

THE FA DISCIPLINARY COMMISSION

On behalf of Amateur Football Alliance

PERSONAL HEARING – via Microsoft Teams

OF

Sebastian Morally [56201867]

THE DECISION AND REASONS OF THE COMMISSION

10801912M

27 September 2022

THE COMMISSION

- 1. Chair – Evans Amoah-Nyamekye.**
- 2. Wing member - David Jones.**
- 3. Wing member - John Horsley.**

SUMMARY OF DECISION

The Commission found breach of FA Rule E3 - Improper Conduct against a Match Official - (*including threatening and/or abusive language/behaviour*) **not proved** against Sebastian Morally.

The reasons for the decision are stated in full below.

INTRODUCTION

1. On 10 April 2022, a match between Putney Pacers First v Junction Elite FC 1st took place.
2. It is alleged that Sebastian Morally used Improper Conduct against a match official (*including threatening and/or abusive language/behaviour*) towards the match referee.
3. The case was presented before a Disciplinary Commission appointed by The Football Association (“The FA”) as a personal hearing for Sebastian Morally.

THE CHARGES

4. Sebastian Morally faced charges of breaches of FA Rule E3 - *Improper Conduct against a Match Official (including threatening and/or abusive language/behaviour)*.
5. The details of the charge stated that *‘This refers to the allegation that Mr Morally said "If he comes to the side I'm going to bang him", or similar, referring to the Referee and "If I see him again watch what I'm going to do him", or similar, referring to the Referee.’*

THE PLEA

6. Sebastian Morally denied the allegations and requested that the case be heard by way of a personal hearing. The case was dealt with as a not guilty plea.

THE FA RULES

The applicable FA Rule E3 states:

GENERAL BEHAVIOUR

7. *E3 (1) 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 anyone, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent, or insulting words or behaviour.*

In accordance with The FA Sanction Guidelines, if a Commission find this charge proven, they will be required to decide whether they feel the proven misconduct should be classified as a low, medium, or high level of seriousness. When reaching any decision, the Commission will take into account any aggravating or mitigating factors.

OFFENCES AGAINST MATCH OFFICIALS

Categories of Offence

96 The three categories of offence against Match Officials are as follows:

96.1 Threatening behaviour: words or action that cause the Match Official to believe that they are being threatened;

96.2 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); and

96.3 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).

THE COMMISSION

8. The following members were appointed to the Disciplinary Commission (“the Commission”) to hear the case:

- 1. Chair – Evans Amoah-Nyamekye.**
- 2. Wing member - David Jones.**
- 3. Wing member - John Horsley.**

Reece Davies was secretary to the Commission.

THE HEARING

9. We considered the matter on 27 September 2022.

10. From the response to the charge, it was clear that Sebastian Morally had been provided with all the statements and evidence with which the Commission had been provided. Accordingly, the participant had fair notice of the allegation made against him.

11. The following is a record of the salient points which the Commission considered and is not intended to be and should not be taken as a verbatim record of the evidence considered.

12. In advance of the Hearing the Commission had received and read the bundle of documents particular focus was placed on the following:

- 12.1. Report and information supplied by the Match Official
- 12.2. Statements from Putney Pacers
- 12.3. Statements from Junction Elite

THE COUNTY FA'S CASE

Evidence of Ismail Hussein

13. ISMAIL HUSSEIN was match referee and stated in his report that '*The incident occurred following the conclusion of the game*' and that he heard threatening words he believed were directed to him. ISMAIL HUSSEIN confirmed that he had cause to 'sin bin' Sebastian Morally for 10 minutes.
14. ISMAIL HUSSEIN stated in his report that the threatening comments stated and included; "*If he comes to the side I'm going to bang him*" and "*If I see him again watch what I'm going to do him*".
15. After hearing these alleged threatening comments ISMAIL HUSSEIN did not approach Sebastian Morally to show him a red card given his perception of the alleged threats.
16. ISMAIL HUSSEIN in his statement confirmed that he '*overheard the threatening remarks made by Sebastian Morally who was situated 20-30 metres away with other mates whilst engaging in a discussion where the referee was the topic of discussion.*'
17. In live evidence ISMAIL HUSSEIN confirmed that he actually 'saw' Sebastian Morally make the comments. To his credit ISMAIL HUSSEIN accepted that these new revelations were not in his original report or subsequent correspondence with the FA.
18. In addition to the alleged comments ISMAIL HUSSEIN also stated that Sebastian Morally also used the words to the effect of '*cheat*' towards the referee ISMAIL HUSSEIN
19. The Commission was concerned that in live evidence ISMAIL HUSSEIN confirmed that the identification of Sebastian Morally was via a picture being circulated.

