

COMMISSIONER'S RULING ON NIEDERREITER APPEAL

On March 23, 2022, I conducted a hearing on an appeal regarding the Department of Player Safety's decision to suspend Nino Niederreiter for one (1) game for a slashing infraction against Axel Jonsson-Fjallby in the game between the Carolina Hurricanes and the Washington Capitals on Friday, March 18, 2022. The appeal was initiated by the National Hockey League Players' Association ("NHLPA"), by email from Maria Dennis to me, dated March 21, 2022. Under Article 18.12 of the CBA, for suspensions of five (5) NHL games or less, I am not required to hold a telephonic or in-person hearing, but I agreed to do so at the request of the Player and the NHLPA. By agreement of all parties, the hearing was held via Zoom. Mr. Niederreiter was represented at the hearing by the NHLPA. Also in attendance were Carolina Hurricanes' General Manager, Don Waddell, and Carolina Hurricanes' owner, Tom Dundon; and on behalf of the NHL, George Parros (Senior Vice President, Player Safety), Julie Grand (Executive Vice President and Deputy General Counsel), Jamie Hacker (Counsel), and Daniel Ages (Senior Counsel).

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There appears to be no dispute as to the material facts. During the play at issue, Mr. Niederreiter received a hard, legal check from an opposing Player, which sent Mr. Niederreiter's upper body partially onto the Washington bench. While in this position, apparently Mr. Niederreiter's helmet was pulled off by one or more Washington Players and he momentarily struggled to get a hold of his stick, which he believed was being held by one or more Washington Players, before he turned back to the ice once his stick was freed. Mr. Neiderreiter claimed that both actions by Washington Players were "wrong[s]" that he felt he needed to respond to in "that moment." Mr. Niederreiter then turned back to the Washington bench, and swung his stick towards the face of an uninvolved Player on the Washington bench, Mr. Jonsson-Fjallby. Mr. Niederreiter's action in swinging his stick resulted in his stick striking Mr. Jonsson-Fjallby in the helmet and visor.

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At the hearing, Mr. Niederreiter agreed that the hit that sent him onto the Washington bench was clean, and that his conduct in slashing Mr. Jonsson-Fjallby was not a "hockey play." He also said that he did not use much force and only had one hand on his stick. The NHLPA agreed that the conduct here was inappropriate. In response to a question posed to him, Mr. Niederreiter agreed that Players on the ice should not engage with Players on the bench.

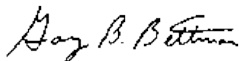
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Mr. Niederreiter has no history of supplemental discipline in his ten (10) year NHL career, and his demeanor during the hearing was remorseful and respectful. However, I cannot discount the intentional, retaliatory, and potentially dangerous nature of his action. I accept that this was not a forceful act; however, the onus is on Mr. Niederreiter as a Player on the ice not to engage with Players on the bench, even if the Players on the bench engaged with him and especially when contact is with a Player who is unsuspecting and not involved. Moreover, even while I accept Mr. Niederreiter's statement that his slash was not forceful, any intentional use of a stick to make contact with a Player's neck or head is unacceptable, and certainly with a Player on the bench. While Mr. Jonsson-Fjallby was not injured in this instance, a matter of centimeters could have led to a dramatically different result.

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This appeal comes down to whether the Player should have been fined (as contended by the NHLPA) or suspended for one (1) game (as imposed by the Department of Player Safety -- a game he has already missed and the lightest possible suspension). I do not consider it appropriate to suggest there is a mitigating circumstance to justify contact of the sort we saw here between a Player on the ice and an unsuspecting Player on the bench. Accordingly, the Department of Player Safety's decision to suspend Mr. Niederreiter for one (1) game is supported by clear and convincing evidence and is hereby affirmed.

Mr. Niederreiter has already served his suspension on Sunday, March 20, 2022.



Gary B. Bettman

Dated: March 28, 2022