

THE DISCIPLINARY COMMISSION

Sitting on behalf of Amateur Football Association

PERSONAL HEARING

of

Kazden Farruggio
Junction Elite FC

[CASE REFERENCE 11587636M]

THE DECISION AND WRITTEN REASONS OF THE COMMISSION

Disclaimer:

These written reasons contain a summary of the principal evidence before the Commission and do not purport to contain reference to all the points made, however the absence in these reasons of any particular point, piece of evidence or submission, should not imply that the Commission did not take such a point, piece of evidence or submission, into consideration when determining the matter. For the avoidance of doubt, this Disciplinary Commission has carefully considered all the evidence and materials furnished with regard to this matter.

I. INTRODUCTION

1. The Football Association (“**The FA**”) convened a Disciplinary Commission (**the “Commission”**), on behalf of the Amateur Football Association (“**AFA**”) via Microsoft Teams on 11 April 2024 to adjudicate upon disciplinary charges levied against Kazden Farruggio (“**Mr Farruggio**”) (Case ID number: 11587636M).
2. The Disciplinary Commission was constituted of three members, Mr André Duarte Costa, an Independent FA appointed Chair, Mrs Anita Poulman and Mr John Goodwin, Independent FA appointed Wing Members. The appointed Secretary to the Commission was Mrs Debbie Sowton of the Hampshire FA.

II. THE CHARGE

3. In summary, by Misconduct Charge Notification dated 12 March 2024 (the “**Charge Notification**”) issued by AFA against Mr Farruggio, he was charged with one charge relating to alleged misconduct in a match against Kew Park Rangers Seniors First on 27 January 2024.
4. It was alleged that Mr Farruggio used violent conduct and/or threatening and/or abusive and/or indecent and/or insulting language/behaviour contrary to FA Rule E3.1 and it was further alleged that it constituted Threatening Behaviour against a Match Official as defined in FA Regulations (the “**Charge**”).
5. The Charge Notification referred to the allegation that *«during the fixture Mr Farruggio used threatening language towards the match official after they were shown a red card by saying “I will find where you live and come and find you” or similar.»* (the “**Alleged Comment**”).
6. The Charge Notification also referred to the Standard Sanctions and Guidelines. Furthermore, a reference to an administration fee and/or a potential fine was also made.
7. Mr Farruggio was required to submit a response by 26 March 2024. On 12 March 2024, Mr Farruggio submitted on the Whole Game System, the FA's administration system, a not guilty plea denying the charges and requested a Personal Hearing.

III. THE RULES

8. The Rules of the Association are foreseen in Part 10 of The FA Handbook 2023/2024¹.
9. Under the title “Misconduct” Section E of the Rules of the Association sets out the rules to be observed by Participants².
10. Bearing in mind the charges levied against Mr Farruggio the relevant rule to take into account for the purpose of the present case is FA Rule E3, in specific FA Rule E3.1.
11. According to FA Rule 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 any one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour.*
12. The Disciplinary Regulations are foreseen in Part 11 of the FA Handbook.
13. Under the title “Offences Against Match Officials” Regulation 96 of Section Three: Provisions Applicable to Category 5 of Part D of the Disciplinary Regulations provides the following: *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. Examples include but are not limited to: the use of words that imply (directly or indirectly) that the Match Official may be subjected to any form of physical abuse either immediately or later, whether realistic or not; the raising of hands to intimidate the Match Official; pretending to throw or kick an object at the Match Official.

96.2 Physical contact or attempted physical contact: physical actions (or attempted actions) that are unlikely to cause injury to the Match Official but are nevertheless confrontational, examples include but are not limited to: pushing the Match Official or pulling the Match Official (or their clothing or equipment); and

¹ Available at: <https://www.thefa.com/football-rules-governance/lawsandrules/fa-handbook>.

² means an Affiliated Association, Competition, Club, Club Official (which for the avoidance of doubt shall include a Director), Intermediary, Player, Official, Manager, Match Official, Match Official observer, Match Official coach, Match Official mentor, Management Committee Member, member or employee of a Club and all persons who are from time to time participating in any activity sanctioned either directly or indirectly by The Association, as per The FA Handbook 2023/2024, Section 10, Part A, para. A2.

96.3 Assault or attempted assault: acting in a manner which causes or attempts to cause injury to the Match Official (whether or not it does in fact cause injury), examples include, but are not limited to, causing and/or attempting to cause injury by spitting (whether it connects or not), causing and/or attempting to cause injury by striking, or attempting to strike, kicking or attempting to kick, butting or attempting to butt, barging or attempting to barge, kicking or throwing any item directly at the Match Official.

