

FA NATIONAL DISCIPLINE PANEL DISCIPLINARY COMMISSION

The Football Association on behalf of

AMATEUR FA

V

GREGORY AUBERT (604151758)

Case ID: 11231247M

and

LLOYD WELSH (63325765)

Case ID: 11231252M

WRITTEN REASONS

Factual Background and Chronology

1. These are the Reasons for the decision of the Disciplinary Commission which was heard on Wednesday 24th May 2022 at 6-30 pm.

2. The Commission consisted of Keith Allen (FA National Chairs Panel) Chair, John Turner (FA National Panel) and Tehmina Khan (FA National Panel).

3. The Secretary to the Commission was John Lilburn (FA National Panel Secretary).

4. The following is a record of the main points which the Discipline Commission considered.

5. The charge in question arose from a game between Civil Service 5TH FC and Polytechnic 6TH FC, played on 15th April 2023.

6. By letter dated 2nd May 2023 **GREGORY AUBERT** a player for Polytechnic FC was charged as follows:

FA Rule E3 Improper Conduct against a Match Official (including physical contact or attempted physical contact and threatening and/or abusive language/behaviour).

7. Details of the charge: "This refers to the allegation that Mr Aubert put his hands on the Referee's chest and pushed him or similar".

8. By WGS dated 9th May 2023 **Gregory Aubert accepted the charge and requested to present a verbal plea for leniency.**

9. By letter dated 2nd May 2023 **LLOYD WELSH** a player for Polytechnic FC was charged as follows:

FA Rule E3 Improper Conduct against a Match Official (including threatening and/or abusive language/behaviour).

10. Details of the charge: "This refers to the allegation that Mr Welsh said to the referee "You're fucking shit" and he approached the Referee in an aggressive manner or similar".

11. By WGS dated 9th May 2023 **Lloyd Welsh accepted the charge and requested the matter to be considered by correspondence in his absence.**

12. With the charges arising from the same match, the cases were considered as consolidated.

13. FA Disciplinary Processes/General Provisions Section 1 Rule E3.1 provides for: *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 dispute or use any one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour.*

EVIDENCE

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.

14. The Commission had before it the following items to consider:

a) A report from the match referee Alexander Whiteman:

"I dismissed Lloyd Welsh wearing 19 for Poly from the field of play for serious foul play but he refused to leave the pitch. Instead he walked towards me in a highly aggressive and angry manner. As players tried to stop him. I had to back away 20 yards to prevent him from reaching me before he was persuaded to leave the field."

b) A further statement from the match referee, Alexander Whiteman, to the AFA:

"In the 60th minute of the game, when I sent Llyod Welsh from the field of play, he refused to leave the pitch. Instead of walking towards the side of the pitch, he walked in completely the opposite direction and walked directly towards me repeatedly screaming very loudly "You're a fucking shit referee.

I felt extremely intimidated and worried for my safety, I backed away approximately 30 yards and he continued to walk towards me. He was extremely agitated pushed off team mates who were trying to stop him as he continued to scream "You're a fucking shit referee" at me. After 2 minutes, he finally calmed down and was led away by his team mates."

c) A further statement from match referee, Alexander Whiteman, to the AFA:

“In the 60th minute, I had just dismissed Lloyd Welsh from the field of play and I was standing in the centre circle when Gregory Aubert ran up and pushed me. He was shouting at me regarding the red card shown to Mr Welsh.

After Mr Welsh had finally left the field, I called Mr Aubert over and took his name and dismissed him from the field of play, I showed him the red card as required.

After the match, I was approached by Mr Aubert and I confirmed to him that he had been sent off because he had pushed me.

There was no force in the push but he used two hands. It was like a child trying to attract my attention.”

d) A statement from James Kellett of Civil Service FC a spectator at the match:

“I was present on the above date watching the fixtures taking place between the CSFC sides playing and other SAL sides. I started to watch this game and was present for most of the second half, situated by the halfway line, with a clear view of the playing field. I was present when the match official took the decision to award a free kick to the CSFC, this resulted in a red card to a Poly player. This decision was contested by the Poly players, arising out of that decision and before play began the match official was surrounded by several opposition players who took issue with the decision made. The ensuing melee where some players were being held back, resulted in a red card for a further Poly player who was aggressive and in the face of the official resulting in the Poly player remonstrating too much and pushing the official, though I wouldn't say with force. The game began and shortly after a further decision was made an additional Poly player was dismissed from the field of play. This player was particularly aggressive, having to be held back and at this point I seriously worried for the safety of the official. He eventually left the field of play, by this point he had taken his shirt off was swearing furiously at the official using words such as “fucking cunt”. I took the decision to then stay and wait till the end of the game, this was at 15.26pm, I know the time as I called one of the CSFC club committee members that I would be late coming over to another part of the ground. When the game ended, I assisted the official collecting his bag from the pitch side.

