

# The Football Association v David Mannix

## Reasons for Decision

1. These are the reasons for the decision of this Regulatory Commission<sup>1</sup> on charges brought by The Football Association (“the FA”) against Mr David Mannix (“the Player”) for breaches of FA Rule E8(a).<sup>2</sup> We are unanimous on all matters.
2. The Regulatory Commission held a preliminary hearing and gave various directions on 19 June 2009 and the full hearing was on Monday 13 July 2009. Mr Dario Giovannelli presented the case for the FA and Mr Jonathan Crystal appeared for the Player.
3. The charges are contained in a letter from the FA to the Player dated 6 April 2009 (“the Charge Letter”). The FA alleged in the Charge Letter that, being a player then registered with Accrington Stanley FC, the Player had placed the following betting stakes on a League 2 match *Accrington Stanley FC v Bury FC* played on 3 May 2008 (“the Match”): (i) on 2 May 2008, a stake of £1000 on Bury FC to win the Match, at Ladbrokes (Derby Lane, Liverpool); and/or (ii) on 2 May 2008, further stakes totalling £3000 on Bury FC to win the Match, in various betting shops in the Liverpool area.
4. The Player admitted placing in person the bets as alleged in the Charge Letter. It should be noted that the bets were placed on Bury FC to beat the Players’ own club Accrington Stanley FC. Bury FC did win 2-0.
5. The Player nevertheless denies the charges on grounds set out in a written answer dated 22 June 2009, summarised as follows: (1) He did not play in the Match and was not involved in the preparations; (2) He had been informed by the Accrington Stanley FC manager well before 3 May 2008 that he was being released and as the

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<sup>1</sup> Nicholas Stewart QC (Chairman), Mr Barry Bright, Mr Roy Carter and Mr Paul Elliott

<sup>2</sup> Reasons given under regulation 9 of the *Regulations for Football Association Disciplinary Action*: The FA Handbook Season 2008-2009, pages 298-307

Match was the last of the season his involvement had thus come to an end; (3) Rule E8 prohibits betting on “a Match or Competition in which the Participant is participating or in which the Participant has any influence, direct or indirect”. (4) He did not participate in the Match or the preparations for it. He could therefore not influence the Match directly or indirectly. (5) He had ceased by 3 May 2008 to be a participant in the Competition as his services were no longer required by Accrington Stanley FC; (6) He is charged with 2 breaches of FA rule E8(a). His explanation is provided in his helpful interview (his and his representatives’ description) with the FA on 24 September 2008.

6. The reference to his interview is to an interview by Jennifer Fitzgerald on 24 March 2009. A transcript of that interview is in evidence before us. The Player also relies on the witness statement of John Coleman dated 15 October 2008, which is actually part of the FA’s evidence against him. Mr Coleman was the manager of Accrington Stanley FC at the time of the offences charged.
7. FA Rule E8(a) states: “A Participant shall not, either directly or indirectly, bet or instruct, permit or enable any person for the Participant’s benefit to bet, on the result, progress or conduct of a Match or Competition in which the Participant is participating or in which the Participant has any influence, either direct or indirect.”<sup>3</sup>
8. The Charge Letter alleges that by placing those bets the Player did bet on the result and/or progress and/or conduct of a Match in which he had an influence and/or a Competition in which he was participating.
9. The Player did not play in the Match and was not on the substitutes’ bench either. It should be noted that the Charge Letter did not allege that he participated in *the Match* for the purposes of rule E8(a) but did allege that he participated in *the Competition*. It is not in dispute that the Competition for these purposes means League 2. Mr Giovannelli suggested that a player could be participating in a match for the purposes of rule E8(a) even if he did not play and was not a substitute, but that argument does

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<sup>3</sup> FA Handbook Season 2008-2009, page 111. The rule was in force in exactly the same terms in May 2008.

not arise in this case as that was not the way the charges had been framed and we therefore express no opinion on that question.