IV. DOCUMENTARY EVIDENCE

14. The following is a summary of the principal evidence provided to the Commission. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point, or evidence, should not imply that the Commission did not take such point, or evidence, into consideration when the members determined the matter. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished with regard to this case.
15. The evidence which the AFA relied upon in support of the charges consisted of:
- a) Extraordinary Incident relating to Misconduct by Mr Simon Smith (“**Mr Smith**”), the Referee, dated 1 February 2024³;
 - b) Statement by Mr David Cree, Club Official linked to Kew Park Rangers, dated 9 February 2024⁴;
 - c) Statement by Mr Kazden Farruggio (“**Mr Farruggio**”), Player for Junction Elite FC, undated⁵;
 - d) Statement by Mr Casaan Stennett (“**Mr Stennett**”), Player for Junction Elite FC, undated⁶; and

³ P. 6 of the case bundle.

⁴ PP. 18-20 of the case bundle.

⁵ PP. 29-31 of the case bundle.

⁶ PP. 29-30 of the case bundle.

e) Statement by Mr Aaron Stocker (“**Mr Stocker**”), Club Official linked to Junction Elite FC, dated 12 February 2024⁷.

16. The evidence submitted in defence of the Charge consisted of Statement by Mr Blair Lettman, Player for Junction Elite FC, undated⁸.

V. ORAL EVIDENCE

A. GENERAL CONSIDERATIONS

17. In accordance with the Serious Case Bundle Cover Sheet provided to the Commission prior to the hearing, it expected to hear evidence in support of the charge from Mr Smith, which it did.

18. Moreover, also in accordance with the Serious Case Bundle Cover Sheet provided to the Commission prior to the hearing, it expected to hear evidence in defence of the Charge from Mr Stocker, Mr Farruggio, Mr Lettman and Mr Stennett. From the foregoing witnesses, Mr Lettman and Mr Stennett failed to attend the hearing.

19. Regarding the witnesses that did not attend the hearing, the Commission had to attribute a reduced weight to their written evidence as it could not test it.

B. 11 APRIL 2024 HEARING

C. The Commission heard from Mr Smith. In addition to his report, he gave oral evidence as follows:

Mr Smith stated that a few players surrounded him to contest the decision. Mr Smith was trying to move them away. As Mr Farruggio walked off he was about 5 yards when he said Mr Smith was “*a fucking shit ref*”. Mr Smith showed Mr Farruggio a red card then. Mr Farruggio came back towards him at walking speed. Mr Farruggio then said “*I will find where you live and will come find you*” in his ear. Mr Farruggio said it quite quietly. Mr Smith did not anything back to Mr Farruggio. Mr Smith was taken

⁷ PP. 32-34 of the case bundle.

⁸ PP. 38-40 of the case bundle.

aback by the comment. Mr Smith was shaken by it but did not respond. Mr Smith did not think there was anybody close enough to hear the comment made by Mr Farruggio. Mr Smith did not remember any further commentary. Mr Farruggio tried to change what he said by telling Mr Smith that he called his decision “*shit*” and not him. Mr Smith could not recall anything Mr Stocker said to him. Mr Smith recalled Mr Stocker saying that he should be refereeing U12’s. Mr Stocker shouted “*what’s the point of having linesman*”. Mr Stocker ran down the touchline telling him he could say whatever he wanted. Mr Smith gave Mr Stocker a yellow card, but he continued. Mr Smith did not remember any swearing from Mr Stocker. Mr Smith stated that Mr Stocker was not abusive towards him. Mr Stocker shouted the comments. Mr Smith spoke to the captain to ask him to get hold of Mr Stocker otherwise he would abandon the match. Mr Smith decided that giving him a second yellow would have an impact, therefore he ignored the rest until the final whistle. Mr Smith stated that it was the constant nature of it and how loud it was that made him feel intimidated. Mr Smith never refereed neither of the teams before. Mr Smith reported Mr Farruggio’s comment to his match day observer. When he paused play, Mr Stocker was with the substitutes, about 4 or 5 players. Mr Smith could not remember what the 4 or 5 players were doing at the time. Mr Smith was very confident he gave him the name Harry. It is a possibly, although low, that he misheard the name. Mr Smith looked on social media to find Mr Stocker’s name and found his full name and learned that he was the chairman of the club. Mr Smith did not report Mr Farruggio’s comment to the police. Mr Smith was not given the team sheets. Mr Smith spoke with the teams before the match.

- D.** The Commission heard from Mr Farruggio. In addition to his statement, he gave oral evidence as follows:

Mr Farruggio told the referee “*it’s a shit decision*”. Mr Farruggio never said anything about the referee being shit. Mr Farruggio was allowed to make that comment. Mr Farruggio did not abuse the referee. Mr Farruggio did not threaten anyone. Mr Farruggio did not leave the pitch. Mr Farruggio went away from Mr Smith after they spoke. Mr Farruggio then told the referee that it was a shit decision whilst he was walking away from him. Mr Farruggio had his back to the referee. Mr Farruggio then

turned around and came back to him. Mr Farruggio was about 5 meters away from the referee when he turned around. Mr Farruggio only turned around because he saw the reaction of his substitutes. Mr Farruggio then went back towards the referee and asked him "*what was that for*". Mr Farruggio stated that Mr Smith said his decision was final and Mr Farruggio just left the pitch. It was only Mr Farruggio speaking with the referee. No one else was with them. It was a free kick on the edge of the box. Mr Farruggio understood that the red card was for telling Mr Smith that it was a shit decision. Mr Farruggio denied telling the referee "*I will find where you live and come and find you*".

