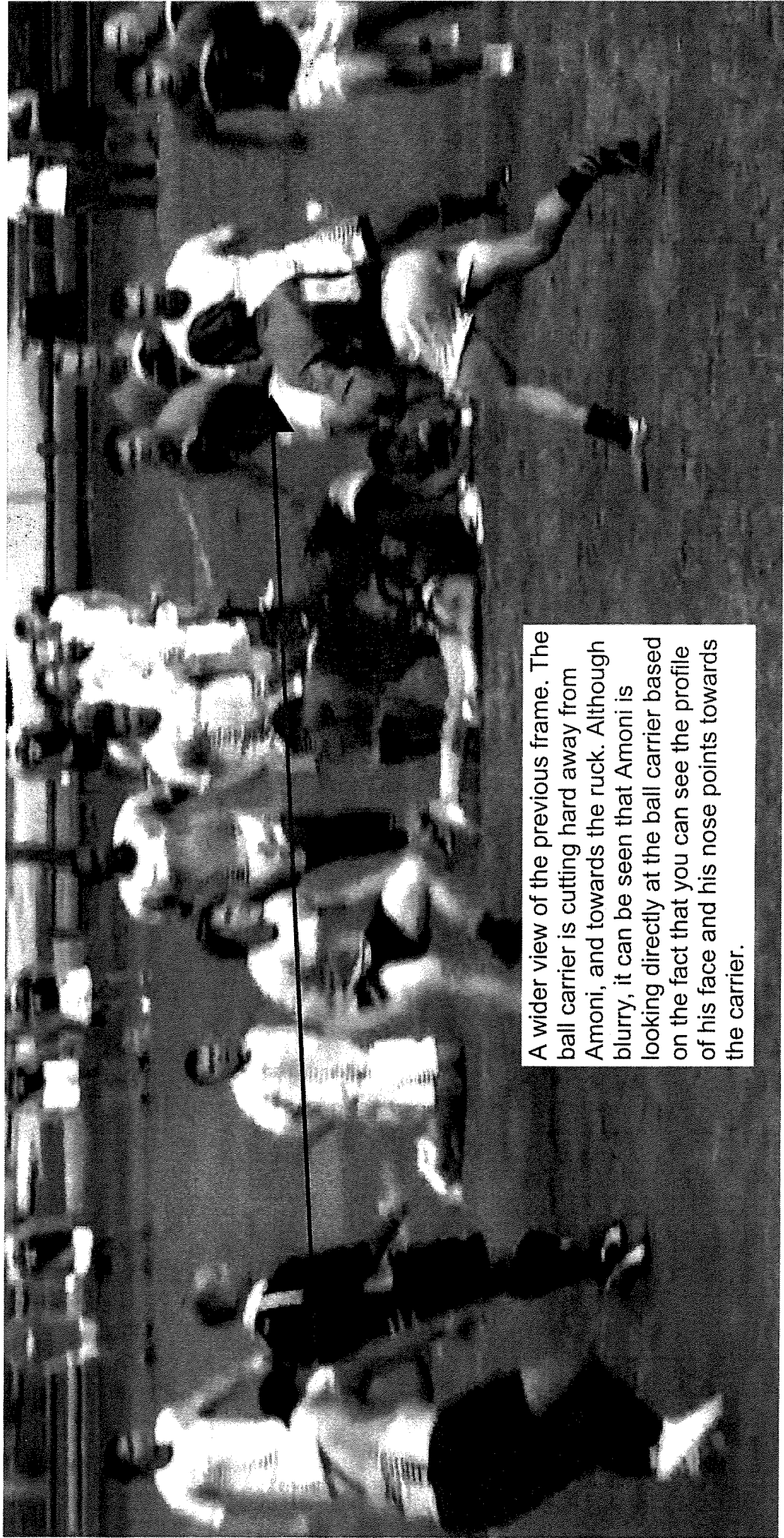


The ball carrier, still well outside of the ruck area, begins to move back in towards it. He is currently just about in line with the referee.

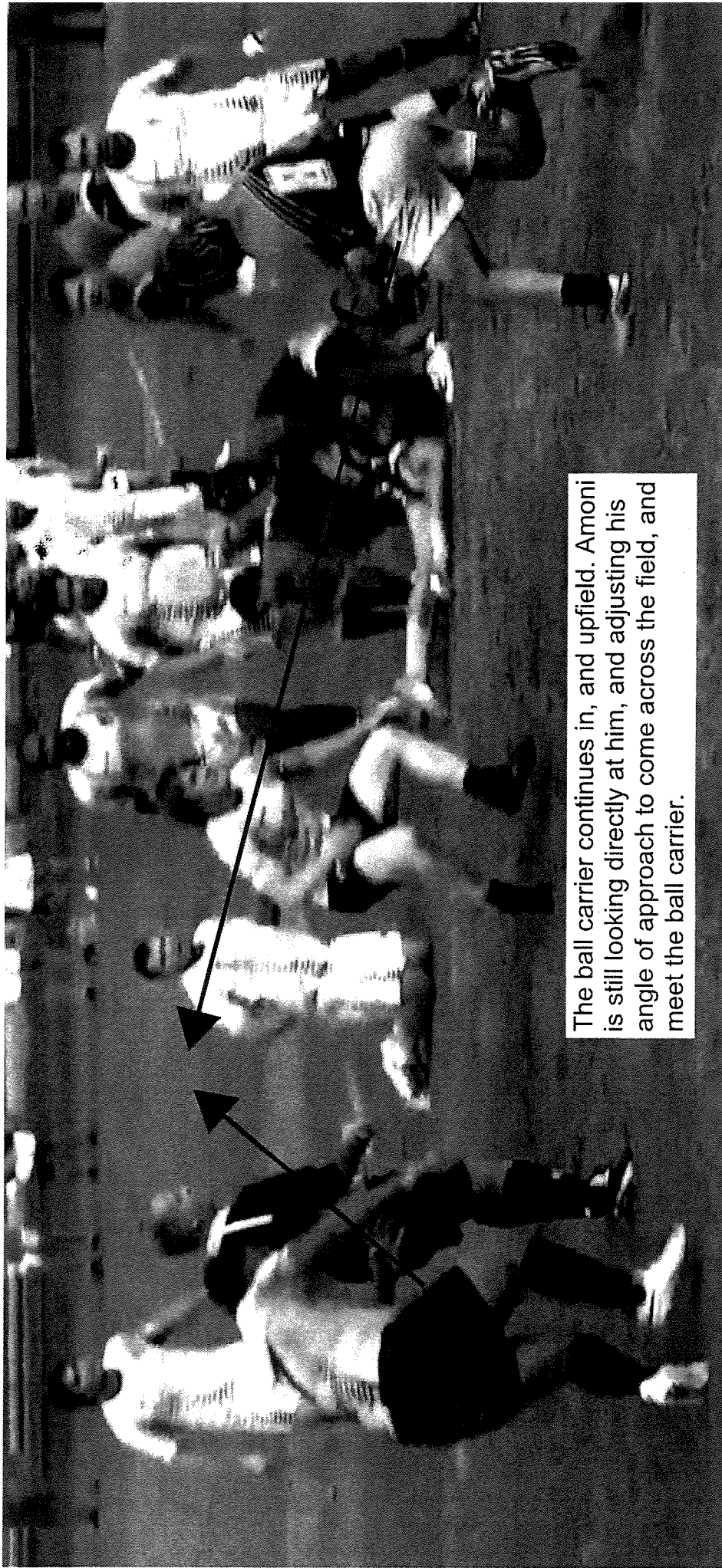
Amoni's arm initially enters the frame for the first time in approximately one minute. It is unclear what his movement has been before this.