10. The Charge Letter did allege that the Match was one in which the Player had an influence. However, the Regulatory Commission considers that to establish “influence” on a match for the purposes of rule E8 (a) the evidence must show at least some actual influence. Such influence might well be inferred from a person’s position - the most obvious example being a team manager or coach. However, although the Player in this case remained in close contact with Accrington Stanley FC and its players at the club right up to the Match itself (and also with a Bury player Mr Andrew Mangan) we cannot safely infer from that contact that he had any influence on the Match and there is no direct evidence that he had any such influence.
11. The admitted bets (i) and (ii) were bets on the progress or conduct of the League 2 Competition. That is clear and was not contested by Mr Crystal on the Player’s behalf.
12. It is also clear that the Player was a Participant for the purposes of rule E8(a), as that word is used four times in rule E8(a) with a capital P (see above). He was still under contract with Accrington Stanley FC on 2 and 3 May 2008 and Mr Crystal correctly did not argue against the Player having been a Participant at all material times for the purposes of these charges.
13. The key question is whether he was then participating in the League 2 Competition. On the wording of rule E8(a) it will be appreciated that this is a distinct question from the question whether someone is a “Participant”.
14. The question of participation with a small p is a matter of fact to be determined on the evidence, with common sense in the light of the wording and purpose of the rule. That must be done with care always to follow an elementary rule of interpretation: In case of any real ambiguity penal provisions should be interpreted and applied in the way which is the most favourable to the person charged. Rule E8(a) is a penal provision leading to potential punishments in case of breach.

15. The key defence for the Player in this case was that by the time he placed the bets on 2 May 2008 the Player had been released by Bury FC. Mr Coleman said in his written statement (page 11) that although he was not 100% sure, he thought that in telling a number of players that they were being released he had spoken to this Player before anybody else. The Regulatory Commission does accept that well before 2 May 2008 Mr Coleman had told the Player he was being released. That release had not actually happened by the time of the Match as the Players' contract was still running to 30 June 2008 and had not been terminated. The Player therefore remained a Contract Player with Accrington Stanley FC and registered with the FA as an Accrington Stanley FC player. He also remained eligible at all times for selection for the Match though we accept that by the time he placed the bets he knew that he was not going to be selected either for the starting line-up or the substitutes' bench.
16. The simple fact that the Player remained under contract with Accrington Stanley FC until some time after the Match leads us to conclude that on 2 and 3 May 2008 the Player was still participating in the League 2 Competition for the purposes of rule E8(a) and these charges. Even on the most favourable interpretation of rule E8(a) it is unrealistic to regard a player still registered and still under contract with a club competing in League 2 as no longer participating in that competition just because he did not play and in practice was not ever going to be picked to play (either in the starting line-up or on the substitutes' bench) in the last game of the season. In such circumstances it makes no difference whether the reason a player is not going to be picked is injury, suspension, loss of form, managerial disfavour or any other reason. In this case the Player was not picked and by 2 May 2008 knew he was not going to be picked (though he did remain technically eligible to play). Nevertheless, he was still an Accrington Stanley FC player. To interpret rule E8(a) as meaning that when it comes to the last game of the season only those players who were fit, not suspended and remained with a practical chance of selection were caught by the rule would be an unreasonably narrow interpretation and out of keeping with the clear spirit and purpose of the rule.
17. We informed the Player at the hearing on 13 July 2008 that we had found the charges proven in relation to the admitted bets (i) and (ii) in the Charge Letter. Mr Crystal then made oral submissions in mitigation.

