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Packers Player Drops NFL Drug Suspension Dispute

By **Zachary Zagger**

Law360, New York (December 19, 2016, 7:31 PM EST) -- Green Bay Packers nose tackle Mike Pennel agreed to drop his lawsuit against the NFL and NFL Players Association over the handling of his substance abuse policy suspension appeal, according to an order Friday issued days after the football league revealed Pennel accepted a four-game suspension.

Pennel "voluntarily dismis[sed]" his claims in Ohio federal court against the league and the players union with prejudice, according to a stipulated dismissal signed off by U.S. District Judge John R. Adams.

Pennel, who missed the first four games of this season for a prior substance-abuse policy violation, **had alleged** the NFL and NFLPA were not following the proper procedure under the substance-abuse policy for hearing his appeal to potential discipline for an alleged subsequent violation. Under the policy, Pennel could have faced a possible 10-game suspension.

But last week, the NFL issued a statement through the Packers saying that Pennel **accepted a four-game suspension**. The punishment means he will miss the remainder of the NFL regular season but could return for the playoffs if the Packers qualify.

Pennel had brought the suit last month, saying the NFL and NFLPA failed to maintain at least three arbitrators in a pool from which an arbitrator is drawn to hear a disciplinary appeal as required by the NFL Policy and Program on Substance Abuse. He asked the court for a restraining order to postpone his appeal, which was scheduled for earlier this month. He further asked the court to appoint a neutral arbitrator specifically to hear his case under the Federal Arbitration Act.

But the NFL and players union **later agreed** to appoint a third arbitrator to the pool and postpone Pennel's appeal, telling the court that should resolve the dispute, though Pennel continued to push his lawsuit.

Representatives for Pennel and the players union did not respond to requests for comment Monday. The NFL declined to comment.

Pennel, a 25-year-old nose tackle, had been notified on Nov. 8 that he faced discipline for another violation of the substance-abuse policy, according to his complaint. He timely filed an appeal, but the NFL informed him in an email on Nov. 23 that there were only two arbitrators available for assignment, the complaint alleged.

The Packers held on to beat the Chicago Bears 30-27 on Sunday in Chicago to keep their playoff hopes alive. Pennel will be eligible to return to the Packers' active roster on Jan. 2, following the team's final regular season game against the Detroit Lions on New Year's Day.

Pennel is represented by Stephen S. Zashin, Patrick J. Hoban and David R. Vance of Zashin & Rich Co. LPA.

The NFL is represented by Philip M. Oliss of Squire Patton Boggs LLP and Daniel L. Nash and Stacey R. Eisenstein of Akin Gump Strauss Hauer & Feld LLP. The NFLPA is represented by David L.

Greenspan, Jeffrey L. Kessler and Jonathan Amoona of Winston & Strawn LLP and Thomas D. Warren of BakerHostetler.

The case is Pennel v. National Football League Players Association et al., case numbers 1:16-cv-02889 and 5:16-cv-02889, in the U.S. District Court for the Northern District of Ohio.

--Editing by Edrienne Su.

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