e) A statement from Jack O'Dowd, manager of Civil Service FC on the day:

“The referee has reported that that a player from Polytechnic Sixth pushed him and one player from Polytechnic Sixth verbally abused/threatened him I witnessed both acts. The referee was pushed by a polytechnic player. The player was playing just behind the centre forward. He was a short white guy, had a foreign accent. Another player verbally abused the referee, called him ‘fucking shit’, multiple times as well as a ‘cunt’. The player played as a striker. He was big and mixed race.”

f) A statement from Ollie Richardson, manager of Polytechnic FC on the day:

“We've had this referee before and he was excellent. First half of this game he was solid,. He just seemed to lose it after half time. I have a very strong feeling he was

tired, He's reffed a game before us and on a hot day for someone at his age, two in one game may have been too much. I'm trying to think of a reason for such a bizarre second half. We were 2-0 up and it was easy."

g) A statement from Gregory Aubert of Polytechnic FC:

"During the 2nd half of the game, my teammate Lloyd Welsh put a strong challenge and received a straight red card which surprised me. The game was so far amicable with no incident or bad challenges.

My immediate reaction was to talk to the referee as I didn't understand his decision. While talking to him I place my hand on his shoulders in which I meant a friendly gesture, but I understand I should have never done. I also understand that in the moment the referee might have interpreted this as physical assault but that was never my intention and I do apologies for that. After I touched him, we carried on talking in a normal and friendly way and it was to my surprise that he asked for my name and gave me a red card. Once his decision made, I walked out the pitch with no further protest or comments.

Conscious I was in the wrong, at the end of the game I walked calmly toward the referee to offer him my apologies and explained it was never my intention to assault him. He aggressively asked me to keep my distance and just said he will mention it in his report.

Again, I would like to send my apologies to Mr. Whiteman and the SAL. Whatever my intention was I overreacted and should have never grabbed or touched him.

I have played organised football for more than 30 years and it the first time I receive a red card for assault. I can reassure you that I will be even more cautious in the future."

h) A statement from Lloyd Welsh of Polytechnic FC:

"A great game of football in the first half, very competitive and enjoyable. A few standard football fouls here and there but other than that the game was played in good spirits by both teams. During the first half on a couple of occasions I asked the referee how long was left being the nearest man to him in CM, as he couldn't hear our captain on the side lines or our on pitch captain in goal asking him. Each me he ignored so I thought maybe the referee didn't hear. So I raised my voice a little bit and asked again, I then got a stare (more like a dirty look) from the referee like it was unheard of someone asking such a question. The opposition player then looked at me and said "what was that about" I replied "no idea" and we both had a chuckle together.

The second half started we were a comfortable 0-2 up and no cause for concern whatsoever. 5/10 minutes into the second half I have made a strong but very fair tackle (which I make every week.) In shock to us all the referee blew for a foul. A player on the opposition team said to me "that was a great tackle to be fair" which I replied "I know".

The referee called me over to which I was shocked with, even more so then the foul that was given. With no communication whatsoever he pulled out a red card. At this point my teammates, some opposition players were in disbelief. My response to this was "Are you fucking serious" he then walked of and I followed him and said "What the fuck for, are you stupid" I can see my language used wasn't great and some might say disrespectful but as the passionate player I am and feeling very hard done by I unfortunately reacted this way.

After the match I walked back on the pitch congratulated my teammates for digging in and said well played to a few of the opposition to which one said "I cant believe you got sent off for that". However did not speak to the referee when going back on the pitch.

I can understand being accused of using foul language but to say I had threatened him is going too far. Football is passionate and sometimes it slips out, we give up a lot of time and money travelling across london to play so to be treated so badly is tough to accept in the moment. I agree language like this should be cut out and more respect should be given to match officials but they also have to give respect and the lack of communication, the rudeness you get from officals most weeks isnt something players should have to deal with either. Respect is two way."

i) A further statement from Lloyd Welsh of Polytechnic FC:

"Id like to just clear a few things up. I've been a little busy and stressed over the last few weeks with work. I've now had a little time to think and process everything.

Long term I wouldn't want this to jeopardise my amateur football for a genuine passionate loss of the head you may say moment.