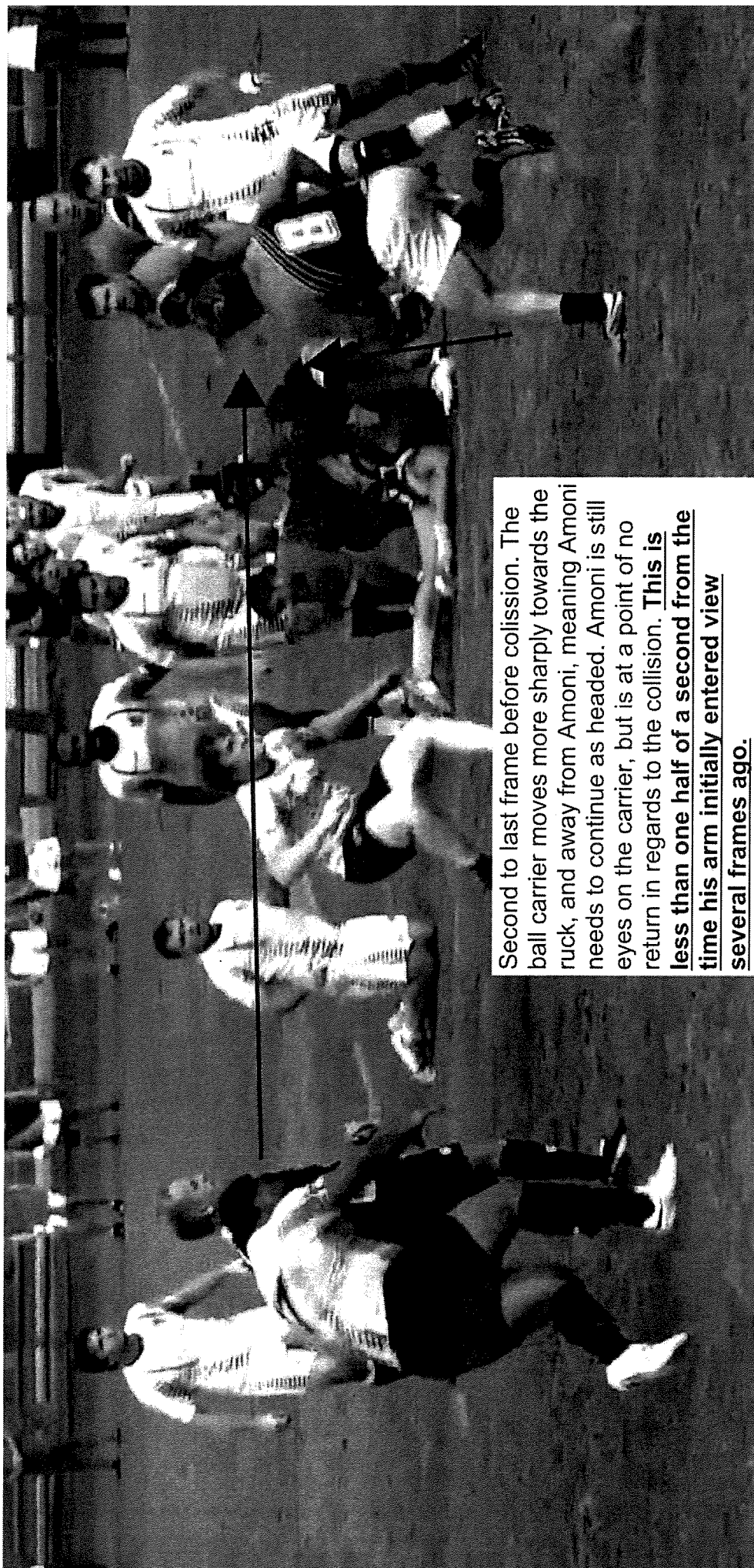
The ball carrier makes a hard
plant to cut inside towards the
ruck, and away from Amoni.



A wider view of the previous frame. The ball carrier is cutting hard away from Amoni, and towards the ruck. Although blurry, it can be seen that Amoni is looking directly at the ball carrier based on the fact that you can see the profile of his face and his nose points towards the carrier.

