**Kent Football association**

**Versus**

**Aaron Burrett**

**Case No: 59724364**

**Disciplinary Commission – Written Reasons**

**29th November 2018**

**Fixture:** The Stag FC v Medway Stars FC (Rochester & District League -Ted Snelling Cup) played on Saturday 20th October 2018

1. **INTRODUCTION:**

These are the written reasons for the findings of a Kent Football Association (KFA) disciplinary commission held to consider an appeal by personal hearing by Aaron Burrett, a player registered with The Stag FC. Aaron Burrett had been charged by the KFA in response to a written report made by referee Leonard Smith alleging that Aaron Burrett had assaulted him during the above-mentioned fixture. Written reports had been received from Leonard Smith, and both his neutral assistant referees, Mr Andrew Butler and Mr Michael Davison. Prior to the commencement of the hearing, the commission secretary furnished panel members with a written statement that had been received, by e-mail, from Jerry Agbe. Mr Agbe is the secretary and coach of Medway Stars FC. Mr Agbe did not attend the commission.

1. **PARTIES:**

The disciplinary panel members appointed to hear this appeal were:

Bill Stoneham (KFA member) Chairman;

Alex Heselgrave (KFA member);

Mark Tucker JP (Independent panel member).

Richard Judd (KFA Football Services Manager) acted as secretary to the commission.

**KFA Witness:**

Leonard Smith – referee;

Andrew Butler – (neutral) assistant referee;

Michael Davison – (neutral) assistant referee.

**Witnesses for the Appellant:**

Graham Smith – Hon secretary The Stag FC;

Tony Bell;

Karen Hughes;

All witnesses for Aaron Burrett had attended the game. Tony Bell and Karen Hughes both confirmed that they held no positions with The Stag FC; they had attended the game purely as supporters of The Stag FC.

1. **Misconduct Charge:**

A charge was laid against Aaron Burrett by the KFA on 1st November 2018 for a breach of FA Rule E3 -Assault on a Match Official.

The details of the charge were as follows:

***Charge 1: FA Rule E3 - Assault on a Match Official***

***Details: Aaron Burrett is charged under FA Rule E3 – Assault on a Match Official***

***FA Handbook page 179 – Offences against match officials states:***

***Assault: acting in a manner which results in an injury to the match official. This includes spitting at the match official (whether it connects or not).***

***Aaron Burrett has an alternative charge which will only be considered if the above charge is not proven. The charge is:***

***FA Rule E3 – Improper Conduct against a match official (including physical contact and threatening and/or abusive language/behaviour).***

***FA Handbook page 179 – offences against match officials states:***

***‘Physical contact or attempted physical contact: examples include but are not limited to: pushing the match official, pulling the match official (or their clothing or equipment), barging or kicking the ball at a match official (causing no injury) and/or attempting to make physical contact with the match official (for example, attempting to strike, kick, butt, barge or kick the ball at the match official).’***

1. **Supporting Evidence:**

Leonard Smith submitted a written report to the KFA on 23rd October 2018. The KFA sought further details following receipt of this report. Additional written comments were received on 25th October 2018. Michael Davison submitted a brief written report dated 20 October 2018, though there was no indication when this report was received. Andrew Butler submitted two written reports. The first was undated; the second was dated 2nd November 2018.

In addition, immediately prior to the commencement of the hearing, the commission secretary distributed to all three panel members, an e-mail that had been submitted by Jerry Agbe, an official of Medway Stars FC, who had been the opponents in the game in question. From his statement, it was unclear whether Jerry Agbe had been present at the match in question.

1. **Response from the Appellant:**

A written response had been received from Adam Burrett dated 6th November 2018 denying the charges levied and requesting a personal hearing. Apart from denying the charges, no supporting evidence was offered.

1. **Summary of Written Evidence:**

In his report, Leonard Smith clearly stated that he received an elbow to the face. This allegation was repeated in follow up correspondence between the KFA and Leonard Smith. Panel members were unconvinced by reports from the two assistant referees. Michael Davison’s report made no mention of an elbow being used; indeed, he referred to the use of a forearm and used the word ‘pushed’. Andrew Butler contradicted himself. In his initial report he stated that he ‘clearly saw player named strike the referee…’ In his second report he stated that he was too far away. He saw the referee fall but could add little else of value. In considering the referee’s report and all three reports submitted by the assistant referees, panel members concluded that the evidence base was not strong.

The e-mail received from Jerry Agbe was discussed. Though it was noted that any elbowing offence was denied, panel members decided to place little value on what had been submitted. This was because Jerry Agbe could not be questioned, and his statement amounted to little more than hearsay evidence.

