

DECISION

In re: **Matter of Deshaun Watson**

INTRODUCTION

The Process

The Collective Bargaining Agreement (“CBA”) between the National Football League (“NFL”) and the National Football League Players’ Association (“NFLPA”) authorizes the Commissioner of the NFL to discipline players “for conduct detrimental to the integrity of, or public confidence in, the game of professional football.”¹ Pursuant to this authority, the NFL has issued a “Personal Conduct Policy” (“the Policy”), which is meant to “define, address and sanction conduct” found to be “detrimental to the league and professional football.”²

The Policy is unilaterally imposed by the NFL and is intended to provide guidance on the NFL’s “expectations and standards of conduct.”³ According to the Policy, “[p]layers convicted of a crime or subject to a disposition of a criminal proceeding . . . are subject to discipline. But even if the conduct does not result in a criminal conviction, players found to have engaged in any of the following conduct will be subject to discipline. Prohibited conduct includes but is not limited to the following:” (1) “Actual or threatened physical violence against another person;” (2) “Assault and/or battery, including sexual assault;” (3) “Violent or threatening behavior toward another employee or a third party in any workplace setting;” (4) “Stalking, harassment, or similar forms of intimidation;” (5) “Illegal possession of a gun or other weapon;” (6) “Illegal possession, use, or distribution of alcohol or drugs;” (7) “Possession, use, or distribution of

¹ CBA (2020) Art. 46, § 1(a).

² Policy (2021) at 1.

³ Policy at I.

steroids or other performance enhancing substances;” (8) “Crimes involving cruelty to animals as defined by state or federal law;” (9) “Crimes of dishonesty such as blackmail, extortion, fraud, money laundering, or racketeering;” (10) “Theft related crimes;” (11) “Disorderly conduct;” (12) “Crimes against law enforcement;” (13) “Conduct that poses a genuine danger to the safety and well-being of another person;” and (14) “Conduct that undermines or puts at risk the integrity of the NFL.”⁴ None of these examples of prohibited conduct is explained or defined by the NFL in the Policy or the CBA. For those involving crimes defined by state or federal law, of course, there is no need to. For the remainder, the NFL is left to provide its own definition of the conduct.

Starting in 2020, the initial determination of whether a player in the NFL has violated the Policy and, if so, what discipline should be imposed, is to be made by “a Disciplinary Officer jointly selected and appointed by the parties,” i.e., by the NFL and the NFLPA.⁵ The Disciplinary Officer is responsible for conducting evidentiary hearings, issuing “binding findings of fact,” and “determining the discipline that should be imposed, if any, in accordance with” the Policy.⁶ The Disciplinary Officer’s determination of whether a violation of the Policy has occurred is final and binding; the disciplinary determination is subject “to the right of either party to appeal to the Commissioner.”⁷ It is not disputed by the parties here⁸ that it is the NFL’s burden to establish by a preponderance of the evidence⁹ that a player engaged in the alleged

⁴ *Id.*

⁵ CBA (2020) Art. 46, § 1(e)(i).

⁶ *Id.* at §1(e)(ii).

⁷ *Id.* at § 1(e)(v).

⁸ The NFL, the NFLPA, and Mr. Watson (represented by counsel).

⁹ A preponderance of the evidence means that it is more probable than not that Mr. Watson engaged in the alleged conduct. *Final Decision on Article 46 Appeal of Tom Brady (“Brady”)*(July 28, 2015), NFLPA Ex. 8 at 5.

prohibited conduct, and that the NFL must rely on “credible evidence” found in the record in order to carry its burden of proof.¹⁰

The Record

It is important to note at the outset that, serving as the jointly-appointed Disciplinary Officer, my decision is limited by the record presented to me. The record was compiled in connection with the NFL’s allegations that Deshaun Watson, a player in the NFL, violated three provisions of the Policy by engaging in: (1) sexual assault; (2) conduct that poses a genuine danger to the safety and well-being of another person; and (3) conduct that undermines or puts at risk the integrity of the NFL. These allegations stem from a series of civil lawsuits, the first of which was filed in March 2021. The first complainant alleged that Mr. Watson engaged in lewd and indecent sexual behavior during a private massage she provided. A total of 23 other lawsuits having similar allegations were eventually filed against Mr. Watson. The NFL opened an investigation into Mr. Watson’s conduct upon learning of the first lawsuit.

