

Football Association Disciplinary Commission

The Football Association on behalf of Amateur Football Alliance

V

Papa Ndiaye – Case ID: 11268493 M

WRITTEN REASONS

INTRODUCTION:

1. This is a hearing summary and includes written reasons for the decision of the disciplinary commission (the commission) which sat alone on Monday 19 June 2023.
2. The commission was a non-personal hearing chaired by Bill Stoneham (National Serious Case Panel).
3. The following is a written record of the main points considered by the commission. It is a summary of the main evidence offered and is not intended to refer to all the points made in the evidence presented. The absence in these reasons of any particular point, or piece of evidence, should not imply that the commission did not consider any such point or evidence. For the avoidance of doubt, the commission carefully considered all the evidence that was submitted.

THE CHARGE:

4. The charge in question arose following a fixture between Jolof Sports First FC (the club) v Woodford East First FC (the opposition) in the Senior Division played on Monday 8 March 2023.
5. The Amateur Football Alliance issued a charge letter dated 6 June 2023. In this letter, Papa Ndiaye (club player) was charged under FA Rule E3 – Improper Conduct against a Match Official (including threatening and/or abusive language/behaviour).
6. It is alleged that Papa Ndiaye used threatening and/or abusive and/or indecent and/or insulting language/behaviour contrary to FA Rule E3.1, and it is further

alleged that this constitutes Threatening Behaviour Against a Match Official as defined in FA Regulations. This refers to the allegation that the player made the referee feel threatened by using confrontational behaviour after he (Mr Ndiaye) had been shown a red card. And/or it is also alleged that the player was verbally abusive towards the match official by saying: 'fucking shit', or similar, 'fucking useless' or similar, 'Don't deserve to be here' or similar, 'Over the limit' or similar, 'Get your money and fuck off' or similar, 'Always about you' or similar and 'You're a fucking cheat' or similar.

EVIDENCE:

7. Amateur Football Alliance provided the following evidence in relation to the charge:
 - I. An extraordinary incident report form dated 9 May 2023 submitted by Sam Wigington (the referee);
 - II. an extraordinary incident report form dated 11 May 2023 submitted by Elora Hardstaff (assistant referee 1);
 - III. a second email dated 10 May 2023 submitted by the referee;
 - IV. a third email dated 12 May 2023 submitted by the referee;
 - V. a fourth email dated 25 May 2023 submitted by the referee;
 - VI. a second email dated 13 May 2023 submitted by assistant referee 1;
 - VII. an email dated 15 May 2023 submitted by Halil Hassan (opposition club secretary/chairman);
 - VIII. a witness statement dated 11 May 2023 submitted by the opposition club secretary/chairman;
 - IX. a witness statement dated 15 May 2023 submitted by Harry Robinson (opposition club player);
 - X. a witness statement dated 11 May 2023 submitted by the player;
 - XI. a witness statement dated 10 May 2023 submitted by Daniel Brissett (club manager);
 - XII. an undated statement from the player denying the charge;
 - XIII. an undated statement from Jolof Sports admin denying the charge;
 - XIV. a second undated (and unsigned) statement from the player denying the charge;
 - XV. some undated screen shots from a person called Rob. This person is believed to be Rob Parker who it is alleged is a committee member on the Essex Alliance League;
8. On 13 June 2023, the Amateur Football Alliance received correspondence from the club/player stating 'Deny – Correspondence'.

DETERMINATION

9. The commission reminded itself that the burden of proving this charge falls upon the Amateur Football Alliance. The applicable standard of proof required for this case is the civil standard of proof, namely the balance of probability. This standard means that the commission would be satisfied that an event occurred if it considered that, on the evidence presented, it was more likely than not to have happened.
10. The assessment of the evidence in such cases is entirely a matter for the commission. The commission must assess both the credibility and the reliability of the evidence placed before it.
11. The referee's report of the player's actions after he was dismissed, are clear. The player refused to leave the field of play, he subjected the referee to a tirade of vitriolic language and the player's actions caused the referee to feel unsafe. These events, allied to other aspects of unacceptable behaviour by club members, culminated in the referee abandoning the game.
12. The defence offered by the club is unconvincing. It contends that the referee has made inaccurate claims, but it does not say what these inaccuracies are. Moreover, no evidence is offered to lead the commission to agreeing that the referee's report is inaccurate.
13. The commission deemed the player's statement submitted in denial of the charge similarly unconvincing. Most of his submission is no more than a subjective rant which includes claims that the commission deemed irrelevant. He does not address the allegations about the language he allegedly used, nor does he account for his reluctance to leave the field of play. He does state that he noticed the referee and his manager arguing so he returned to find out why. This is no defence for a player, who has been sent from the field of play, returning. He also tries to dismiss what happened being solely attributable to weak officiating. This too is regarded as a superfluous defence of the player's actions.
14. Having carefully read all the evidence, and with particular emphasis on paragraphs 11-13 above, based on the balance of probability, the commission deduced that there is sufficient evidence to indicate that the case against **Papa Ndiaye is proven.**
15. The commission deemed that the player was repeatedly verbally aggressive and abusive towards the referee, he did not leave the field of play when he received his initial red card, his actions caused the referee to feel unsafe and this contributed to the abandonment of the game. The commission does accept that the abandonment was not due to the player's actions alone. Other factors were at play.
16. In reaching this decision, the commission recognised that with the case being dealt with by way of correspondence, the commission was unable to evaluate the evidence through questioning of the witnesses. Thus, it could only consider

each witness's account against the totality of the documentary evidence submitted.