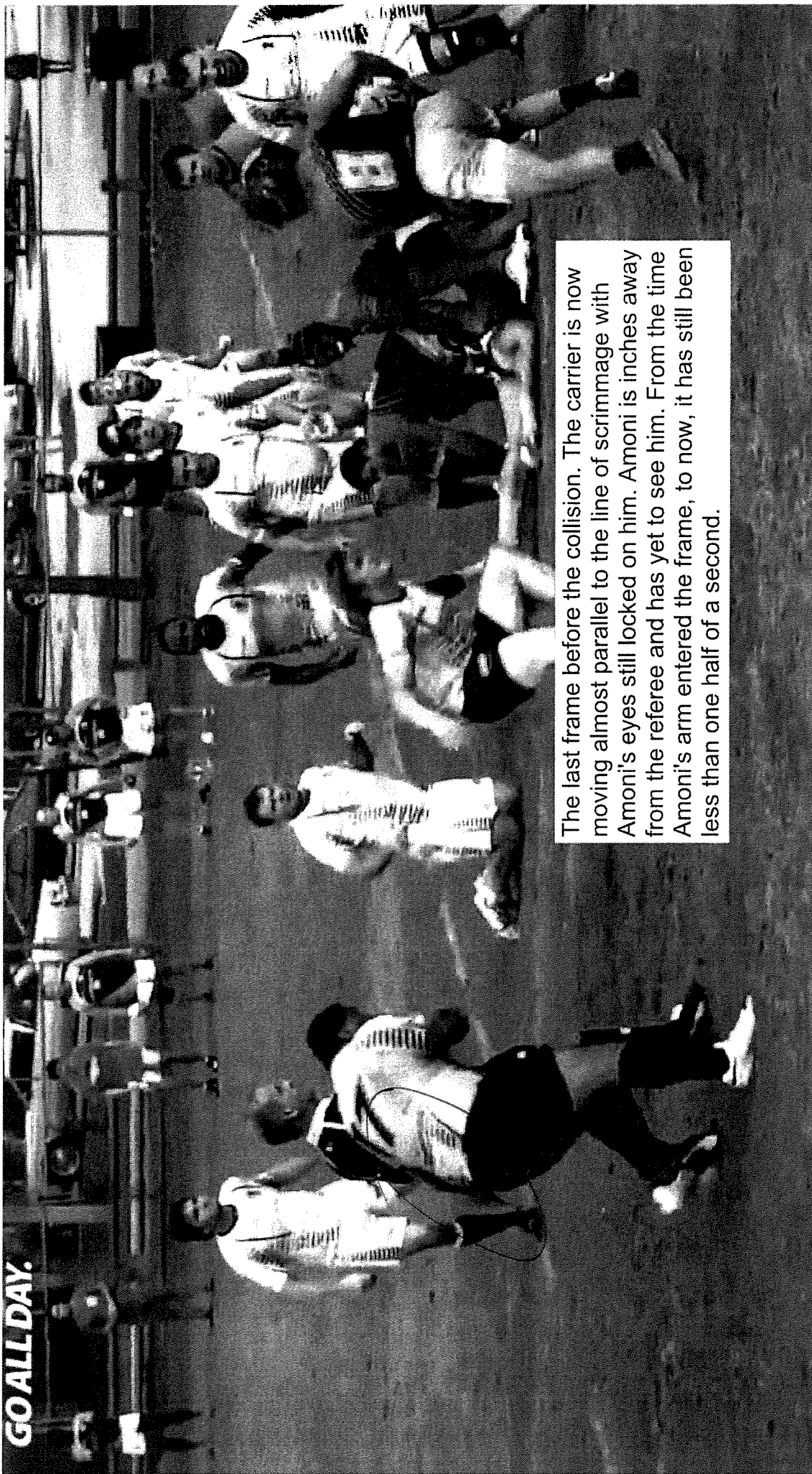


The ball carrier continues in, and upfield. Amoni is still looking directly at him, and adjusting his angle of approach to come across the field, and meet the ball carrier.