The NFL’s investigation was conducted by two former prosecutors with decades of experience investigating sexual assault cases. Although Mr. Watson allegedly worked with more than 60 massage therapists during the 15-month period beginning in the fall of 2019 through the winter of 2021, the NFL only investigated the claims of the 24 therapists suing Mr. Watson for damages. Of these 24 complainants, the NFL investigators were only able to interview 12; of those 12, the NFL relied for its conclusions on the testimony of 4 therapists (“the therapists”), as well as interviews of some 37 other third parties and substantial documentary evidence.¹¹ The

¹⁰ CBA (2020) Article 46 at § 1(e)(iv); Policy (2021) at V.

¹¹ NFL brief at 3; Watson brief at 1. It should be noted that the NFL relied on a fifth accuser who gave an interview to a magazine but who declined to be interviewed by the investigators. I excluded such testimony from the disciplinary record, but acknowledge that there is documentary evidence associated with her testimony which is consistent with the NFL’s findings. NFL brief at 5, n.3.

resulting 215-page investigative report (“the Report”), along with the testimony of its two investigators, comprise the NFL’s case presented at the three-day evidentiary hearing conducted pursuant to Article 46 of the 2020 CBA. The record before me also includes multiple exhibits identified during the hearing, and the testimony of Dr. Robert Peppell, a sports chiropractor and physiotherapist who currently works with Mr. Watson.¹² My credibility determinations are based largely on the credibility of the NFL investigators. The parties have also submitted post-hearing briefing.

The NFL’s Investigation

During the critical time period, Mr. Watson had a contract with the Houston Texans, which team had an array of resources to treat injuries including a licensed massage therapy business in the Houston area. Despite having access to team-provided and approved massage therapists, Mr. Watson sought out private massages and, according to the NFL, “used his status as an NFL player as a pretext to engage in a premeditated pattern of predatory behavior toward multiple women.”¹³

The “pattern of conduct” described by the NFL includes the following steps:¹⁴ Mr. Watson identified himself from the outset of each encounter as a quarterback for the NFL via an Instagram inquiry for a massage. Mr. Watson’s requests were typically “urgent,” wanting to schedule a massage that day. He was not looking for a professional setting and often inquired as to whether the massage would be “private.” Mr. Watson admitted that he was not concerned whether the women were experienced massage therapists or even licensed. Of the four massage

¹² Hearing transcript (“Tr.”) at 727:2-6, 785:9-786:4.

¹³ NFL brief at 4.

¹⁴ Report at 5-6, 56-60.

therapists who are the subject of the Report, only three were licensed and operating their own businesses; the fourth therapist was working towards her licensure.

Mr. Watson would follow his Instagram contact with texts or calls before each session to make sure that the therapists were comfortable massaging certain areas of his body, particularly his lower back, glutes, abs, and groin area (his “focus points”). Mr. Watson requested that the therapists use a towel to cover his private parts rather than the more typically used sheet. Mr. Watson often provided his own towels, which have been variously described as “medium/small” towels or “Gatorade” towels.

Once in the massage sessions, each of the therapists allege that Mr. Watson engaged in what the NFL has characterized as “sexualized behavior.” This behavior includes Mr. Watson’s insistence that the therapists work on his focus points with just a towel as cover. When he turned over on his back, it is alleged that Mr. Watson exposed his erect penis and purposefully contacted the therapists’ hands and arms multiple times with his erect penis. One of the therapists alleges that Mr. Watson not only contacted her arm multiple times, but that he ejaculated on her arm. There is no allegation that Mr. Watson exerted any force against any of the therapists.

