

Regulatory Commission

In the matter of Jon Whitney (Walsall FC)

1. These are the written reasons for a Regulatory Commission decision made on Tuesday 20th November 2012.
2. The Regulatory Commission members were Mr Gary Mabbutt, Mr Peter Clayton and Mr Roger Howlett who acted as Chairman of the Commission. Mr Robert Marsh of the Football Association's Disciplinary Department acted as Secretary to the Regulatory Commission.
3. Mr Whitney was charged with misconduct for a breach of FA Rule E3 for the alleged use of abusive and/or insulting words towards a Match Official in or around the technical area in the 73rd minute of the match played between Walsall FC and Swindon Town FC on Saturday 10th November 2012.
4. Mr Whitney denied the charge but did not request an opportunity to attend a Regulatory Commission for a personal hearing and asked for the matter to be dealt with by means of a paper hearing where all submitted written evidence would be considered.
5. The Regulatory Commission considered all the submitted evidence which included written submissions from; Mr Robert Lewis (Referee), Mr John Farries (Fourth Official), Mr Daniel Meeson (Assistant Referee), Mr Daniel Mole (Walsall Club Secretary), Mr Jon Whitney (Walsall FC Physiotherapist) and Mr Dean Smith (Walsall FC Manager).
6. It is the view of members of the Regulatory Commission that the evidence submitted by Mr Lewis, the match referee, and Mr Mole, Walsall FC Club Secretary, does not assist us a great deal since they did not see and or hear the incident as it occurred. Mr Farries (Fourth Official) was the target of the alleged abusive and insulting language whilst Mr Meeson, Assistant Referee, witnessed the incident. Both of their statements were clear, consistent and corroborative.
7. Mr Smith's evidence is equally clear however he did not hear specific language used. Mr Smith describes that he observed Mr Whitney in a heated discussion with the Fourth Official.
8. Mr Whitney, whilst denying the charge, apologises for his reaction in the incident but clearly denies the use of the alleged words.
9. The Regulatory Commission noted the corroborated evidence from the two match officials. The reports contained varying degrees of detail but were consistent. We gave substantial weight to these reports from the Match Officials.
10. Mr Smith had seen Mr Whitney in a heated discussion although he was unable to assist us any further on the words used other than that he did not hear Mr Whitney use the phrases "busy fucker" or "show some fucking respect". The Commission noted that just because Mr Smith did not hear the alleged words that does not mean that they were not said by Mr Whitney. We

found that we were ultimately unable to attach any substantial weight to the brief letter from Mr Smith.

11. Having considered all of the evidence presented, the members of the Regulatory Commission were of the view, on the balance of probability, that the charge against Mr Whitney was proved. The Regulatory Commission were of the opinion that Mr Whitney had used abusive and insulting words towards a Match Official.
12. The Football Association had designated this charge as a Standard Case. Mr Whitney had denied the charge which was subsequently found proven. Therefore, Standard Penalty 2 must apply of a two match touchline ban and a fine of £1500. Having considered Mr Whitney's application that the financial penalty would cause a tremendous burden due to the level of his weekly income, the Commission members reduced the fine to £1300. To have left the £1500 fine unchanged would have been disproportionately harsh, taking into consideration the current test, on Mr Whitney.
13. Mr Whitney has the right of an appeal as outlined in Schedule D – Standard Directions for Appeals against decisions of Regulatory Commissions.

Roger Howlett
Chairman to the Regulatory Commission

22nd November 2012