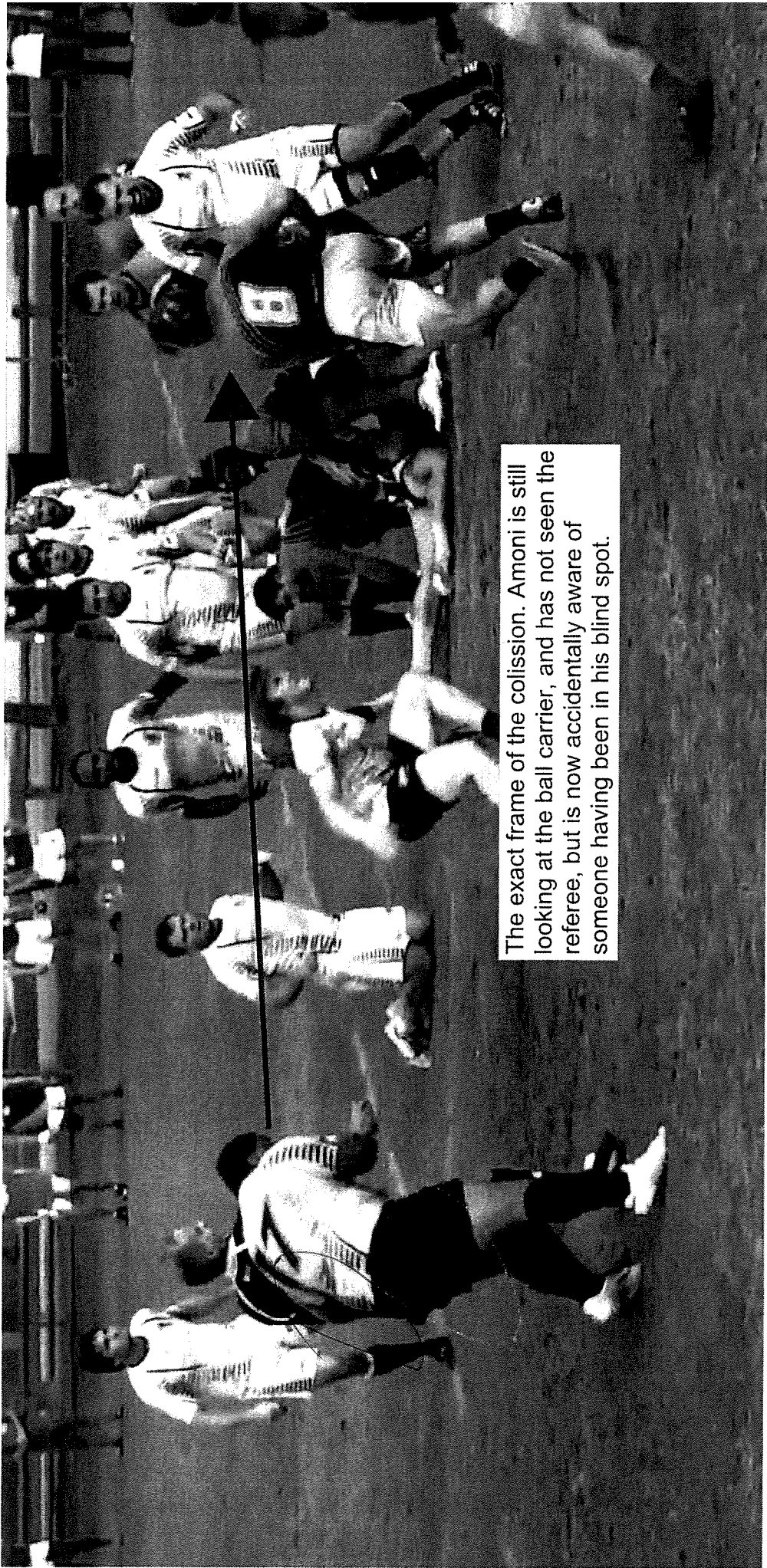


Second to last frame before collision. The ball carrier moves more sharply towards the ruck, and away from Amoni, meaning Amoni needs to continue as headed. Amoni is still eyes on the carrier, but is at a point of no return in regards to the collision. This is less than one half of a second from the time his arm initially entered view several frames ago.

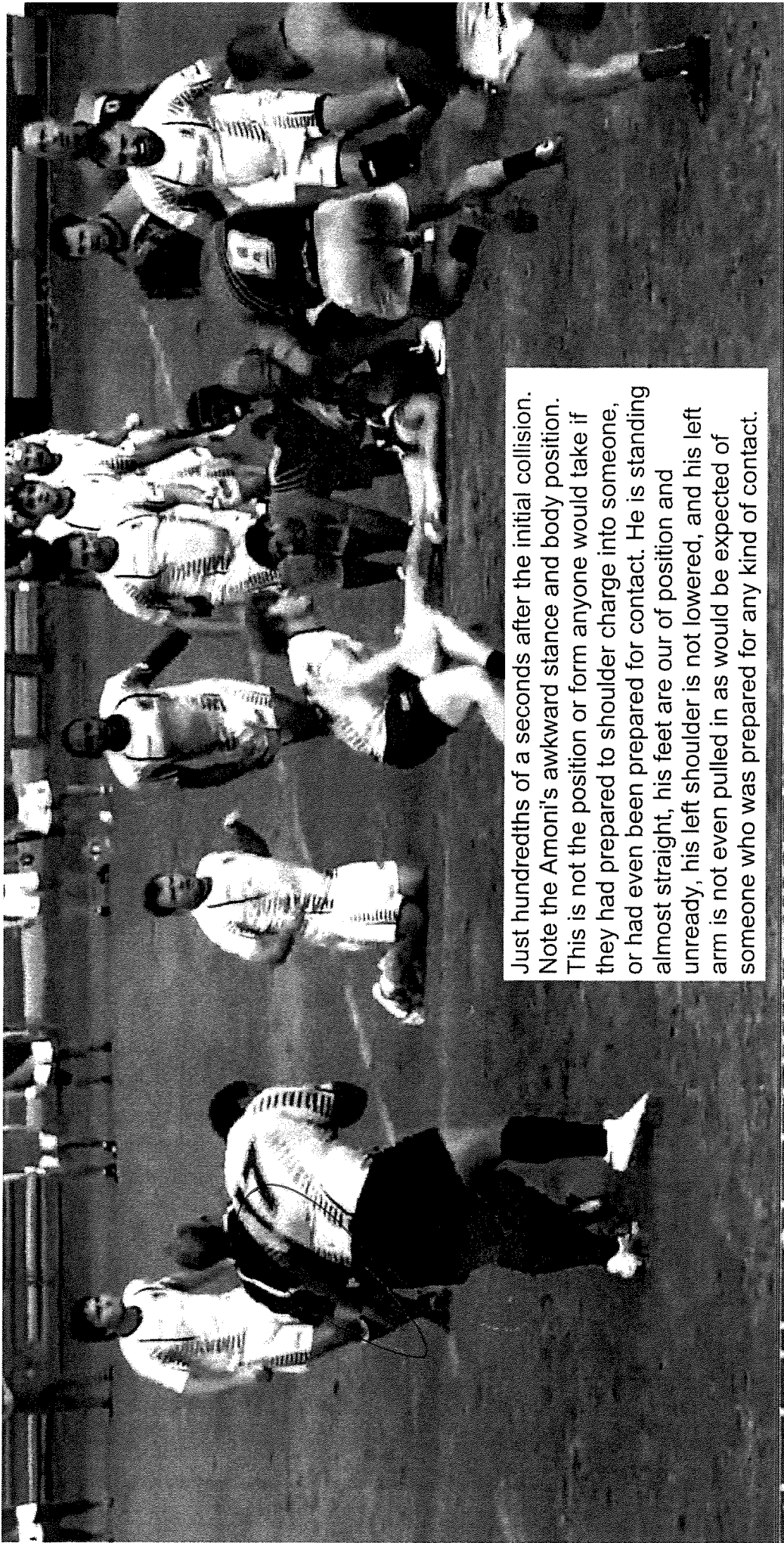
GO ALL DAY.