MY FINDINGS

The NFL alleges that Deshaun Watson violated three provision of the Policy by engaging in: (1) sexual assault; (2) conduct that poses a genuine danger to the safety and well-being of another person; and (3) conduct that undermines or puts at risk the integrity of the NFL. I will address each allegation in turn.

(1) Conduct that Qualifies as a Sexual Assault

As noted above, the conduct of “sexual assault” is not defined in the CBA, the Policy, or the Report. On behalf of the NFL, one of its investigators defined the term at the evidentiary hearing as the “unwanted sexual contact with another person.”¹⁵ The NFL contends that Mr. Watson committed sexual assault by allegedly “touching [his] penis to the women without their consent.”¹⁶ As it is the NFL’s prerogative to impose the Policy on its players, I am bound to accept the NFL’s definition of sexual assault. Therefore, it is the NFL’s burden to prove that it is more likely true than not that: (1) Mr. Watson intended to cause contact with his penis; (2) he did so for a sexual purpose; and (3) he knew that such contact was unwanted.

The record presented by the NFL to support its allegations of sexual assault includes many undisputed facts. For instance, there is no dispute that Mr. Watson used Instagram to contact these therapists, and that he was clearly identified to them as a player for the NFL through Instagram.¹⁷ There is also no dispute that he reached out for private massage sessions with women whose professional qualifications were unknown to him, nor were their professional qualifications explored by him.¹⁸ Mr. Watson always forecast his desire that certain areas of his body be massaged, including his lower back, glutes, abs, and groin area.¹⁹ In all four cases, the therapists were willing to go forward with the massage; however, none of the therapists were willing to offer him massage services again.²⁰ Finally, there is no dispute that Mr. Watson

¹⁵ Tr. at 483:20-484:19.

¹⁶ *Id.*

¹⁷ Report, Exs. J, O, S, GG.

¹⁸ Report, Ex. F at 161:9-12; Ex.H at 246:9-21.

¹⁹ Report, Ex. F at 170:8-172:5; Ex. T.

²⁰ It should be noted in this regard that multiple therapists conducted multiple massage sessions with Mr. Watson or agreed to work with him again. See Watson brief at 4 n.26. Although one of the four therapists here massaged Mr. Watson twice, the NFL only relies on the second session as a basis for discipline. See Watson Ex. 83 at 218:20-219:7.

preferred a towel to the traditionally used sheet for draping,²¹ and there should be no dispute that a medium or small-sized towel will more likely slip off a body than a sheet, leaving a client exposed.

Importantly, much of the alleged conduct is not, in and of itself, challenged as wrongful. The use of Instagram to advertise a business or to engage a business, for instance, is commonplace. There is evidence in the record that Mr. Watson's focus points (the lower back, glutes, abs, and groin area) are legitimate focus areas for professional athletes.²² Moreover, it is not unusual for therapists to inadvertently contact a male client's penis while treating these legitimate focus areas, nor for male clients to get an erection during a massage.²³

Mr. Watson has not testified that he had erections and inadvertently touched the therapists here; instead, he has categorically denied the allegations against him, including that he ever developed an erection during a massage.²⁴ It is difficult to give weight to a complete denial when weighed against the credible testimony of the investigators who interviewed the therapists and other third parties.²⁵ Moreover, the totality of the evidence (including the undisputed facts relating to Mr. Watson's use of towels, his focus points, and the not uncommon experience of massage therapists to have contact with the erect penis of their male clients) lends support to my conclusion that it is more probable than not that Mr. Watson did have erections and that his erect penis contacted the therapists as claimed by them.²⁶

²¹ Report Ex. K at 41:11-15, 58:3-59:3; Ex. N at 49:19-21, 85:8-13; Ex. R at 86:22-89:5; Ex. FF at 43; Ex. MM; Ex. NN.

