

FA NATIONAL SERIOUS CASE PANEL
DISCIPLINARY COMMISSION

on behalf of the Amateur Football Association

PERSONAL HEARING

Of

CHRIS KANE

[Case ID: 10803119]

THE DECISION AND REASONS OF THE COMMISSION

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Introduction

1. On 9 April 2022, Old Parmiterians Reserves FC (“the Club”) played a Senior Two North – Amateur Football Combination fixture against Queen Mary College Old Boys First (‘QM team’)– collectively the “match”.
2. Chris Kane (“Mr Kane”) played for the Club.
3. Amateur Football Association (‘AFA’) received a report from the Referee of allegations that after showing Mr Kane a red card after the final whistle, Mr Kane entered the changing room where the Referee was getting changed and when asked to leave said "*you cannot be saved*" or similar to the Referee and "*nobody can save you*" or similar to the Referee, as a consequence of these words and actions the Referee felt threatened and intimidated.
4. AFA investigated the reported incident.

The Charge

5. On 21 April 2022, AFA charged Mr Kane with the following:

Breach of FA Rule E3 – Improper Conduct against a Match Official – (including threatening and/or abusive language/behaviour);

It is alleged that Mr Kane entered the changing room where the Referee was getting changed and when asked to leave said "*you cannot be saved*" or similar to the Referee and "*nobody can save you*" or similar to the Referee, as a consequence of these words and actions the Referee felt threatened and intimidated.

6. The relevant section of FA Rule E3 states:
 - a. *“E3: A Participant shall at all times act in the best interests 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.*
7. AFA included with the charge letter the evidence that it intended to rely on in this case.
8. Mr Kane was required to respond to the charges by 5 May 2022.

The Reply

9. Mr Kane replied and denied the E3 Improper Conduct against a Match Official – (including threatening and/or abusive language/behaviour).

The Commission

10. The Football Association ('The FA') appointed John Murphy, as a Chair/member of National Serious Cases panel, to this Discipline Commission. The two panel members were Nicola Nye, Independent Panel member and Peter Sowton, Independent Panel member.
11. Garry Polkey of Cheshire Football Association acted as Secretary to the Hearing.

The Hearing and Evidence

12. The Commission considered the following evidence:

AFA evidence:

An Extraordinary Incident Report Form from the Referee, dated 10 April 2022 plus a further email;

A statement from Tom Fenners, dated 14 April 2022;

A statement from Tom Huckstepp, dated 14 April 2022.

Defence evidence:

A statement from Chris Kane, dated 11 April 2022;

An oral statement from Robbie Asaro;

An oral statement from Alfie Cregan.

AFA

13. The Commission heard from the Referee for the match. He stated the match had been challenging to referee, and that at the final whistle, Mr Kane approached the Referee and loudly remonstrated to the Referee about his performance and decision making during the game. The Referee felt uncomfortable and also judged Mr Kane's words and conduct to have been unacceptable so issued him with a red card.
14. The Referee quickly walked towards the room with the changing rooms. He entered the match officials' changing room, which had an outer door and then an inner door. Before he had managed to start to undress, he looked up and noticed that Mr Kane, without any warning, had entered the match official's changing room and was stood in the doorway of the inner door.
15. The Referee stated that Mr Kane said to him, "*you cannot be saved*"; to which he replied that Mr Kane should not be in the match officials' changing room and he should leave; that Mr Kane continued, "*nobody can save you*", at which point the Referee walked past Mr Kane, to exit the changing room.

16. The Referee went outside the changing rooms, and spoke to the incoming players from the QM team and explained that Mr Kane had entered the changing room and made him feel threatened. With the QM players, the Referee returned to his changing room, with Mr Kane having left. The Referee got changed and left the venue.
17. The Panel heard evidence from two QM players who explained that by the time they had left the pitch and walked towards the changing rooms, they saw the Referee outside and explained that he appeared flustered. They recounted how the Referee said that Mr Kane had entered his changing room, and how they entered the changing with the Referee; one of the QM players said they spoke to Mr Kane to ask him to leave the changing room, which he did without incident, and the other QM players ushered the Referee back into the changing room.