Firstly I'd like to say my actions were unacceptable and I should have never made a comment regarding the officials integrity. My opinions should have been kept to myself and I should have accepted his decision. As I am aware of my actions I must clarify that when I did question him after the decision in know way I felt I was threatening and had 3 or 4 teammates in between us so was never actually directly face to face with him.

I've been playing grassroots for over 15 years and my discipline record has been remarkable and just goes to show it was uncharacteristic of me. I'd also like to make it known that this is the same match official that did misidentify me in a previous fixture and gave me the booking instead of my teammate and to be fair on this occasion I kept my cool as this is a stressful issue I have had to deal with in the game.

As the match official felt this way I can only apologise for this as this wasn't my intent. I'm sure many can appreciate that I had personal and work stresses at the time which doesn't excuse my behaviour and unfortunately these stresses came out on the day."

Verbal plea for leniency by Gregory Aubert

STANDARD OF PROOF

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

DELIBERATION

15. The Commission reminded themselves that the charge was a contravention of FA Rule E3 – Improper conduct against a Match Official – (including physical contact or attempted physical contact and threatening and/ or abusive language/ behaviour) and that the standard of proof was on the balance of probability.

16. Gregory Aubert joined the Commission and confirmed he had seen the referee's written report and statements.

17. At this point the Commission were presented with the disciplinary record of Gregory Aubert over the past five seasons, which was clear and to his credit.

18. Gregory Aubert then presented his verbal plea for leniency:

a) He apologised to the referee, his teammates and the opposition, for his behaviour.

b) He was 25 years old, has never had any issue with referees and had been refereed by this particular official earlier in the season, with no problems.

c) He sought out the referee after the game and apologised for his behaviour, which was accepted by the match official.

d) He accepted he should not have touched the referee, but he believed the official could have mis-interpreted his actions.

e) After the game everyone enjoyed a drink in the club house with no problems.

f) He did not mean to physically abuse the referee and just touched him to gain his attention.

g) He had not used any force when touching the referee, which was confirmed in the statement of both the official and witness.

h) He conceded he had shown too much aggression and had let down himself, the League and his teammates.

i) He concluded by apologising once more and stressing he would never react in such a manner again.

16. The Chair asked Gregory Aubert if he was satisfied he had received a fair hearing and that all his evidence had been heard, as the decision would be made on the evidence presented.

17. Gregory Aubert confirmed he was satisfied and left the hearing while the Commission considered its decision.

DELIBERATION

18. With Gregory Aubert accepting the charge, the Commission were charged with deliberating and imposing sanction.

19. The Commission reminded themselves that the charge was a contravention of FA Rule E3 – Improper conduct against a Match Official – (including physical contact or attempted physical contact and threatening and/ or abusive language/ behaviour and that the standard of proof was on the balance of probability.

20. The Commission noted:

a) Gregory Aubert had exhibited considerable contrition, on the day and during his verbal plea, he had apologised to the referee after the game.

b) He had accepted the charge and admitted placing hands on the referee, although he had not used any force, which was confirmed in the statements from the match official and the witness from the Civil Service.

c) The initial misconduct report from the referee did not mention being pushed or touch by Gregory Aubert, concentration on the alleged threatening and abusive language of his teammate Lloyd Welsh.

d) It was only when prompted by the Association that the referee mentioned he had been pushed adding that, “there was no force in the push but he used two hands. It was like a child trying to attract my attention.”

e) The Commission considered that the referee only mentioned the alleged push when asked about it by the Association, after it was mentioned in a statement from a witness.

f) However, the referee believed it was two-handed contact in the form of a push, although without force, which he informed Gregory Aubert was the reason he had dismissed him.

g) The Commission were of the opinion that the behaviour of Gregory Aubert was extremely poor, which he admitted, but that the physical contact was not malicious and with no force, indeed the referee himself described it as being “like a child trying to attract my attention”.

h) The Commission gave Gregory Aubert mitigation for his clean record and accepting the charge, they also considered him a credible witness who showed considerable contrition and had apologised the match official on the day.

SANCTION

21. In the case of **GREGORY AUBERT**, the Commission referred to FA Sanction Guidelines, which for a charge of FA Rule E3.1 Improper Conduct against a match official (including physical contact or attempted physical contact and threatening and/or abusive language /behaviour) recommends: "A suspension from all football activities for a period of between 112 days and 2 years. The recommended entry point is 182 days. A fine of up to £150 can also be imposed, with a mandatory minimum of £75. The Commission may also impose a sanction above the guidelines where appropriate to do so based on the evidence of the case.