THE PARTICIPANT'S CASE

ASSESSMENT OF THE STATEMENT / EVIDENCE OF SEBASTIAN MORALLY

20. Sebastian Morally was very open from the outset. Sebastian Morally robustly denied that he threatened the referee.
21. Sebastian Morally confirmed that he was sinbinned in the 90th minute for asking the ref how long was left. Sebastian Morally was adamant that this was the only communication or reference to the referee he had made. Even after he had left the pitch Sebastian Morally stated that he never said a word to the referee or anyone from the opposing team.
22. The Commission were concerned that Sebastian Morally stated that he did not write the statement in response or send the text message found in the bundle.

ASSESSMENT OF THE STATEMENT / EVIDENCE OF KYAN BELL

23. The Commission found Kyan Bell to be an impressive witness.
24. Kyan Bell confirmed that he was at the game and he did not hear any threatening words from Sebastian Morally towards the match referee.

THE COMMISSION'S CONCLUSIONS

25. The Commission found breach of FA Rule E3 – *Improper Conduct against a Match Official (FA Rule E3 - Improper Conduct against a Match Official - (including threatening and/or abusive language/behaviour))* **not proved** against Sebastian Morally.

26. The reasonable inferences which could be drawn are from the circumstances of the case were namely:

26.1. There was no consistent or corroborative live evidence from the county witnesses that Sebastian Morally used any threatening language or conduct.

26.2. There identification process used to identify Sebastian Morally was not reliable.

BURDEN OF PROOF

- 26.3. The applicable standard of proof required for this case is the civil standard of the balance of probability, meaning more likely than not.
- 26.4. The Commission took the view that the allegation and the evidence supporting that allegation needed to be tested. The Commission considered the possible innocent use and interpretation of the word and conduct versus any possible misinterpretation.
- 26.5. The Commission considered the context in which the conduct was used, the intent behind the conduct used and gave consideration to all the circumstances surrounding the use of the comments whilst considering the effect of the comments used.

OUR FINDINGS OF FACT

27. On the balance of the burden required, the Commission are satisfied to make the following findings of fact that:
- 27.1. On 10 April 2022, a match between Putney Pacers First v Junction Elite FC 1st took place.
- 27.2. There was no consistent or corroborative evidence from the county witnesses that Sebastian Morally used any threatening language or conduct towards the match referee.

THE DECISION

28. Having read the evidence, the assessment of the evidence is entirely a matter for the Commission members.
29. The Commission has to assess the reliability of the witness (*that is whether, even although a witness may be attempting to tell the truth their evidence might not be relied upon for differing reasons*) and the credibility of a witness (*that is whether a witness is attempting to tell the truth*). Of course, such an assessment is difficult to make if the evidence being considered is in written form.
30. Ultimately it is for the Commission to accept or reject each piece of evidence we are considering. Even where there are discrepancies between witnesses or within a witness's own evidence, it is for us to assess if the discrepancies are important and lends assistance to the determination of the balance of probabilities.
31. Having decided which evidence, we accept and reject; we then have to decide on the balance of probabilities if the alleged breach of the FA Rule is established.
32. Sebastian Morally confirmed that he had received a fair hearing.
33. The Commission considered all of the evidence provided.

CONCLUSION

34. This decision is subject to the right of appeal under the relevant FA rules and Regulations.

Signed The Commission:

THE COMMISSION

1. Chair – Evans Amoah-Nyamekye.
2. Wing member - David Jones.
3. Wing member - John Horsley.

27 September 2022