²²Tr. at 119:3-21, 120:6-121:16; 731:16-735:11; 741:6-24; 742:1-744:3.

²³ Watson Ex. 23; Watson Ex. 9 at 53:23-54:1; Watson Ex. 58 at 17:5-8. Tr. at 752:6-754:18.

²⁴ Report, Ex. I at 14:25-15:11.

²⁵ The therapists' accounts are substantially corroborated by such evidence as contemporaneous text messages and discussions with third parties after their interactions with Mr. Watson. Report at 92-103, 129-137, 165-180, 197-212.

²⁶ Added to the weight of such evidence is the fact that some massage therapists who publicly supported Mr. Watson stated that he had become erect during sessions with them. Report, Exs. MMM at 18:12-14; NNN at 18:8-11; RRR at 53:7-58:11.

With respect to whether the contact was intentional, the matter of intent generally must be inferred from circumstantial evidence in the absence of an admission. In this case, Mr. Watson reached out to women whose professional qualifications were unknown and unimportant to him. He insisted on using a towel, increasing the probability of exposure. He insisted on having the therapists focus on areas of his body that not uncommonly triggered erections. And he engaged in this pattern of conduct multiple times. I find this sufficient circumstantial evidence to support the NFL's contention not only that contact occurred, but that Mr. Watson was aware that contact probably would occur, and that Mr. Watson had a sexual purpose – not just a therapeutic purpose – in making these arrangements with these particular therapists.²⁷

Finally, I find that the NFL has produced sufficient circumstantial evidence to prove the last prong of the test, that Mr. Watson knew such sexualized contact was unwanted. Of course, there is no indication on the record that even experienced therapists “want” such contact, and Mr. Watson certainly did not seek out the most experienced therapists. Moreover, there is credible evidence that one of the therapists expressed her discomfort of the unwanted contact to Mr. Watson during the sessions, and another of the therapists ended the session early.²⁸ Given that none of these therapists accepted Mr. Watson's invitations to engage in further therapy sessions, I find the evidence sufficient to demonstrate that Mr. Watson knew, or should have known, that any contact between his penis and these therapists was unwanted.

²⁷ To put the point another way, the record demonstrates that Mr. Watson had a reckless disregard for the consequences of his conduct, which I find equivalent to intentional conduct.

²⁸ Report, Ex. R at 98; Ex. F at 337:14-338:10, 396:1-17; Ex. T; Ex. K at 72-77.

I, therefore, find that the NFL has carried its burden to prove, by a preponderance of the evidence, that Mr. Watson engaged in sexual assault (as defined by the NFL) against the four therapists identified in the Report.²⁹ Mr. Watson violated the Policy in this regard.

(2) Conduct that Poses a Genuine Danger to the Safety and Well-Being of Another Person

Once again, there is no definition provided in the Policy or CBA for the prohibited conduct of posing a “genuine danger to the safety and well-being of another person.” Neither has the NFL provided a definition in connection with this matter. The evidence upon which the NFL relies for proof of this offense, however, is based squarely on the emotional responses of the four therapists to Mr. Watson’s conduct. For instance, the NFL asserts that the therapists were “fearful” of Mr. Watson’s ability to “use his status as an NFL player to damage their professional careers.”³⁰ Further evidence identified by the NFL in support of this offense includes testimony from the four therapists: (1) one of the therapists told the investigators that she sought counseling after her session with Mr. Watson and is struggling to work;³¹ (2) another of the therapists reported that she was frustrated, upset, and embarrassed after the session;³² (3) a third therapist testified that she changed her business practices and suffered from depression and sleeplessness as a result of incident;³³ and (4) the fourth therapist remained uncertain whether she would continue to pursue a career in massage therapy.³⁴

When comparing the above evidence against the other examples of violent conduct prohibited by the Policy, it is apparent that the NFL has taken the occasion to broadly define the

²⁹ I acknowledge in this regard that Mr. Watson’s counsel identified internal inconsistencies in the therapists’ accounts, and pointed out that two of the therapists testified before grand juries that declined to return indictments against Mr. Watson. Nevertheless, I find the weight of the evidence tips the scales of justice in favor of the NFL.