The last frame before the collision. The carrier is now moving almost parallel to the line of scrimmage with Amoni's eyes still locked on him. Amoni is inches away from the referee and has yet to see him. From the time Amoni's arm entered the frame, to now, it has still been less than one half of a second.

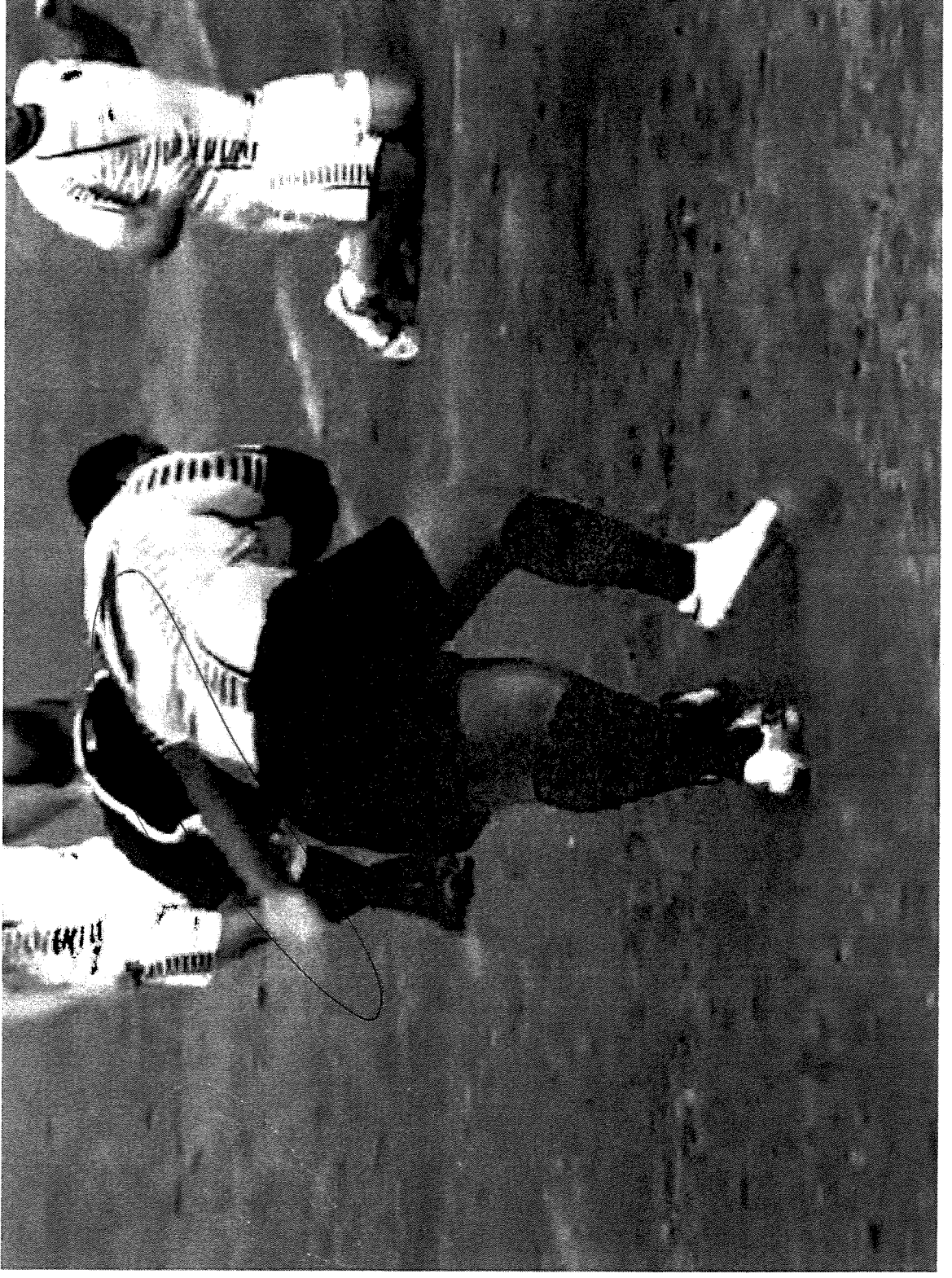


The exact frame of the collision. Amoni is still looking at the ball carrier, and has not seen the referee, but is now accidentally aware of someone having been in his blind spot.



Just hundredths of a seconds after the initial collision. Note the Amoni's awkward stance and body position. This is not the position or form anyone would take if they had prepared to shoulder charge into someone, or had even been prepared for contact. He is standing almost straight, his feet are out of position and unready, his left shoulder is not lowered, and his left arm is not even pulled in as would be expected of someone who was prepared for any kind of contact.

