

## **DECISION ON APPEAL (RYAN HARTMAN)**

The National Hockey League Players' Association ("NHLPA" or the "Union"), on behalf of Minnesota Wild Player Ryan Hartman, has appealed from a February 3, 2025, supplementary discipline decision suspending Mr. Hartman for ten (10) games. This shall constitute my decision of Mr. Hartman's appeal. For the reasons described herein, I affirm the decision of the Department of Player Safety ("DPS") that Mr. Hartman committed a roughing infraction that violated Playing Rule 51. I also uphold the suspension of Mr. Hartman, except the period of the suspension shall be reduced from ten (10) games to eight (8) games.

### **SUMMARY OF FACTS**

This appeal arises out of an incident involving Mr. Hartman near the end of the second period of a game between Minnesota and the Ottawa Senators at the Canadian Tire Centre on February 1, 2025. I have closely reviewed the video footage of the incident, as captured from the multiple angles contained in the suspension video prepared by the NHL Department of Player Safety ("DPS"), as well as the still photographs of the incident included in the PowerPoint presentation offered by the NHLPA as Exhibit 1 at the appeal hearing. It is clear from my review of the video and the still photographs that:

With sixteen (16) seconds remaining in the second period, as Ottawa was ahead by a score of 3-0, Mr. Hartman and Ottawa forward Tim Stützle were lined up to take a faceoff. As the puck was dropped, Mr. Stützle leaned forward in an attempt to win the faceoff, with his head down low in a vulnerable position. Mr. Hartman took his right hand off his stick and applied his forearm to the back of Mr. Stützle's head and neck, and ultimately utilized his entire body weight to drive Mr. Stützle's head downward, slamming Mr. Stützle face-first into the ice. For purposes of clarity, I refer to this interaction as "the incident at issue."

The on-ice officials immediately assessed a match penalty against Mr. Hartman under Rule 21, which applies to “any player who deliberately attempts to injure or who deliberately injures an opponent in any manner,” and Mr. Hartman was ejected from the game pursuant to Rule 21.1. The Official’s Report (NHL Ex. 2) states:

With 16 seconds remaining in the 2nd period MIN 38 and OTT 18 lined up for a faceoff in the MIN defensive end. Previously, with 6:27 remaining in the 2nd period both players had received penalties for infractions committed on each other. After the puck was dropped, MIN 38 Hartman with excessive force, drove the head of OTT 18 into the ice with his forearm which was placed on the back of his opponents head. OTT 18 was injured with a visible cut above his eye. He did participate in the rest of the game. MIN 38 was assessed a match penalty for his actions and removed from the game.

As a result of this incident, Mr. Stützle was treated for a “complex laceration” over his left eye, which required five stitches. (NHL Ex. 4.) Mr. Stützle later returned to the game. (*Id.*)

#### **PROCEDURAL HISTORY**

On February 3, 2025, George Parros (Senior Vice President of Player Safety) held an “in-person” supplementary discipline hearing concerning the incident at issue. Mr. Hartman was afforded the opportunity to appear in person, but elected to appear by Zoom. His decision to appear via Zoom had no impact on any decision that followed.

Following the hearing, Mr. Hartman was suspended for ten (10) games for the incident at issue. The NHLPA raised no objections – procedural or otherwise – with the conduct of the disciplinary hearing itself, during which all parties, including Mr. Hartman, were provided an opportunity to be heard. As of the date of this decision, Mr. Hartman has served four (4) games of the ten (10) game suspension.

By email to Deputy Commissioner Bill Daly, dated February 5, 2025, the NHLPA gave notice of the Player’s appeal.

## **THE FEBRUARY 14 HEARING**

As set forth in Section 18.12 of the NHL/NHLPA Collective Bargaining Agreement (the “CBA”), where (as here), the underlying decision results in a suspension of six (6) or more games, and such decision is appealed, I am required to hold an in-person hearing. I held such a hearing on February 14, 2025, at the Intercontinental Hotel in Montreal, Quebec. In attendance at the hearing in addition to and on behalf of Mr. Hartman were his agent, Matt Oates; and Gideon Martin, John Gerba, Marty Walsh, Ron Hainsey, Don Zavelo, Maria Dennis and Dave Sinclair from the NHLPA. In addition, Minnesota Wild General Manager Bill Guerin attended. Bill Daly, David Zimmerman, Julie Grand, Daniel Ages and Jamie Hacker attended the hearing on behalf of the League. George Parros, from DPS, appeared at the hearing and he, as well as Mr. Hartman, testified. Also in attendance on behalf of the League were counsel from Proskauer Rose LLP, Neil Abramson and Joshua Fox.