³⁰ Report, Ex. R at 135; Ex. K at 83-90.

³¹ Report, Ex. R at 162, 164-166.

³² Report, EX. HHHH at 7:13-10:1.

³³ Report, Ex. EEE at 100:8-10, 130:3-133:2, 137:13-139:3.

³⁴ Report, Ex. N at 113:21-114:9.

concepts of “genuine danger,” “safety,” and “well-being” in its charge against Mr. Watson. As I stated earlier, it is the NFL’s policy and it can set the rules. I accept the fact that a work environment with sexualized conduct is not a safe environment, and I accept as credible the testimony of these therapists that they felt unsafe and suffered emotional distress as a result of their massage sessions with Mr. Watson.³⁵ Based on the NFL’s broad interpretation of this prohibited conduct as reflected in the evidence it chose to present, I find that the NFL has carried its burden to prove, by a preponderance of the evidence, that Mr. Watson’s conduct posed a genuine danger to the safety and well-being of another person.

(3) Conduct that Undermines, or Puts at Risk, the Integrity of the NFL

The NFL asserts that Mr. Watson’s conduct has “undermined the public’s confidence in the integrity and reputation of the NFL and its players.”³⁶ According to the NFL, “[t]he matters that can affect such integrity and public confidence [in the game of professional football] evolve and change over time depending on developments within and external to the League, and the parties to the CBAs have agreed not to operate with a static or frozen definition of conduct detrimental.”³⁷ The NFL has invoked this “detriment to the League” language for such conduct as Tom Brady’s deflation of the game balls used in the AFC Championship Game in January 2015 and the 2012 New Orleans Saints’ “Pay-for Performance” scheme.³⁸ Although the above examples were focused on the game of football itself, it clearly is within the purview of the NFL

³⁵ Tr. at 662:12-664:13, 702:6-703:14.

³⁶ NFL brief at 18.

³⁷ *Brady*, NFLPA Ex. 8 at 17 n.18.

³⁸ In *Brady*, the Commissioner wrote: “Tampering with the game balls after they have been approved by the game officials . . . is plainly within the scope of matters that may reasonably be judged by the Commissioner to affect the integrity of, and public confidence in, the game of professional football.” *Final Decision of Article 46 Appeal of Tom Brady*, NFLPA Ex. 8 at 17. See also *In the Matter of New Orleans Saints Pay-for-Performance (“Bounty”)* (Dec. 11, 2012), NFLPA Ex. 7 at 4.

to expand the scope of its supervision to a player's private life if he invokes his status as a player while engaging in prohibited conduct.

In this regard, the NFL has demonstrated that Mr. Watson identified himself as a player for the NFL to initiate contact with the therapists, and used his ties to the Texans to reinforce his requests for massages focused on his lower back, glutes, abs, and groin area. Having established himself in this context, the NFL has further demonstrated that Mr. Watson engaged in sexualized conduct during the massage sessions. I find this evidence sufficient to demonstrate that Mr. Watson's conduct undermined the integrity of the NFL in the eyes of the therapists.

Mr. Watson's conduct also has been scrutinized on a national level, as Mr. Watson's alleged conduct has been a matter of public record and discourse over an extended period of time. Regardless of my findings, it is apparent that Mr. Watson acted with a reckless disregard for the consequences of his actions by exposing himself (and the NFL) to such public scrutiny and speculation. Mr. Watson's predatory conduct cast "a negative light on the League and its players,"³⁹ sufficient proof that he violated this provision of the Policy.