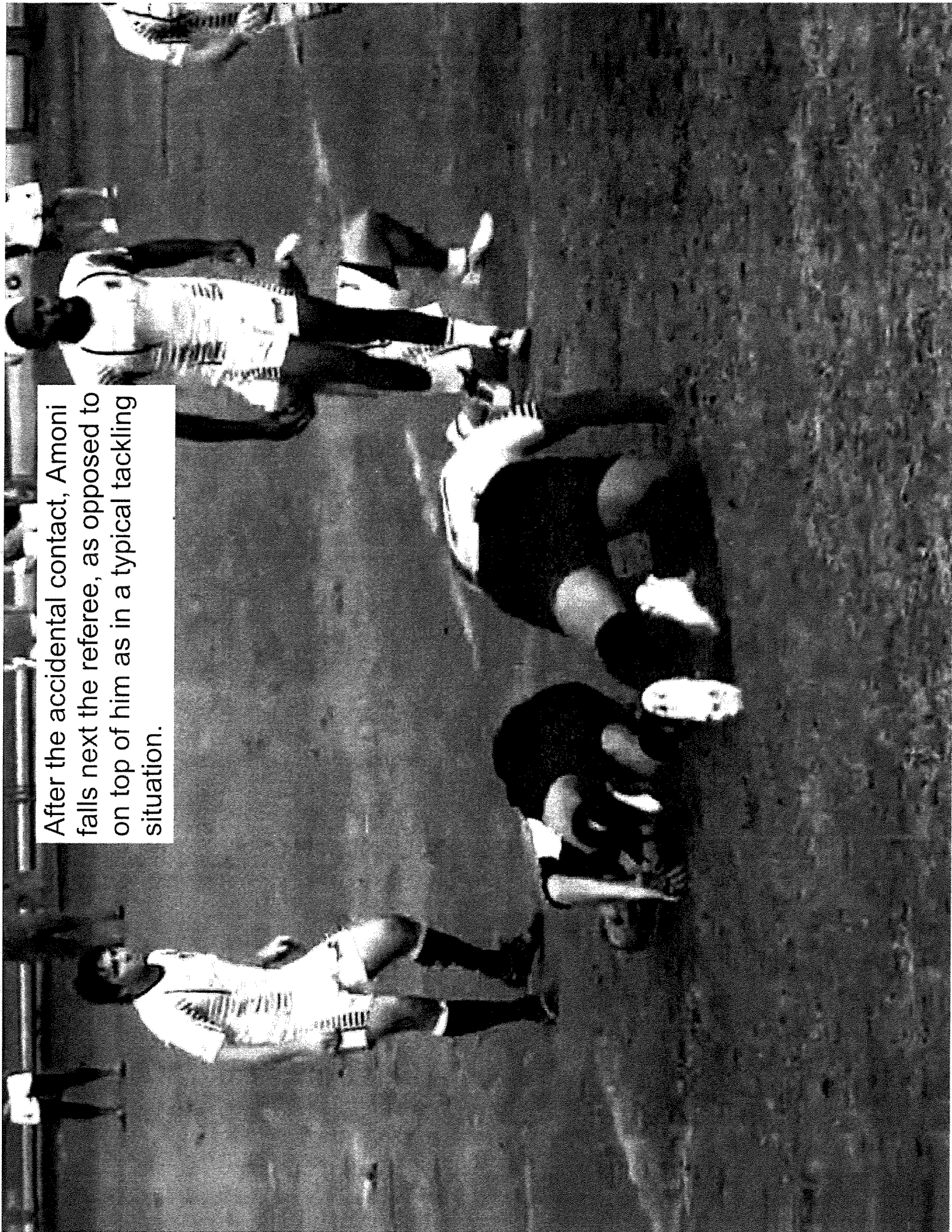
Amoni and the referee just after contact. Again, awkward body position is apparent, and his feet do not seem to be moving at or through the referee as they would be if he were being targeted. Also note the awkward position of Amoni's arm. It is not pulled in and braced for contact, nor is it extended out past the referee's body as it would be for a tackle.



Amoni and the referee begin to fall to the ground, hip to hip, and chest to back. An intentional charge would have undoubtedly been contact leading with a lowered shoulder, and his hips well away from the body of his target. This is not the case here.



After the accidental contact, Amoni falls next the referee, as opposed to on top of him as in a typical tackling situation.

