

Personal Hearing

In the matter of a Misconduct Charge against Jeff King, formerly of Ashton United FC (currently Witton Albion FC)

Reasons for Judicial Commission Decision 19 April 2016

1. Members of the Commission
Roger Burden (Chairman), Marvin Robinson and Jez Moxey
2. Secretary to the Commission.
Paddy McCormack, FA Judicial Services Manager
3. Also present
Craig Harris, Advocate for the FA
Jeff King, Participant Charged
Mark Harris (Chairman of Witton Albion FC) for Mr King
Alan Bennett, Match Referee
Aaron Forde, witness for the FA
Ryan Edmunds, witness for the FA
4. Mr King was charged with misconduct under FA Rule E3 in that it was alleged that he used abusive and/or insulting words towards a Sutton Coldfield Town FC player contrary to Rule E3(1). It was further alleged that the alleged breach was an “aggravated breach” as defined in FA Rule E3(2) as it included a reference to race and/or colour.
5. The charges in question arose from a Northern Premier League Premier Division match between Ashton United FC and Sutton Coldfield Town FC on 5th December 2015.
6. Mr King had denied the charge and had requested to attend a Commission for a Personal Hearing.

7. The Commission had the following evidence before it:
- An extraordinary incident report from Mr Alan Bennett, the Match Referee, in which he said that, late in the 10th minute of the match, the number 4 of Coldfield Town (Aaron Forde) had informed him that the number 7 of Ashton United (Jeff King) had called Aaron Forde a “Golly”. Mr Bennett then said that he had isolated Mr King who said that he had called Mr Forde a “Gobshite”. Mr Bennett reported that neither he nor his colleagues had heard any of the alleged comments.
 - A witness statement from Aaron Forde in which he said that there had been an exchange of words between himself and Mr King. Mr Forde said that he could not remember much of what was said but when Mr King was 15 yards away he turned to face Mr Forde and Mr King said “You Golly”. Mr Forde went on to say that when he challenged Mr Forde about the remark, Mr King said that he had used the word “wally”.
 - A witness statement from Ryan Edmunds in which he said that he was playing in the match for Sutton Coldfield and that he heard Mr King say to Mr Forde “Fuck off you golly”. Mr Edmunds said that he told the referee that Mr King had just called Mr Forde a “golly” at which point Mr King told the referee that he had called Mr King a “gobshite”.
 - A witness statement from Mr Bennett, in which he confirmed the accuracy of his extraordinary report. Mr Bennett also said that he had a conversation with Mr King after half-time in which Mr King said “Honestly Ref, I’ve not said anything like that. I’m not like that”.
 - The transcript of an interview dated 25 January 2016. The interviewer was David Matthews (FA Senior Investigations Manager) and the interviewee was Jeff King.
 - An undated letter from Andy Finnigan, Secretary of Ashton United FC containing statements on behalf of Mr King and Ashton United FC. (this letter was not referred to by either side and we disregarded it).
 - An undated letter from Andy Finnigan, Secretary of Ashton United containing observations from two Ashton United players.

8. The burden of proof in relation to the charge was on The FA. The standard was the normal civil standard of balance of probability. The balance of probability standard means that the Commission is satisfied an event occurred if the Commission considers that, on the evidence, the occurrence of the event was more likely than not
9. The following is a summary of the principal submissions provided to the Commission. It does not purport to contain reference to all the points made, however the absence of a point, or submission, in these reasons should not imply that the Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Commission has carefully considered all written and oral evidence in respect of this case.
10. The Referee confirmed to us the facts in his written report.
Responding to questions, he told us that no-one else was close to the incident and no-one else, apart from Mr Forde, mentioned to him that the word “golly” had been used. The Referee did not recall the day in question as having been windy.
11. Mr Forde told us that he would describe himself as “mixed Caribbean”. He said that he was running back towards the half-way line and exchanging words with Mr King, paying little attention to what Mr King was saying until he (Mr Forde) heard Mr King say the word “golly”. He thought there were about 10 yards between himself and Mr King.
Mr Forde said that the weather conditions were cold and windy.
He also said that, once he had reported the matter to the Referee and his Club officials, he was prepared to let the matter rest but would have appreciated an apology from Mr King. However, he was contacted by the FA and co-operated with the FA’s request for a formal statement.
12. Mr Edmunds told us that he was 5 to 10 yards away from Mr King when he saw and heard Mr King say the words “fuck off you golly” to Mr Forde.
Mr Edmunds said that he had approached the referee and told the Referee what had been said. He then approached the nearest Assistant Referee to ask if he had heard the words. Mr Edmunds also told us that it was a particularly windy day.
13. Mr M Harris told us that Mr King had moved from Ashton Utd to Witton Albion earlier this year. Mr M Harris said that both the FA’s witnesses had said that it was a very windy day

and that, although there were some discrepancies regarding positioning, everyone was agreed that there were about 10 yards between Mr King and Mr Forde.