DISCIPLINARY DETERMINATION

Having found that the NFL carried its burden to prove, by a preponderance of the evidence, that Mr. Watson violated the Policy in various ways, it is my responsibility to review any recommended discipline "for consistency of treatment, uniformity of standards for parties similarly situated, and patent unfairness or selectivity."⁴⁰ This task includes examining the existing disciplinary standards and prior disciplinary outcomes, as well as considering any mitigating or aggravating factors, all with the goal of reaching a fair and consistent disciplinary

³⁹ NFL brief at 19; NFLPA Ex. 21 at 1-2.

⁴⁰ *Bounty*, NFLPA Ex. 7 at 4.

determination. As the Disciplinary Officer, I have been given broad authority to determine the appropriate level of discipline,⁴¹ subject to appeal by any party to the Commissioner.

The NFL has recommended that Mr. Watson be suspended for at least the entire 2022 NFL regular and post-season and not be permitted to return unless he satisfies any conditions imposed for reinstatement. According to the NFL, if this recommended sentence is unprecedented (as characterized by Mr. Watson and the NFLPA), that is because his conduct is unprecedented. The NFL's reasoning is reflected in the following testimony of one of its investigators: "[E]ven with just the four [women], I think we haven't had someone who over the course of a year-plus time . . . [committed] sexual assault against four different people, and he uses, again, invokes the league in some ways of doing so. That in and of itself is unprecedented. . . ."⁴²

The NFLPA responds, first, by relating the history of the Policy and discipline imposed under the Policy. Prior to the NFL's disciplinary action against Ray Rice in 2014, there were no standards differentiating violent conduct from other prohibited conduct, and a 2-game suspension was the prevailing ceiling established by precedent.⁴³ When Commissioner Goodell followed such precedent despite the violence of Rice's conduct, a public outcry ensued. The NFL responded by revising its Policy to include a presumptive 6-game suspension without pay for certain first-time violent offenders, including for Policy violations involving: (1) criminal assault or battery (felony); (2) domestic violence, dating violence, child abuse and other forms of family violence; or (3) sexual assault involving physical force or committed against someone

⁴¹ CBA Art. 46, § 1(e)(i); Policy at 4-5.

⁴² Tr. at 493:11-19, 662:3-667:11.

⁴³ NFLPA brief at 4.

incapable of giving consent.⁴⁴ By revising its Policy, the NFL gave fair notice to its players and to the public of the probable consequences of certain violent conduct.

A demonstrative exhibit used during the hearing indicates that since the revisions to the Policy (from 2015 to date), by far the most commonly-imposed discipline for domestic or gendered violence and sexual acts is a 6-game suspension. Only two players have been suspended for 8 games, one for multiple incidents of domestic violence and the second for the assault of multiple victims. A single player has been suspended for 10 games, for multiple incidents of domestic violence for which the player pled guilty to battery.⁴⁵

It is undisputed that Mr. Watson's conduct does not fall into the category of violent conduct that would require the minimum 6-game suspension. It likewise is undisputed that prior cases involving non-violent sexual assault have resulted in discipline far less severe than what the NFL proposes here, with the most severe penalty being a 3-game suspension for a player who had been previously warned about his conduct.⁴⁶

I am bound "by standards of fairness and consistency of treatment among players similarly situated."⁴⁷ The NFL argues that consistency is not possible, because there are no similarly-situated players. By ignoring past decisions because none involve "similar" conduct, however, the NFL is not just equating violent conduct with non-violent conduct, but has elevated the importance of the latter without any substantial evidence to support its position.⁴⁸ While it may be entirely appropriate to more severely discipline players for non-violent sexual conduct, I

⁴⁴ Policy at 5.

⁴⁵ NFLPA brief at 7-8.

⁴⁶ NFLPA brief at 9-10.

⁴⁷ *Brady*, NFLPA, Ex. 8 at 5.