The hearing began at approximately 4:00 p.m. and concluded at approximately 7:00 p.m. All parties were given a full and fair opportunity to be heard and no objection to the proceeding was raised. The record was closed at the conclusion of the hearing. The final transcript of the hearing was received by the League office via email on February 17, 2025.

## **STANDARD OF REVIEW**

Section 18.12 of the CBA provides for the right to appeal to the Commissioner any decision regarding Supplementary Discipline for On-Ice Conduct. The CBA directs, in connection with any such appeal, that I determine whether the “decision was supported by clear and convincing evidence.”

## THE NHLPA's CONTENTIONS

The NHLPA took no issue with the conclusion by DPS that Mr. Hartman's conduct was in violation of the League Playing Rules and constituted roughing. The NHLPA acknowledged that "some level of supplementary discipline could have been appropriate." (Tr. 6.)

The sole basis for the appeal is the contention that the supplementary discipline assessed by DPS (a ten (10) game suspension) was not supported by clear and convincing evidence for two reasons. First, the NHLPA disagrees with DPS's conclusion that Mr. Hartman's conduct was intentional, arguing that Mr. Hartman's conduct was "a mere accident with an unfortunate outcome," which does not warrant a ten (10) game suspension. (Tr. 7.) The NHLPA further emphasizes that ten (10) games is the lengthiest suspension that the League has ever imposed for a play involving roughing and that the penalty, therefore, was disproportionate to the discipline imposed in the past for other roughing violations. (Tr. 54, 121, NHLPA Ex. 3.)

Second, while acknowledging that Mr. Hartman's disciplinary history appropriately "informed Player Safety's decision making," (Tr. 54), the NHLPA argues that Mr. Hartman's conduct does not warrant a ten (10) game suspension in light of purportedly comparable instances in which disciplinary history had been a prominent factor in determining discipline. (Tr. 85-89.) In particular, the NHLPA cited prior suspensions issued to Players – like Mr. Hartman – who have been suspended at least four (4) times prior: Nazem Kadri, Evander Kane, Brad Marchand, Zac Rinaldo, and Tom Wilson. (Tr. 57-59, 123-125; NHLPA Ex. 4.) The NHLPA argued that in those prior instances, DPS had either decreased the suspension length in the Player's fifth (or sixth) suspension, or increased the suspension in a "far less significant [manner] than applied to Mr. Hartman." (Tr. 123.) The NHLPA emphasized in particular the disciplinary history of Mr.

Marchand, whose fourth and fifth suspensions were for two (2) games and five (5) games, respectively. (Tr. 127-128.) The NHLPA requested that I reduce Mr. Hartman's suspension to eight (8) games. (Tr. 128-129.)

### ANALYSIS

Because the NHLPA and Mr. Hartman do not contest that the conduct in question violated the League Playing Rules, my analysis is limited to the length of the suspension. As I have noted in prior opinions, the CBA does not prescribe a formulaic basis for the determination of the appropriate level of supplementary discipline. Each case is unique and must be decided on the basis of its own particular facts and circumstances.

The following factors are set forth in Section 18.2 of the CBA:

- (a) The type of conduct involved: conduct in violation of League Playing Rules, and whether the conduct is intentional or reckless, and involves the use of excessive and unnecessary force. Players are responsible for the consequences of their actions.
- (b) Injury to the opposing Player(s) involved in the incident.
- (c) The status of the offender and, specifically, whether the Player has a history of being subject to Supplementary Discipline for On-Ice Conduct. Players who repeatedly violate League Playing Rules will be more severely punished for each new violation. (Emphasis in original.)
- (d) The situation of the game in which the incident occurred, for example: late in the game, lopsided score, prior events in the game.
- (e) Such other factors as may be appropriate in the circumstances.

Applying these factors here, I find that a suspension of eight (8) games for Mr. Hartman's roughing infraction is appropriate for the reasons that follow.

The Type of Conduct Involved (Section 18.2(a))

The conduct not only violated an important League Playing Rule (Roughing), but it was delivered in an intentional manner on a Player in a vulnerable position – with Mr. Stützle face down below Mr. Hartman and crouching close to the ice. (Tr. 105.) I also agree with DPS's conclusion that Mr. Hartman's infraction involved forceful contact to the head and neck of an opposing Player, a significant aggravating circumstance. (Tr. 92.)

