

National Serious Case Panel

Case ID:

(1) 11134206M

(2) 11118464M

Disciplinary Commission

Correspondence Hearing - Chair Sitting Alone

Amateur Football Alliance

County FA

v

(1) Lewis Nsumbu

(2) Old Meadonians Fifth

Participants

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 in this matter.

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Introduction

1. On the 11th February 2023, there was a football match (the “match” or “game”) between *South Bank Cuaco Seventh* (“Seventh”) and *Old Meadonians Fifth* (“Meadonians”). Lewis Nsumbu was playing for Meadonians and they are both a “participant” in this case.
2. The referee summarises the incident as: *“Several players from the Old Meadonians 5th team were insinuating bias from my side. Towards the end of the game I was threatened, with one player saying that he would beat me up in the car park afterwards”* Through statements it is further alleged that the referee was surrounded by Meadonians players, suggested he would be slapped, accused of cheating, suggesting he was crying, comments made to him such as *“you’re shit”*, *“you need to watch your back”* and was shouted at on multiple occasions. In respect of the threat made by Mr Nsumbu, it was *“this ref is lucky I don’t beat him up in the car park afterwards”*.
3. This incident was investigated by the County FA and statements were obtained to establish what took place. On the 27th March 2023 the County FA communicated to the participant that they had made a decision to charge on the evidence below.
4. The County FA are subject to managing games within their jurisdiction pursuant to rules and regulations set out by The Football Association (“The FA”).

The Commission

5. The County FA prepared the bundle for these matters and the National Serious Case Panel (“NSCP”) officially appointed me as the “commission” to adjudicate on this case alone as a Chair member.
6. For the purpose of fairness, I am independent to the parties referred to in this case and I did not have a conflict of interest to declare. My decision is based only on the evidence I have been sent and this is outlined below.

The Charge(s)

7. The County FA laid the following charges (detailed within The FA Handbook¹):

Lewis Nsumbu

Charge 1

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

Old Meadonians

Charge 1

7.2. Rule E20 – Failed to ensure directors, players, officials, employees, servants, representatives, conduct themselves in an orderly fashion whilst attending any match.

The Reply

8. Both participants responded by accepting their charges and I was instructed to conduct these cases as a consolidated correspondence-only hearing.

The Hearing and Evidence

9. Below is a list of documents and/or witnesses in the bundle, that I was provided to consider.

10. County FA's evidence in support of the charge(s):

- 10.1. Mark Payne, referee (including a referee's team sheet);
- 10.2. Tawfique Choudhury;
- 10.3. Jamel Nelson;
- 10.4. Luke Howard;
- 10.5. Sam Mills;
- 10.6. Steven Downer.

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

11. Participant's evidence:

11.1. There were no statements provided specifically on behalf of either participant.

Standard of Proof

12. As directed by The FA, the appropriate standard of proof in such cases is that of the civil standard. This means that the commission must be satisfied on the balance of probabilities that, as per the evidence presented before it, it was more likely that not that the events occurred as they have been charged.

The Decision

13. I was not required to decide on whether the charges were proven against the participants because they had already been accepted. However, for the avoidance of doubt, I would have found the case against Mr Nsumbu proven because to suggest that the referee is lucky that he isn't beaten up in the car park is a clearly abusive comment, intending for the referee to feel threatened. In respect of the case against Meadonians, the multiple incidents of abusive language and behaviour is sufficient to satisfy that the club failed to ensure their players conducted themselves in an orderly fashion.

Previous Disciplinary Record

14. I was provided with a copy of each participant's previous record for the last 5 years:

Lewis Nsumbu

15. The participant has an entirely clear record and this will go to his credit for sanction.

Old Meadonians

16. The participant has 9 teams in total. There are 8 other misconduct charges in the last 5 years and these do not include E20 charges. There will therefore be some credit afforded.

Aggravating and Mitigating Factors

Lewis Nsumbu

17. Aggravating factors as per sanction guidelines and other observations are:

17.1. I did not consider there to be sufficient argument for aggravating factors.

However, I do consider in that the context of the case, Mr Nsumbu made the active decision to deliberately make the referee feel worse at the end of the game, even after the barrage of abuse he received from his team.

18. Mitigating factors as per sanction guidelines and other observations are:

18.1. Guilty plea;

18.2. Previous disciplinary record.

Old Meadonians

19. Aggravating factors as per sanction guidelines and other observations are:

19.1. Repeated language;

19.2. Number of phases;

19.3. Threats towards the referee (from other players, not Mr Nsumbu).

20. Mitigating factors as per sanction guidelines and other observations are:

20.1. Guilty plea;

20.2. Some credit from the previous disciplinary record.

Sanction

21. The FA Handbook and County FA Disciplinary Sanction Guidelines set out the scope and range of sanctions that are available. The applicable season is 2022/23.

Lewis Nsumbu

22. After taking everything into account, I considered that the recommended entry of 112 days should be reduced by 7 days as a result of the mitigating factors. The sanction that will therefore be imposed upon the participant is the following:

22.1. A suspension of 105 days from all football activities, effective from the date of notification of this decision;

22.2. To complete an FA online education programme before the end of the suspension, or within 28 days of the Disciplinary Commission's decision, whichever is the later. Otherwise, the participant will be suspended until such a date that the programme has been successfully completed. Programme details will be provided;

22.3. Fine of £50;

22.4. 7 penalty points.

Old Meadonians

23. After taking everything into account, I considered that the appalling behaviour of this team fell within the high category. There was a display of abusive comments, behaviour and threats between a number of adult players. The aggravating factors carried greater weight leading to a fine of £220 but this was reduced when taking into account the mitigating factors. The sanction that will therefore be imposed on the participant is a:

23.1. Fine in the sum of £200.

24. These decisions are subject to the right of appeal under the relevant FA Rules and Regulations.

Alban Brahimi, Chair

11th April 2023