- E. The Commission heard from Mr Stocker. In addition to his statement, he gave oral evidence as follows:

Mr Stocker told the referee he should be referring youth football. Mr Stocker would cheer during the match. Mr Stocker told Mr Smith he was getting a bad score for ruining the match. Mr Stocker is a big guy. Mr Stocker was never threatening. It was just banter. Mr Smith had to walk through their changing room after the match. Mr Stocker question why would Mr Smith do it if he felt threatened? Everyone had to leave through that entrance regardless. Mr Stocker stated that none of his players spoke with the referee when he left. Mr Stocker could not see how Mr Smith would feel intimidated. It was just what every referee would get in every match. It was just friendly banter. It was just for the last five minutes. Mr Stocker could understand how the referee felt intimidated. Mr Stocker stated that his caution was for calling the referee "*embarrassing*". It was his first match; he had never done it before. Mr Smith was right in front of him when he gave him the caution. Mr Stocker introduced himself to Mr Smith before the match. Mr Stocker just made a comment in regard to his player being sent off when he received a caution. The first thing Mr Smith said was "*name*". Mr Stocker then gave Mr Smith his name and the referee cautioned him. The referee then carried on with the match. The referee did not speak to Mr Stocker after that. The referee said Mr Stocker was not abusive. Mr Stocker accepts that he shouted for the final 5 minutes.

20. Immediately after, the Chair of the Commission questioned Mr Farruggio if he was satisfied that all evidence had been heard as he would not have any further

opportunity to present any new evidence. In replying, Mr Farruggio confirmed that he was satisfied.

21. The Chair of the Commission then gave the floor to Mr Farruggio for him to present his closing submissions.
22. Subsequently, the Commission retired to consider the charges. The Commission's findings and reasoning is set out below.

VI. THE STANDARD OF PROOF

23. The Disciplinary Regulations are foreseen in Part 11 of The FA Handbook 2023/2024.
24. Under the title "General Provisions" Part A of the Disciplinary Regulations sets out in Section One the provisions applicable to All Panels and in Section Two the provisions applicable to Regulatory Commissions.
25. Paragraph 8 of the above mentioned "General Provisions" states that "*save where otherwise stated, the applicable standard of proof shall be the civil standard of the balance of probabilities*".
26. Therefore, the applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, the Commission would be satisfied that an event occurred if it considered that, on the evidence, it was more likely than not to have happened.

VII. FINDINGS & DECISION

A. GENERAL CONSIDERATIONS

27. The Commission reminded itself that the burden of proving a charge falls upon the AFA.
28. In a Commission such as this, the assessment of the evidence is entirely a matter for the Commission to consider. We must assess the credibility of the witness (that is whether a 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).

29. Where there are discrepancies between witnesses, it is for us to decide 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 us to assess if the discrepancy is important. Having considered which evidence we accept and reject, we then must decide if, on the balance of probabilities, the alleged breach of the FA Rules is established.
30. In assessing liability, the Commission was mindful of the issues to be determined in the present case. The issues were whether the Commission was satisfied to the requisite standard that the evidence before it proved that the Alleged Comment and made and, if so, constituted Threatening Behaviour against a Match Official for the purposes of the Charge.

B. FINDINGS

31. In the present case the allegation was that Mr Farruggio, the Participant charged and a Player for Junction Elite FC, used violent conduct and/or threatening and/or abusive and/or indecent and/or insulting language/behaviour contrary to FA Rule E3.1 and it was further alleged that this constituted Threatening Behaviour against a Match Official.
32. According to the evidence provided to the Commission the allegation was that Mr Farruggio made the Alleged Comment.
33. The Commission noted that Mr Smith stated that Mr Farruggio made the Alleged Comment in his ear quite quietly. This level of detail, *i.e.* how Mr Farruggio made the comment, was not described in Mr Smith's report.
34. In addition, no corroborating evidence of this episode or Mr Farruggio's Alleged Comment was provided to the Commission. Bearing in mind that the burden to prove the Charge falls upon the AFA, the Commission considered that it failed to discharge such a burden.

35. Accordingly, the Commission found, on the balance of probabilities, that Mr Farruggio did not make the Alleged Comment.

36. As a result of the aforementioned, the Commission found, on the balance of probabilities, the Charge not proven.

VIII. SANCTION

37. As the Commission found the Charge not proven there was no sanction to be imposed on Mr Farruggio.

IX. RIGHT TO APPEAL

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

André Duarte Costa

Anita Poulman

John Goodwin

15 April 2024