I agree with the conclusion reached by DPS that Mr. Hartman's conduct was not predatory in nature – *i.e.*, that he did not take the faceoff with a predetermined intent to “target” Mr. Stützle.<sup>1</sup> However, I do not find credible Mr. Hartman's testimony that the entire incident was purely “accidental” and that he was merely “bracing [him]self from falling.” (Tr. 28-29, 33.) While Mr. Hartman and Mr. Stützle were entangled during the faceoff in the incident at issue, I find there was clear and convincing evidence that Mr. Hartman intentionally placed his right forearm on Mr. Stützle's neck, continued to hold his arm in that location, and drove Mr. Stützle face-first to the ice with significant force for the following reasons:

1. I agree with DPS that the video of the incident at issue clearly and convincingly demonstrates that Mr. Hartman intentionally placed his right arm on the back of Mr.

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<sup>1</sup> During the appeal hearing, there was discussion about whether Mr. Hartman intentionally removed his right hand from his stick at the beginning of the faceoff and “targeted” Mr. Stützle during this play, or whether his right hand was knocked off his stick by Mr. Stützle during the faceoff – a possibility that may have been enhanced by a thumb injury that Mr. Hartman had previously suffered on October 19, 2024. (Tr. 42, 74, 126; NHLPA Ex. 2.) Mr. Parros testified that he did not conclude that Mr. Hartman intentionally removed his right hand off of his stick to deliver the forceful blow that resulted – *i.e.*, that he was not “targeting” Mr. Stützle in this manner. (Tr. 71-74.) I agree with Mr. Parros's conclusion and give Mr. Hartman the benefit of the doubt on this issue. I do note, however, that an additional finding of targeting in these circumstances could have merited a lengthier suspension than the one imposed by DPS.

Stützle's head and neck (while the latter was in a vulnerable position), held his arm in that position, and ultimately drove Mr. Stützle down to the ice in a forceful and foreseeably dangerous manner. (Tr. 67-68.) Indeed, Mr. Hartman confirmed that he intentionally placed his right arm on Mr. Stützle. (Tr. 29.) This maneuver was dangerous and while I do not find that it was a pre-meditated action, I find the video clearly evidences its intentional nature.

2. During the incident at issue, Mr. Hartman had other options besides engaging in the conduct that he did. Even though I give Mr. Hartman the benefit of the doubt that he was off-balance at various points during the faceoff, Mr. Hartman could have avoided the dangerous and violent contact with Mr. Stützle by bracing himself and falling backwards, letting go of his stick entirely, or removing his right arm from Mr. Stützle's neck at multiple points in time. In this regard, it is noteworthy that at one point, Mr. Hartman's right skate was placed between Mr. Stützle's skates (Mr. Hartman's left skate was on the ice the entire time), but then Mr. Hartman pulled his right skate back beneath himself, putting him in an upward, stable position. At that point, Mr. Hartman then proceeded to use the full force of his body weight to drive his right arm into Mr. Stützle's neck, which resulted in Mr. Stützle's face forcefully hitting the ice. The totality of these acts thus compels my conclusion that such conduct was not accidental.
3. The Playing Rule violation of roughing – which the NHLPA concedes was appropriate here – connotes an intentional act. Indeed, Rule 51 provides, in relevant part, that “[r]oughing is a...slamming motion with or without the glove on the hand, normally directed at the head or face of an opponent...” (Playing Rule 51.1 (emphasis added).) The

fact that the NHLPA concedes that a Rule 51 violation has occurred undermines the claim that the conduct was entirely “accidental” or “unintentional.”

4. The on-ice officials’ report supports the conclusion that Mr. Hartman’s conduct was intentional. (NHL Ex. 2.) As noted above, the officials assessed a match penalty, observing that “Hartman with excessive force, drove the head of [Stützle] into the ice with his forearm which was placed on the back of his opponents head.” (*Id.*) Like DPS, I give Mr. Hartman the benefit of the doubt that he did not deliberately attempt to injure Mr. Stützle. (Tr. 95.) But there is a very clear distinction between the intent to injure and the intent to commit the offending act. I believe (as did DPS and the on-ice officials) that Mr. Hartman intended to drive Mr. Stützle face first to the ice and he succeeded in that intent.
5. Mr. Stützle’s medical report from the incident at issue also confirms the severity and recklessness of Mr. Hartman’s conduct – that the contact was applied with significant force and was not merely incidental. According to the report, Mr. Stützle was “elbowed into the back of the head” and “[h]is head was driven into the ice.” (NHL Ex. 4.) The result of the contact was two (2) lacerations above Mr. Stützle’s left eyebrow, a contusion of the left eyebrow and five (5) stitches. (*Id.*)

The NHLPA argues that the DPS disciplinary history for other Players engaging in roughing violations warrants a reduced suspension for Mr. Hartman. (Tr. 54-55; NHLPA Ex. 3.) Specifically, the NHLPA asserts that the supplementary discipline that DPS has imposed for roughing violations includes suspensions of no more than six (6) games (which was imposed on Mr. Marchand in February 2022). (NHLPA Ex. 3.) I agree, however, with DPS that the incident at issue here is not a “typical” roughing violation, even by the standards that apply to roughing



violations that are serious enough to warrant supplementary discipline. Clearly, the NHLPA recognizes this as well – hence, the Union’s position that the conduct at issue supports an eight (8) game suspension. (Tr. 128-129.)