Defence

18. Mr Kane explained that at the end of the match, he felt exasperated that the Referee had not protected his players during the game and that he had suffered an injury from a tackle with a WQM player which went unnoticed by the Referee; Mr Kane admitted that his remonstrations with the Referee at the final whistle deserved a red card.
19. Mr Kane went to his team's changing room, and was the first of his team to reach the changing room. It was locked. Mr Kane walked to the building foyer but then made the instant decision to enter the match officials' changing room, seeking the Referee. Mr Kane stated that what he said the Referee was *'You cannot keep avoiding a conversation with me.'* He also said words about the Referee not being saved from this conversation. He admitted that the Referee told him to leave and then, the Referee got up and left the room.
20. Mr Kane then left the changing room without further issues. He saw his teammates as they returned to the changing rooms.
21. Mr Kane's two witnesses could not speak to any evidence of what happened between the Referee and Mr Kane in the changing room but said that Mr Kane appeared agitated when they saw him as they approached the changing rooms.

Standard of Proof

22. The applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, I would be satisfied that an event occurred if I considered that, on the evidence, it was more likely than not to have happened.

Findings and Decision

23. In summary, it was alleged that Mr Kane entered the Referee's changing room and made comments to him which caused him to feel threatening and intimidated.

24. The Commission reminded itself that the burden of proving a charge falls upon the County FA, in this cases AFA.
25. In a Commission such as this, the assessment of the evidence is entirely a matter for the Commission. We have to assess the credibility of the witness, (that is whether the witness is attempting to tell the truth), and the reliability of the witness, that is whether, even though a witness may be attempting to tell the truth, their evidence might not be relied upon.
26. Where there are discrepancies between witnesses, it is for the Commission to accept which witnesses to accept and which to reject. Even where there are discrepancies between witnesses or within a witness's own evidence, it is for the Commission to assess if the discrepancy is important. Having considered which evidence to accept and which to reject, the Commission then has to decide if, on the balance of probabilities, the alleged breach of the FA Rules is established.
27. It should be noted that where direct speech is quoted in a witness statement, we have recorded it in the wording and grammar in which it appears in the witness statement, without making any grammatical or typing alterations in any obvious typo errors.
28. The Commission considered all of the evidence presented in the case bundle and noted the following:
 - i. The Panel noted that the evidence from the Referee and Mr Kane both placed Mr Kane in the inner doorway of the Referee's changing room after the match; the panel regarded this as Mr Kane entering the Referee's changing room;
 - ii. The Panel recognised that both the Referee and Mr Kane offered different versions of very similar dialogue, albeit Mr Kane described a longer form of words which he spoke to the referee;
 - iii. Mr Kane's opening remark was to suggest that the Referee could no longer avoid having a 'conversation' with him; the Panel considered that it was reasonable of the Referee to interpret this phrase in light of his most recent dealing with Mr Kane, which was to show him a red card after the final whistle of the game, mere moments earlier, owing to Mr Kane's aggressive verbal outburst towards the Referee;
 - iv. The Referee gave evidence that he felt threatened by the phrased spoken by Mr Kane, that he could no longer avoid a 'conversation, which carried a sense that Mr Kane was to confront him; the Referee stated that he felt threatened and scarred for his wellbeing;

- v. The Panel agreed that Mr Kane was physically stood in the doorway but beyond that, did nothing to suggest an actual violent intent, and the Referee was able to hurriedly exit the changing room, bypassing Mr Kane, without any attempted restraint by Mr Kane.
29. On the balance of probabilities, the Panel were unanimous that the Mr Kane's conduct in entering the Referee's changing room and stating that the Referee could no longer avoid him, did pass the threshold to be considered threatening language and behaviour towards the Referee.
30. Therefore, the charge was proven.

Previous Disciplinary Record

31. The Panel considered Mr Kane's offence history. He had no prior relevant misconduct in the previous five seasons.

Mitigation

32. Mr Kane pleaded not guilty so the Panel was unable to offer credit for a guilty plea. No apology had been offered by Mr Kane to the Match Official.
33. Mr Kane had experienced a painful injury in the game and was still in need of medical assistance afterwards.

Aggravation

34. Mr Kane was a senior player on his team.

The Sanction

35. The Panel noted that the Sanction Guideline for the E3 charge.
36. After taking into consideration all circumstances in this case, Mr Kane is:
- banned from all football activities for 166 days, which is a combination of 112 days for the charge and a further 54 days to cover the off-season period (as per FA Guidance);
 - A fine of £50 (fifty pounds);
 - A requirement to attend an online Education Course to be completed before the expiry of the 166 days suspension, failure to comply with this order will result in Mr Kane being banned from all football activities until the course is completed; and
 - the Club will receive 7 (seven) Club Disciplinary points for the charge.
37. These decisions are subject to the right of appeal under the relevant FA Rules and Regulations.

Panel

John Murphy – Chair

Nicola Nye

Peter Sowton

13.6.22