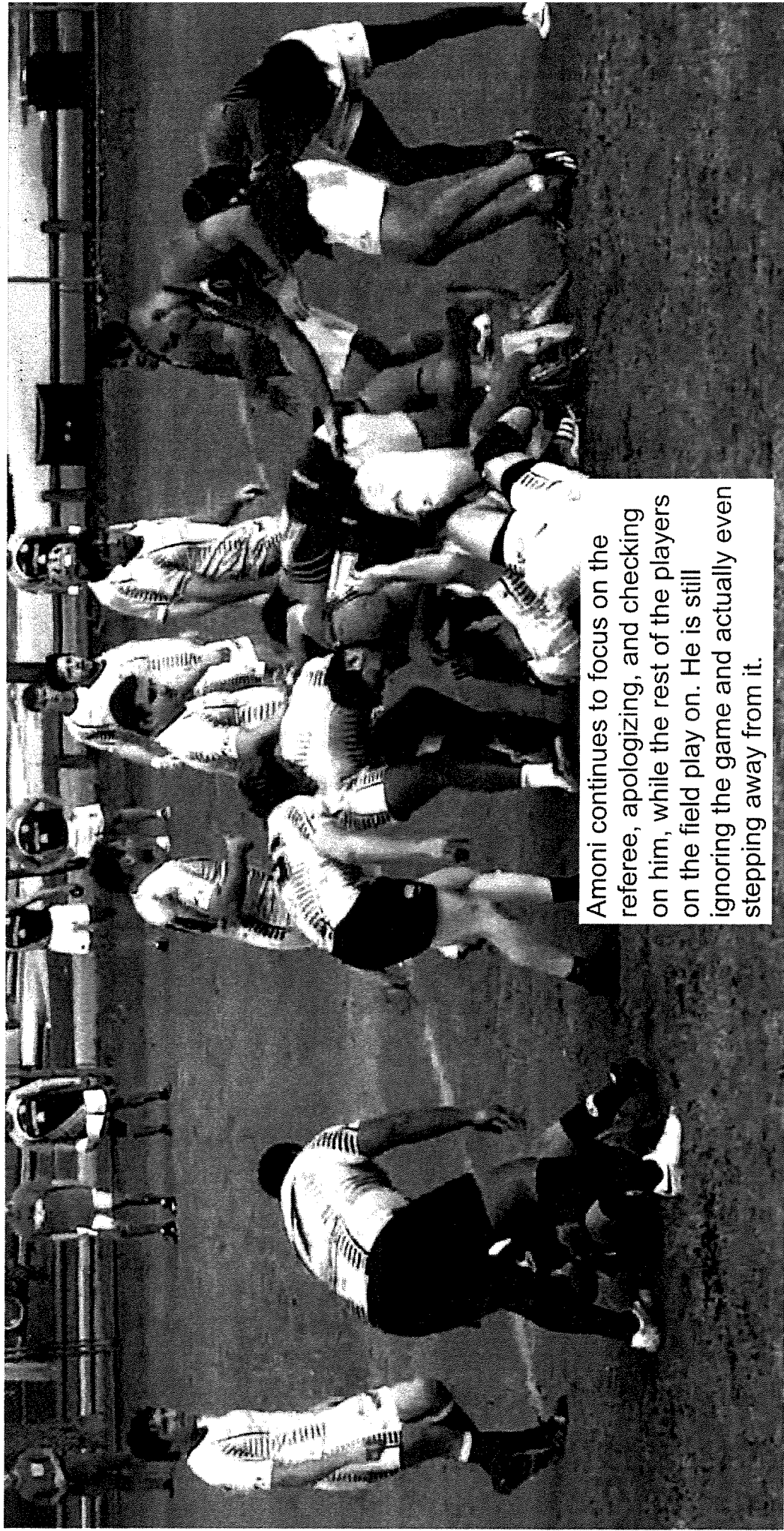


As Amoni rises, you can see his reaction is to move towards the referee and literally reach out to him.

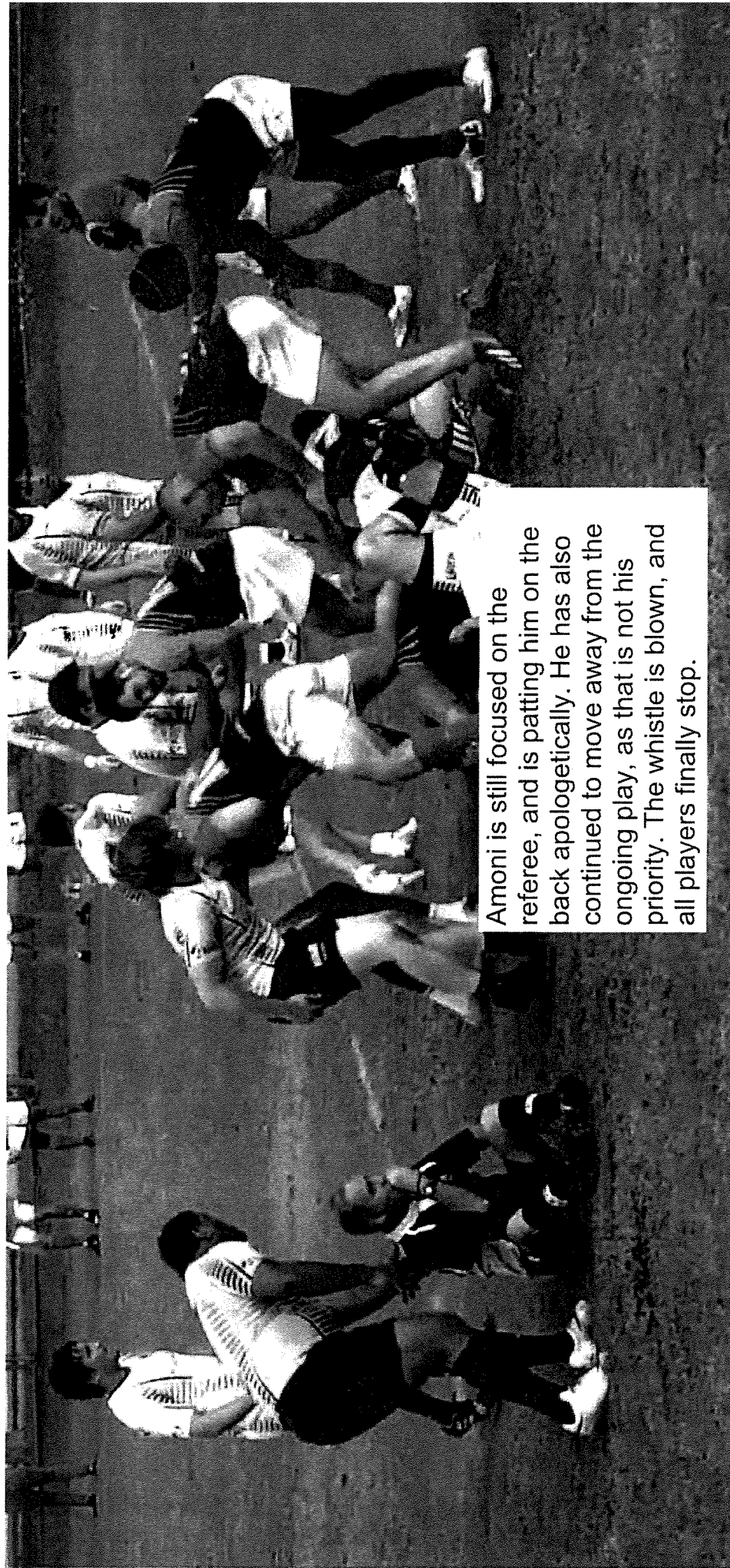


Amoni continues towards the referee, ignoring the ongoing play, and focusing concern on the referee's well-being.





Amoni continues to focus on the referee, apologizing, and checking on him, while the rest of the players on the field play on. He is still ignoring the game and actually even stepping away from it.



Amoni is still focused on the referee, and is patting him on the back apologetically. He has also continued to move away from the ongoing play, as that is not his priority. The whistle is blown, and all players finally stop.