I find it significant that neither the NHLPA nor DPS were able to identify a single prior incident that was actually a close comparable to this one.<sup>2</sup> There are thousands of faceoffs every NHL season and the fact that no prior incident has involved conduct of this nature confirms my conclusion that this was not simply an accident, but rather intentional conduct on the part of Mr. Hartman.

The above factors distinguish the violation here from the prior roughing suspensions cited by the NHLPA in the exhibit it submitted at the hearing. (NHLPA Ex. 3.) Most notably – and even putting aside Mr. Hartman’s lengthy disciplinary history, discussed below – the circumstances present here are more serious than, and warrant a lengthier suspension than, the 1-6 (one to six) game suspensions assessed in the ten (10) suspensions included on the NHLPA’s list of prior roughing suspensions. (*Id.*)

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<sup>2</sup> Mr. Parros testified that DPS has not “seen anything quite like this” before. (Tr. 76.) Mr. Parros then testified that a ten (10) game suspension imposed on Alexandre Burrows for kneeing Taylor Hall in February 2018 “jumped out” as the “closest” comparator. (Tr. 77-78, 85-86.) I understand why Mr. Parros equated Mr. Hartman’s conduct to the incident involving Mr. Burrows, given the dangerous force applied to an opposing Player’s head near the ice in both cases. I note, however, that there are several distinguishing features from the Burrows suspension that are not present here. For example, in the incident involving Mr. Burrows, there was no dispute that the entirety of Mr. Burrows’ conduct was intentional and that he targeted Mr. Hall (no targeting was present here); Mr. Burrows was also assessed a cross-checking penalty (Mr. Hartman engaged in a roughing infraction); and Mr. Burrows threw multiple punches towards Mr. Hall, and delivered multiple knees to Mr. Hall’s head while he was near the ice (here, Mr. Hartman struck the opposing Player’s neck and drove him to the ice). For these reasons, I do not find the Burrows suspension a particularly instructive comparator to the incident at issue.

#### Injury to The Opposing Player (Section 18.2(b))

As noted above, Mr. Stützle suffered a facial laceration that required five (5) stitches, after which he returned to play in the game. (NHL Ex. 4.) Given the already lengthy suspension levied on Mr. Hartman, like DPS, I do not believe that the injury here needs to be treated as an aggravating factor that should add to the length of the suspension.

#### The Status of The Offender (Section 18.2(c))

CBA Section 18.2(c)'s underlined language highlights the significance of this factor: “Players who repeatedly violate League Playing Rules will be more severely punished for each new violation.” The reason for this emphasis is self-evident. As I have stated previously, the goal of supplementary discipline is not simply to punish conduct that is in violation of League Rules, but also to deter future misconduct. The plain language of the CBA makes clear that this is true whether or not the repeat offense(s) involve identical conduct.

Mr. Hartman's lengthy disciplinary history, within a remarkably short duration of time, provides clear and convincing evidentiary support for an eight (8) game suspension here. This is Mr. Hartman's fifth (5<sup>th</sup>) suspension – and his fourth (4<sup>th</sup>) in the last twenty-two (22) months. (NHL Ex. 3.) In each of the last three suspensions, Mr. Hartman was treated by DPS as a “repeat offender” under the terms of the CBA because he had received a subsequent suspension within eighteen (18) months after being suspended by DPS. Mr. Hartman's last three (3) suspensions all involved intentional conduct against an opponent (or, in one case, an on-ice official) that were “non-hockey” plays:

- Most recently, on March 30, 2024, Mr. Hartman was frustrated at the end of the game and threw his stick from the bench on the ice towards an on-ice official – such conduct resulted in a three (3) game suspension. (Tr. 83; NHL Ex. 3, 6.)