⁴⁸ There is testimony from one of the investigators that the recommended discipline is warranted because non-violent sexual assault may cause harmful "after-effects" such as victims "no longer trust[ing] their instincts," suffering from persistent "humiliat[ion]," and "feel[ing] unsafe to do their jobs." It was conceded, however, that the same after-effects would result from acts of domestic violence. Tr. at 662:12-664:5; 670:11-672:7.

do not believe it is appropriate to do so without notice of the extraordinary change this position portends for the NFL and its players.

Similarly, the concepts of “unfairness” and “selectivity” demand notice in this case. Although I have found Mr. Watson to have violated the Policy, I have done so using the NFL’s post-hoc definitions of the prohibited conduct at issue. Defining prohibited conduct plays a critical role in the rule of law, enabling people to predict the consequences of their behavior. It is inherently unfair to identify conduct as prohibited only after the conduct has been committed, just as it is inherently unjust to change the penalties for such conduct after the fact.⁴⁹ As I’ve noted above, the NFL is a private organization and can operate as it deems fit, but the post-hoc determination of what constitutes the prohibited conduct here cannot genuinely satisfy the “fairness” prong of the standard of review or justify the imposition of the unprecedented sanction requested by the NFL.

With respect to what the appropriate discipline should be, I note that there are aggravating factors applicable to Mr. Watson, that is, his lack of expressed remorse and his tardy notice to the NFL of the first-filed lawsuit. As to mitigating factors, he is a first-offender and had an excellent reputation in his community prior to these events. He cooperated in the investigation and has paid restitution. Although Mr. Watson did not play during the 2021 season, the Commissioner declined to put him on administrative leave under which any games missed would be credited against any suspension later imposed.⁵⁰

⁴⁹ In connection with the Rice case, Judge Jones found on appeal that, “[r]ecognizing that even under the broad deference afforded to [the Commissioner] through Article 46, he could not retroactively apply the new presumptive penalty to Rice.” *In the Matter of Ray Rice* (Nov. 28, 2014), NFLPA Ex. 9 at 16.

⁵⁰ Policy at IV.

CONCLUSION

The NFL may be a “forward-facing” organization, but it is not necessarily a forward-looking one. Just as the NFL responded to violent conduct after a public outcry, so it seems the NFL is responding to yet another public outcry about Mr. Watson’s conduct. At least in the former situation, the Policy was changed and applied proactively. Here, the NFL is attempting to impose a more dramatic shift in its culture without the benefit of fair notice to - and consistency of consequence for - those in the NFL subject to the Policy.⁵¹

Looking at the record when compared to the relevant precedent, and looking forward to how this disciplinary determination might be used in the future, I find the most appropriate landing place to be as follows:

- Mr. Watson is hereby suspended for six (6) regular-season games without pay. Although this is the most significant punishment ever imposed on an NFL player for allegations of non-violent sexual conduct,⁵² Mr. Watson’s pattern of conduct is more egregious than any before reviewed by the NFL.
- Recognizing that the only discipline mentioned in the CBA is a fine or suspension,⁵³ I nevertheless believe it appropriate for Mr. Watson to limit his massage therapy to Club-directed sessions and Club-approved massage therapists for the duration of his career, and so impose this mandate as a condition to his reinstatement.
- Mr. Watson is to have no adverse involvement with law enforcement, and must not commit any additional violations of the Policy.

⁵¹ I note in this regard that the Policy is equally applicable to players and team owners and management. The NFLPA questions whether it is “fair and consistent” to severely punish Mr. Watson for his non-violent sexual conduct and not even charge various team owners who have been accused of similar or worse conduct. NFLPA brief at 12-14.

⁵² NFLPA brief at 15.

⁵³ CBA Art. 46, § 1(e)(i).

The parties have three (3) business days to appeal this disciplinary determination.

Dated: August 1, 2022

Respectfully submitted,

/s/ Sue L. Robinson

Hon. Sue L. Robinson (ret.)