Ruling by Disciplinary Committee in relation to Mr. Amoni Veia

To: Mr. Martin Gardner Ft Lauderdale point of contact for this case and Mr. Alex Carvallo Ft Lauderdale Club Secretary

CC: Kerri O' Malley, FRU President, Roy Monk President FRRA

From: Kerri O'Malley, Acting FRU Discipline Chair

Date: February 12, 2016

RE: Disciplinary Sanction of Ft Lauderdale player Amoni Veia, CIPP # 2202878

Offender: Amoni Veia, CIPP # 2202878

Date: February 6th, 2016

Match: Ft Lauderdale v Orlando

Referee: Jeremy Brown

Facts: The referee provided the following report immediately after the incident which states:

"Issue of tackle on referee by FL 18 has been attached for evaluation.

<https://youtu.be/uNxP1VGhSk8>"

Roy Monk President of the FRRA also provided the FRU with link and request to further investigate the incident

On February 8th whilst following World Rugby Regulation 17.11.1 (a) the Florida Rugby Union President and acting Disciplinary Chairman Dr. Kerri O'Malley determined that this was citable offense. She provided written notification to Ft Lauderdale rugby club. Within this notification she provided the following statement:

"The FRU recently received a video from the Fort Lauderdale vs. Orlando match. In this video, player Amoni Veia CIPP 2202878 shoulder charges referee Jeremy Brown from behind away from play. The referee was charged from behind and is considered in a defenseless position.

This is considered a top end offense against a referee and according to Appendix 1 of World Rugby regulation 17, infringements on law 10.4, physical abuse of match officials.

This offense has a maximum sentence of a lifetime ban, but will receive a 96 week ban for top end offense. The ban would be effective immediately and would end December 11, 2017.

The player in question is not thought to have done this by accident and is considered as targeting the referee due to the following

1. His shoulder is actually lowered prior to contact. If he merely was running into someone his approach and hit would have been at the same level, (run into with his chest, not shoulder)
2. His path of run is not a logical one towards the ball carrier and thus this route with referee in path appears intentional
3. He makes little attempt to assist the ref following the accident

Dr O'Malley incorrectly sanctioned Mr. Amoni within this citing, treating this citing as a carded offense instead of a citing which have different guidelines which require a hearing. Once this mistake was realized, the FRU followed World Rugby Regulation 17.11.1 (b) iv by having Mr. Amoni's case put forward to a Florida Rugby Union Disciplinary Panel to consider the citing complaint.

Mr Amoni and Ft Lauderdale Rugby Club put forward a statement about the incident:

"I would like to address an incident that occur on Saturday, February 6, 2016 during the Fort Lauderdale VS Orlando game in which I was involved. I was on the defense side and the player who was getting the ball which is their #8 (he is a good/stronger runner) stepped forward to run toward my direction and then he changed direction towards the ruck that is when I also changed direction and increased my speed to catch up to him. I was looking at him(#8) the whole time and did not see the ref at all . As you can see in the video the ref was backing up to my direction and that is when we both collided. After the collision I return to the ref and checked if he was ok and apologized as it was not my intentions. After that we headed to the scrum and he asked me again if I did it on purpose and I replied that I did not see him at all and was sorry for the incident and apologized. He said it was ok and we continued the game. I want you to know that I did not do this on purpose, I know the rules and have played many years. please understand that I am a professional player and love rugby and for it to be banned from me hurts me as this was not done on purpose and I am truly sorry for it."

Ft Lauderdale Rugby Club also provided multiple other defenses and disputes to this process. They were offered the opportunity to present their case on the discipline hearing which was conducted on February 12, 2016. It should be noted Ft Lauderdale confirmed they would attend but failed appear or provide any notice of failure to appear.

Mr. John Selden, Mr. Matt Tierney, Mr. Corkey Newman and Mrs. Melissa Newkirk all sat in on the disciplinel panel. Dr. Kerri O'Malley, Mr Roy Monk and Mr. Evan Haigh were all present during this hearing. The panel was also provided with further written statements from the match referee and Ft Lauderdale Rugby Club.

The Decision

There were two parts to this ruling, firstly was this offense a sanctionable offense? All panel members agreed the offense warranted a sanction however, it was only on the lower end of offenses.

From there the panel determined under Regulation 17, using Appendix 1 (the matrix of offenses and recommended sanctions), the panel determined that it was not clearly meant as intentional referee abuse, thus drawing a more severe sanction. Instead, under Section 10.4 (e), it was deemed to involve a reckless dangerous tackle situation, in which the referee was impacted rather than an opposing player, which results in two week or two match suspension.

The panel was satisfied with the minimal sanction due to the absence of any known history of other violence or red cards in the past. They were aware that this punishment precludes the player's participation in a very major event in which his club hosts a national tournament, and considered that effect in keeping with the conflicting evidence of intent against the referee and his actual injury due to the negligence in not suggesting a longer sanction.

The Sanction:

The offender, Mr. Amoni Vea is suspended for a period of two (2) weeks or 2 matches, whichever is longer.

If he or his club knowingly play him during this period, he or they will be subject to further discipline.

Be advised, if entitled to an appeal under the Florida Rugby Union Disciplinary Regulations and Procedures, such appeal must be made within 72 (seventy-two) hours of receipt of this notice of suspension, and must be made by written notice to the President of the FRU, Dr. Kerri O' Malley, and FRU Discipline Chair, Mr. Neil H. Cohen. The notice of appeal must state the basis for appeal. The Club or Mr. Vea may also appeal to USA Rugby.

This is the second referee abuse sanction against Fort Lauderdale in less than a year's time. Thus the club is being placed on probation for a period of a year during which time they need to send two members of their administration that are not currently referees to the referees certification course. In addition, any further harassing of the referee, verbal or physical, in a year's time, will lead to the club being suspended from the competitive season.

The FRU takes referee safety seriously and does not want to support a culture where this behavior is tolerated or encouraged.