18. Mr Crystal relied upon the Player's candour in the interview with Jennifer Fitzgerald. During the interview he did freely accept that he had made the bets and at page 6 of the transcript he accepted that altogether he put £4000 on the Match. He also said (see page 16) that if he had been playing in the Match he thought he would have been doing something wrong by betting on the Match. But he said he knew 100% that he was not playing or involved in the Match so would not have thought he was doing anything wrong. Throughout the interview he also claimed to have had no idea that it was against FA rules to bet on matches in League 2 whether or not involving his own club (though of course this Match did involve his club). Given his persistent denial of the charges on a whole range of other grounds, we do not view his ready admission of the bets (which he must have known were likely to be easily proven anyway, or at least part of them) to be a sufficient factor to merit adjusting the penalty in his favour.
19. Every Participant is bound by FA Rule E8 and liable for any breach by him whether or not he actually knew of the rule and what it said at the time he broke the rule. That is elementary.
20. We do recognise that rule E8(a) itself is not easy reading and we have to be realistic in also recognising that the FA's published *Guidance to Players in The Premier League, The Football League and The Football Conference (National Division) on Disciplinary Matters Season 2007/08* (issued July 2007) may not reliably find its way to every player and may well then not be read with any great care. However, professional footballers know that there are FA rules and if they take no trouble at all to find out what is in them, they cannot reasonably complain if they are charged and punished when they act in breach of the rules. That certainly applies to the rules against betting. In the light of his interview and having read and heard Mr Mannix's own description of his betting activities, including his going to the Ladbrokes betting shop on 2 May 2008 with two other players James Harris and Andrew Mangan, who he knew were also betting (even if he did not know the details), we conclude that he must have known at least that there were FA rules restricting betting by players at least on matches involving their own club. A professional footballer does not need education regarding the rules to know that he must not bet against his own team, whether he actually plays or not. The Player could never have wanted the Accrington

Stanley FC fans to know that he had bet on the opposing team, even if the fans knew he was soon leaving and had already played his last game for Accrington Stanley FC. At the very least, even if he was unaware of the specific rule the Player must have realised that what he was doing was highly likely to be against FA Rules and it was reckless and irresponsible of him to go ahead with these bets.

21. The fact that Mr Mannix bet on Bury to beat his own club Accrington Stanley FC to lose the Match is potentially seriously undermining of public confidence in the straightness of English professional football – more so even than when a player backs his own club to win. Rule E8 is an important rule which is intended to sustain that public confidence and help allay just the concerns which have arise about this Match.
22. The evidence before us, including reports from leading bookmakers, shows that there was highly suspicious betting activity in relation to this Match and gives cause for serious concern that the Match may have been fixed. It is clear that by the time he bet this Player knew enough to have real suspicions about the straightness of the Match. On the Friday afternoon 2 May 2008 he had been told that the odds were going down because a lot of people were betting on the game (see page 5 of the interview transcript). He then went to the bookies on his way home.
23. We stress that no one has been charged with any actions involving fixing of the Match and it is not part of the case against Mr Mannix. We mention it here so that it can be seen that we have not ignored such a striking and serious concern relating to this Match but also that we are punishing Mr Mannix only for the offences of which he has been found guilty. There is no charge and no evidence that he was involved in any fixing of the Match. We also do not make any finding that the Match was fixed as that is not an issue before us for determination. The concerns about this Match do nevertheless serve to illustrate the importance of rule E8.
24. Rule E8 is an important rule and breaches of the rule are serious.
25. The Player is 23 years old. He has a 10 month old son. His only career, we were told, was football. We fully appreciate that in his particular circumstances the suspension and fine we are imposing are bound to cause him and his family great difficulty, not

confined to the considerable financial implications. That is likely to be the case for any player suspended for a significant period and fined a substantial amount. We have considered everything said by Mr Crystal on the Player's behalf but in our view a suspension of 10 months from all footballing activity and a fine of £4000 are a fair and proportionate penalty for this serious offence.

26. The penalties do not contain an express element of deterrence. We have not included any uplift for deterrence. The seriousness of the offence merits the penalties we have imposed. We trust the penalties will act as a deterrent without any need to add anything to them for that purpose.
27. We have also ordered the Player to pay £5000 of the costs of this Regulatory Commission<sup>4</sup>.
28. Recognising that immediate payment of the fine and costs may well be difficult for Mr Mannix, especially in the light of the 10 months suspension, we order that half of the fine and half of those costs must be paid by 31 October 2009 and the whole then outstanding balance by 31 January 2010.

Nicholas Stewart QC  
Chairman

23 July 2009

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<sup>4</sup> Under regulation 8.8(b) of the *Regulations for Football Association Disciplinary Action: The FA Handbook Season 2008-2009*, pages 298-307. Rule 8.8 (b) is at page 304.