As this case relates to a proven case of physical contact or attempted physical contact and threatening behaviour towards a Match Official, the participant is also required to attend a face-to-face education course before the suspension is served, or a sine die suspension will be imposed.

22. Having taken into account and giving due weight to all evidence, the Commission unanimously decided to impose a sanction on **GREGORY AUBERT of a suspension from all football activities of 112 days including a ground ban, a warning as to future conduct, a fine of £75, with eight (8) penalty points to be recorded against the record of the club. This suspension is to be backdated to the date the interim suspension was imposed, which was 2nd May 2023.**

23. As this case relates to a proven case of physical contact or attempted physical contact and threatening behaviour towards a Match Official, GREGORY AUBERT is required to attend a face-to-face education course before the suspension is served, or a sine die suspension will be imposed.

24. There is a right of appeal against this decision in accordance with the relevant provisions set out in the Rules and Regulations of the Football Association.

CHARGE FOR LLOYD WELSH

STANDARD OF PROOF

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

DELIBERATION

25. The Commission reminded itself that the charge against Lloyd Welsh was: *FA Rule E3 Improper Conduct against a Match Official (including threatening and/or abusive language/behaviour).*

26. With Lloyd Welsh having entered a **GUILTY** plea, the Commission were only tasked with considering sanction, giving full regard and appropriate weight to all evidence, noting:

a) After the referee had dismissed Lloyd Welsh for serious foul play there was evidence he had refused to leave the pitch, instead taking a detour to walk toward the official in “a highly aggressive and angry manner”.

b) The player used repeated foul language and there was evidence from the referee and the Civil Service witness, that he had to be prevented from reaching the official before he was persuaded to leave the field of play, after “2 minutes”.

c) The referee in his own words, “felt extremely intimidated and worried for his safety”, a view shared by James Kellett the Civil Service witness.

d) The verbal assault was prolonged with repeated abuse, during which his colleague Gregory Aubert became involved, leading to own dismissal.

e) Lloyd Welsh was the instigator of the incident that followed his dismissal, which he appeared to indicate in his statement occurred because of the attitude of the referee.

f) Indeed, in his initial statement he condoned his conduct by blaming the referee and stating match officials, “have to give respect and the lack of communication, the rudeness you get from officials most weeks isn’t something players should have to deal with”.

g) At no point in his initial statement was there any hint of contrition and/or any apology, indeed he appeared to place the blame at the door of the referee and his attitude.

h) In his second statement, Lloyd Welsh considered his position and views, accepting his “actions were unacceptable and he should not have made a comment regarding the official’s integrity”.

i) He offered the explanation that he had been, “busy and stressed over the last few weeks at work”.

j) He denies his actions were threatening as there were 3 or 4 teammates in between them and that he was never face to face with the referee.

k) Only in his final paragraph did Lloyd Welsh make any attempt at an apology, saying, “As the match official felt this way I can only apologise for this as this was not my intent. I’m sure many can appreciate that I had personal and work stresses at the time which doesn’t excuse my behaviour and unfortunately these stresses came out on the day”.

j) However, it was clear from all evidence that the referee did feel threatened for his personal safety.

27. At this point the Commission were given the disciplinary record of Lloyd Welsh over the last five years, which was clear and to his credit.

28. The Commission gave Lloyd Welsh mitigation for his clean record and accepting the charge.

SANCTION

29. In the case of **LLOYD WELSH** with the charge of FA Rule E3 Improper Conduct against a match official (including threatening and/or abusive language/behaviour) being accepted, the Commission referred to FA Sanction Guidelines, which for a charge of FA Rule E3.1 Improper Conduct against a match official (including threatening and/or abusive language /behaviour) recommends:

“A suspension from all football activities for a period of between 56 days and 182 days. The recommended entry point, prior to considering any mitigating or aggravating factors is 112 days, a fine of up to £100, with a mandatory fine of £50.”

30. Having taken into account and giving appropriate weight to all evidence, the Commission decided to impose a sanction on **LLOYD WELSH of a suspension from all football and football activities of 126 days, a warning as to future conduct, a fine of £75, with eight (8) penalty points to be recorded against the record of the club.**

31. **As this case relates to a proven case of threatening behaviour towards a Match Official, LLOYD WELSH is required to attend an online education course before the suspension is served, or a sine die suspension will be imposed.**

32. There is a right of appeal against this decision in accordance with the relevant provisions set out in the Rules and Regulations of the Football Association.

Keith Allen (Chair)
Tehmina Kahn
John Turner

25th May 2023