- Mr. Hartman was suspended for two (2) games following an incident on November 26, 2023, when he intentionally tripped an opposing Player. (NHL Ex. 3, 6.) DPS concluded that this was a play under Mr. Hartman’s control and also was a “non-hockey” play because the opposing Player was not involved in the play. (Tr. 82.)
- Mr. Hartman was suspended for one (1) playoff game for interference on April 11, 2023, when Mr. Hartman inflicted a retaliatory back-check against another Player. (NHL Ex. 3, 6.) DPS concluded that Mr. Hartman engaged in a “controlled act...[that] had a retaliatory edge to it.” (Tr. 81.)

In addition, Mr. Hartman has been fined seven (7) times, including most recently for an incident on December 31, 2023, in which he was assessed a fine for engaging in high sticking against an opposing Player during a faceoff, which DPS concluded was an intentional act that also was a “non-hockey” play. (Tr. 82.) This is, to say the least, an unenviable record and a pattern of malfeasance.

When a Player repeatedly commits multiple violations worthy of supplementary discipline within a relatively short period of time, the principle of progressive discipline clearly warrants an escalation in the quantum of discipline, which would normally be assessed for similar conduct.

At the end of the hearing, the NHLPA argued that I should reduce the ten (10) game suspension based on the comparable supplementary discipline history imposed on Players who – like Mr. Hartman – have been suspended four (4) prior times.<sup>3</sup> The NHLPA argued that the other Players they identified (Messrs. Kadri, Kane, Marchand, Rinaldo, and Wilson) were either suspended for fewer games upon their fifth (5<sup>th</sup>) or sixth (6<sup>th</sup>) suspensions or for a greater number

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<sup>3</sup> Specifically, the Union suggested that I overturn the ten (10) game suspension and reduce it to eight (8) games. (Tr. 128-29.)

of games, but received a lesser increase from their fourth (4<sup>th</sup>) suspensions than Mr. Hartman received here by DPS.

While I do not agree with the NHLPA's formulaic methodology, nor do I agree that the suspension histories of Messrs. Kadri, Kane, Marchand, Rinaldo, and Wilson provide particularly helpful comparators, I do find that an increase of seven (7) games from Mr. Hartman's last suspension to this one is excessive in this case and that the quantum of increase should be reduced.

The Situation of The Game (Section 18.2(d))

Section 18.2(d) calls for consideration of the situation of the game, and provides by way of example whether the conduct occurs "late in the game, lopsided score" and/or "prior events in the game."

Here, the incident occurred with sixteen (16) seconds left in the second period, with Ottawa leading by a score of 3-0. Earlier in the second period, with more than six (6) minutes remaining, Mr. Stützle was assessed a minor penalty for slashing Mr. Hartman, while Mr. Hartman was assessed two minor penalties for roughing and embellishment on the same play. (NHL Ex. 5.) Although I do not find that Mr. Hartman's conduct was retaliatory towards Mr. Stützle, Mr. Hartman was admittedly "frustrated" by the embellishment call he received just a few minutes prior in an incident with Mr. Stützle (Tr. 38), which I find may have contributed to his conduct at the end of the period against Mr. Stützle. This factor supports a lengthy suspension here.

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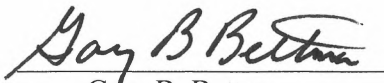
As I have noted, the application of Article 18 is not formulaic. While "consistency in the imposition of supplementary discipline is called for in Section 18.2, each case must be decided on its facts" taking into account the supplementary discipline imposed by DPS to Players "under

substantially comparable circumstances.”<sup>4</sup> The type of conduct at issue, even accepting Mr. Hartman’s testimony and DPS’s conclusion that the conduct was not predatory in nature, and Mr. Hartman’s uncontroverted significant and lengthy disciplinary history over a short period of time – the most recent four (4) suspensions all involving intentional, “non-hockey” plays – call for a significant suspension in this case. Although I conclude that an escalation from Mr. Hartman’s prior three (3) game suspension to ten (10) games is not proportional here, I find that an eight (8) game suspension is both appropriate and supported by clear and convincing evidence.

As I have stated in prior opinions, one true and fundamental test of effective discipline is whether the discipline is of sufficient strength and impact that it has the effect of deterring the Player being disciplined from repeating the same or similar conduct in the future. In light of Mr. Hartman’s prior suspension of three (3) games, I believe that a suspension of eight (8) games should be sufficient to serve as an appropriate “wake-up call” to Mr. Hartman, causing him to reevaluate his conduct on the ice and make positive changes to his game.

### **CONCLUSION**

For the foregoing reasons, the suspension of Mr. Hartman is reduced from ten (10) games to eight (8) games for the reasons set forth above.

  
Gary B. Bettman

Dated: February 24, 2025

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<sup>4</sup> In the Matter of the Appeal of Nazem Kadri (Das), June 8, 2021, at pp. 18-19.