He stressed that it would have been extremely difficult for Mr Forde to be certain as to what was said by Mr King, particularly as Mr King has a heavy Liverpool accent. Consequently, Mr M Harris suggested that “gobshite” could easily have been mistaken for “golly”.

14. Mr C Harris asked Mr King how he could have suggested, towards the end of his interview with the FA, that he did not know what the word “golly” meant, yet earlier in the interview Mr King had said that he would never use a word as bad as “golly”. Mr King responded by saying that he knew it was a bad word but didn’t know what it meant.
Mr King insisted that he had used the word “gobshite”.
15. In responding to our questions, Mr King told us that one of the players whose account was contained in Mr Finnigan’s letter could have confirmed that Mr King used the word “gobshite” but that player was a school teacher and Mr King had decided not to ask if he could attend the hearing.
16. During the submissions, there were suggestions that Mr King had immediately told Mr Forde that the word he had used was “wally”, not “golly”. Mr King denied that he had used the word “wally” and told us that he did not know what the word meant
17. In considering what we had heard, we all agreed that Mr Forde was a credible witness who had given an honest account of what he had heard.
18. Mr Bennett had given his answers clearly and confidently but they contrasted with some of the Referee’s evidence. In particular, Mr Bennett had said that he had told the Referee that Mr King had used the word “golly”, but the Referee had been clear that only Mr Forde had approached him. Consequently, we were unsure as to the validity of Mr Bennett’s evidence.
19. We were surprised that Mr King had not asked his “key” witness if he could attend the hearing. Without the opportunity for the FA or ourselves to ask questions of that witness, we decided that we could not give any weight to the player’s account within Mr Finnigan’s letter.
20. We decided to ignore the confusion caused by the suggestion that Mr King had initially used the word “wally” as an explanation of what he said. As far as we were concerned, Mr King’s explanation was that he had used the word “gobshite”.

21. During questioning, it was clear that Mr King had a strong Liverpool accent but there were no real similarities in the way he pronounced the words “golly” and “gobshite”.
22. We acknowledged the point that Mr M Harris had made that, during his interview, Mr King had initially said that he would not use such a bad word, yet later denied knowing what the word meant. We also noted that the Referee had told us that, as they were coming out onto the pitch after half-time, Mr King had said to the Referee “Honestly Ref, I’ve said nothing like that. I’m not like that”. We thought that Mr King’s subsequent claim that he did not know the meaning of the word was unconvincing.
23. All Commission members were conscious that they were not determining whether Mr King was a racist, and the parties were advised of this during the hearing.
24. The Commission reminded themselves of the relevant rules to be considered, in that FA Rule E3(1) states:
- “A participant shall at all times act in the best interest of the game and shall not act in any manner which is improper or brings the game into disrepute or use any one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour.”*
- FA Rule E3(2) provides:
- “A breach of Rule E3 (1) is an “Aggravated Breach” where it includes a reference to any one, or a combination of the following:- ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.”*
25. In assessing the evidence, the Commission were mindful of the issues to be determined in the case. Under the aggravated FA Rule E3(2) Charge, the issues were twofold (i) whether Mr King used abusive and/or insulting words, and (ii) whether Mr King did so with reference to race and/or colour.
26. The Commission agreed, having considered the word “golly” on its own objectively, that it was a term associated with historic derogatory connotations used towards black people.
27. The Commission found that the above sequence of comments in para 22 put Mr King’s credibility in doubt and, together with Mr Forde’s evidence, convinced two Commission members that it was more likely than not that Mr King had used the word “golly”.

28. The other Commission member was unsure. He felt that the distance between the players and the windy conditions made it a real possibility that Mr Forde had mis-heard what had been said.
29. With two members deciding, on the balance of probabilities, that Mr King had used the word “golly”, the decision was, by a majority, that the FA Rule E3(2) charge was found proven.
30. Mr McCormack told us that there was only one previous relevant offence on Mr King’s record. That was one FA Rule E3 of improper conduct (including violent conduct and threatening and/or abusive language/behavior) 3 years ago, for which the sanction was a 3 match suspension and a £20 at county level.
31. For the FA, Mr M Harris reminded us that the minimum sanction for the offence is a 5 match suspension and an education course.
32. For Mr King, Mr C Harris said that his Club was fully aware of the charge when they signed the player but he had investigated the player’s background and had found nothing to concern him. This faith had proved to be valid as Mr King had shown himself to be of good character during his time at the club.
33. Having considered Mr King’s previous record and the submissions, we ordered that Mr King shall be warned as to his future conduct, be suspended immediately from all domestic club football until such time as Witton Albion FC have completed five (5) first team competitive matches in approved competitions, attend a one-to-one FA equality education course which must be completed within four (4) months of verbal notification of this decision or Mr King shall stand suspended until completion, be fined the sum of £100 and forfeit his fee for the Hearing. We made no order as to costs.
34. This decision may be appealed in accordance with the relevant regulations with the prevailing FA Handbook.

Roger Burden
Commission Chairman
21 April 2016.