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**DEFLATEGATE1**

Before the start of the 2015 NFL season the league’s legal structure of the season again burst into the forefront of the media when Roger Goodell, the commissioner of the NFL, upheld the NFL’s decision to suspend Tom Brady, the quarterback for the New England Patriots, for the first four games of the 2015 season in response to an investigation into whether he was using underinflated footballs during the game. The technical details are highly disputed with several reports declaring Brady guilty, while other respected physicists provided detailed descriptions of why the pressure could have dropped due to environmental circumstances. Regardless, the ordeal provides several interesting legal points arising from the NFL’s structure.

In the NFL, players are unionized into the National Football League Player’s Association (NFLPA), which represents their rights in terms of compensation and the collective bargaining agreement. The collective bargaining agreement (CBA) is a contract between the NFL and the NFLPA that lays out the terms of employee benefits, health and safety regulations, and the distribution of revenues. One highly publicized part of this agreement is a bargained code of conduct that is set in place and a series of fines and penalties for breaches of the code of conduct. An important note on this code for Brady’s case is the right of the commissioner to award penalties and fines for conduct deemed detrimental to the league, a broad vague clause that could potentially give the commissioner a lot of power.

In Brady’s case several key legal moves were made by both sides. When the league was first notified, they assigned an attorney to make an independent report on the incident. The report found that it was more likely than not that Brady had been at least generally aware of the deflation of the balls. Based upon this report the NFL suspended Brady for 4 games, while placing several penalties on the Patriots organization as well. Brady appealed the suspension and testified in front of an arbitrator, who in this case was Roger Goodell. When Goodell upheld the suspension, Brady and the NFLPA looked to sue the NFL in order to overturn the ruling in a court in Minnesota under a judge who has ruled favorably for the NFLPA in the past. In anticipation the NFL had sued in a court in New York and by being the first to file a suit, the NFL forced the case to be held in New York under a random judge.

The NFLPA countersued in the New York court, and motioned to file an injunction to allow Brady to play while the suit was being mediated. Their main points in the trial were that the initial report into Brady’s responsibility and the deflation of the balls was unbiased and riddled with errors, that Goodell was an unfair arbitrator in the appeal of the suspension, that the punishment was based on incomplete evidence, and that the penalty did not hold to the legal terms of the CBA. The NFL argued that the CBA did not guarantee an independent investigation, that Brady had been uncooperative in the investigation, and that the clause in the CBA code of conduct allowed Goodell to punish behavior deemed detrimental to the league. In the end the judge ruled that the punishment was unfair as the accusations against Brady are not rooted in rules defined in the CBA, and that the lack of notice in the assignment of punishments was unjust.

This case comes after two other large scandals where there has been a history of mismanagement and general lack of disclosure and formality in the way the commissioner has acted and dealt with issues. While this may or may not comment on Roger Goodell’s ability as commissioner, it definitely shows that the NFL legal structure needs to be improved. There needs to be better control on the ability of the commissioner to punish players and the methods in which the investigation, punishment, and appeal process is handled and regulated. While profits may always be a point of argument between owners and players, the legal vagueness of the commissioner’s abilities and the player’s code of conduct is something that both sides would benefit from improving. When the next CBA is drafted the media attention on this and other similar cases will definitely bring this to the forefront of discussions.