1. **Verbal Evidence:**

* Though Leonard Smith offered his evidence clearly and was adamant about what had happened, he was not able to offer any supporting medical evidence, though he claimed that some existed, or photographs of his injuries.
* Panel members were not convinced by the verbal responses offered by either assistant referee. Their responses were vague and were lacking in specific and compelling detail.
* All three officials were independently asked to complete a field of play map. Though there was some consistency offered by Leonard Smith and Andrew Butler, Michael Davison’s evidence lacked clarity and raised doubts in the minds of panel members about what he had actually seen and what he had stated in his very brief report.
* Aaron Burrett and each of his three witnesses were also asked independently to provide a field of play map. There were some minor inconsistencies but, in broad terms, the map evidence offered by Aaron Burrett and his witnesses reflected what had been provided by both Leonard Smith and Andrew Butler
* Aaron Burrett was adamant that he did not touch Leonard Smith, let alone strike him. He acknowledged, however, that Leonard Smith did fall to the ground. He claimed that Leonard Smith, while cautioning a team colleague, lost his balance.
* Graham Smith, Tony Bell and Karen Hughes all admitted seeing Leonard Smith fall to the ground. Graham Smith agreed that he did not see everything that happened and said that he was some distance away and did not have a clear view. From his diagram he estimated that he was some 20-25 metres away, but given the pitch dimensions, this estimate is inaccurate. The distance was more like 50-55 metres.
* Tony Bell and Karen Hughes were able to offer more cogent accounts of what had happened. Both admitted that Aaron Burrett was at least flustered and that he did approach the referee in a strident manner. Karen Hughes referred to an ‘altercation’ between Aaron Burrett and Leonard Smith, though under questioning she tried to downplay the implications of this word.
* All three of Aaron Burrett’s witnesses agreed that Leonard Smith fell to the ground and that his fall was ‘quite heavy’. They were equally agreed, however, that Leonard Smith was not pushed or struck by Aaron Burrett; they agreed with the appellant’s view that Leonard Smith had lost his balance.
* Both Tony Bell and Karen Hughes in their evidence mentioned that when he approached Leonard Smith, Aaron Burnett was waving his hands and arms in an expressive way. They also demonstrated this.

1. **Findings:**

* After weighing up all the evidence (both written and verbal) presented, members of the commission were concerned about disparities and contradictions that existed, especially in the evidence offered by the match officials.
* Moreover, both Tony Bell and Karen Hughes were consistent in their evidence that no force had been used, though they both agreed that Aaron Burrett approached Leonard Smith in a manner that might be deemed confrontational.
* The panel members, after a considerable discussion, were unanimously agreed that on the balance of probability, Aaron Burrett did not assault the match official and concluded that the charge of FA Rule E3- Assault on a Match official was **not proven.**
* Panel members then discussed in detail the second charge: ***FA Rule E3 – Improper Conduct against a match official (including physical contact and threatening and/or abusive language/behaviour).***
* Based on the clarity of evidence offered by Tony Bell and Karen Hughes, in particular, and also on verbal responses offered by Aaron Burrett in his evidence, panel members deduced that on the balance of probability that Aaron Burrett had approached Leonard Smith in an aggressive manner. At the time of this approach, Leonard Smith was cautioning another Stag FC player. He was unnerved by the manner of Aaron Burrett’s approach and attempted to take evasive action. By doing so, he lost his balance and fell (heavily) to the ground sustaining some injuries, though not sufficient to abandon the game.
* Panel members were unanimous in their view that the alternative charge levied against Aaron Burrett was **proven**. Though panel members were agreed that no physical contact had taken place, Aaron Burrett’s actions were deemed to be an attempt to make physical contact and threatening.

**9.** Aaron Burrett was advised of the commission’s decision. His disciplinary record was then presented by the secretary. His record over the previous five seasons was deemed to be excellent. In mitigation Aaron Burrett referred to his love of football and to his playing record in senior semi-professional football. He was then asked to leave the room.

Panel members were fully aware that the recommended punishment for a proven case for FA Rule E3 – Improper Conduct against a Match Official is 182 days plus up to £150 fine. After consideration, panel members were agreed that Aaron Burrett’s disciplinary record should be taken into consideration. His conduct during the hearing, which had ben polite and objective, was also acknowledged. In addition, the commission had been offered no tangible information about the extent or severity of the injuries claimed by Leonard Smith. In light of these considerations, the commission decided to apply the minimum recommended punishment; Aaron Burrett was suspended for 84 days and a fine of £100 was imposed.

Monday 3rd December 2018.

Bill Stoneham – Commission Chairman

On behalf of the Kent Football Association.