17. Having found the case proven, the commission requested, and was duly provided with, the player's offence history based on the last five seasons. Prior to the season just completed, the player had received just seven cautions. In the 2022/23 season, the player received four more cautions. In this game, he was dismissed from the field of play, which carries a separate punishment, and received the misconduct charge covered in this set of written reasons.
18. Neither the club, nor the player, has provided any clear mitigating factors. The commission did note, however, that the player has a tolerably good disciplinary record.
19. Aggravating factors identified included:
 - I. The player's behaviour after being dismissed from the field of play is unacceptable. He subjected the referee to a tirade of vitriolic abuse, and refused to leave the field of play;
 - II. the player's unedifying behaviour partly contributed to this game being abandoned;
 - III. as a consequence of the player's actions, the referee reported that he felt unsafe;
 - IV. the player's undignified behaviour is not only unacceptable it may have caused reputational damage to the game,
 - V. the complete lack of responsibility shown by the player. He has not accounted directly for his actions; he has not offered any clear explanation for his conduct.

OUTCOME:

20. For a proven charge of this nature, FA Regulations state that the sanctioning range is a suspension from all footballing activities for a period of between 56 and 182 days. The recommended entry point, prior to considering any mitigating or aggravating factors is 112 days. There shall be a fine of up to £100, with a mandatory fine of £50 and an order that the participant completes an education programme before the time-based suspension is served.
21. Having considered all the facts in this case, especially the lack of response from the player and his club, the decision of the commission is that **Papa Ndiaye** is:
 - I. Suspended from football and all football related activity for 154 days;**
 - II. fined a sum of £75-00;**
 - III. ordered to complete an on-line education programme before the time-based suspension is served. Failure to comply with this order**

will result in a sine-die suspension being issued against Papa Ndiaye until he has fulfilled this order in its entirety;

- IV. ten disciplinary points applied against the player's club;**
- V. these sanctions in are addition to any penalties that might have already been imposed by Amateur Football Alliance;**
- VI. the time-based suspension was calculated as follows: entry point of 112 days, reduced by 21 days for the player's record. The sanction was then increased by 28 days for the tirade of vitriolic language used after being dismissed from the field of play. A further 21 days were added because of the referee's personal safety concerns, with a further 14 days added because of the player's role in causing the game to be abandoned;**
- VII. these sanctions are in addition to any sanctions already imposed in relation to this game by the Amateur Football Alliance.**

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

Bill Stoneham

Chairperson

19 June 2023.

Consolidated Cases

A further outcome of this fixture between Jolof Sports First FC (the club) v Woodford East First FC (the opposition) in the Senior Division played on Monday 8 March 2023, is that the Amateur Football Alliance issued additional charges. These additional charges are listed below:

1. **Daniel Brissett (11268491M)** – charged under FA Rule E3 – Improper Conduct Against a Match official (including abusive language/behaviour). It is alleged that Daniel Brissett (club manager) used abusive and/or insulting words towards the match official by saying: 'Fucking do it, you dickhead. I pay all of this all £500 for this fucking thing', or similar. And/or it is further alleged that the manager refused to leave the field of play after he had received a red card causing the match to be abandoned, which is pursuant to FA Rule E3.1. In a response dated 13 June 2023, Mr Brissett denied the charges and asked for his case to be considered by correspondence.
2. **Jolof Sports FC (11268478M)** - charged under FA Rule E20 – failed to ensure directors, players, officials, employees, servants, representatives conduct themselves in an orderly fashion whilst attending any match. It is alleged that during the fixture members of the club were verbally abusive to the match officials saying: 'Your useless ', or similar, 'you don't belong here', or similar, 'why are you here', or similar, 'fucking arrogant idiot', or similar, 'you're shit as a person', or similar towards the assistant referee after a player had been dismissed.

In their reports, both the referee and his senior assistant referee made the following observations:

- I. The manager made frequent use of foul and/or abusive language;
- II. there were confrontations between various participants which included the manager, players and members of the club;
- III. the manager acted improperly and in an intimidating manner on a number of occasions;
- IV. the referee states that he feared for his safety;
- V. the referee readily acknowledges that not all the culprits involved in the melee and who were using foul or abusive language could be identified. He states that he issued the manager with a red card on the basis of corporate responsibility;
- VI. the manager made scant attempt to control his players, or other persons associated with the club;
- VII. the manager refused to leave the field of play;
- VIII. the manager's actions contributed to the abandonment of the game;
- IX. the reports clearly indicate that the club was not controlling their members.

The commission sought the disciplinary records for both the manager and the club. It was noted that the manager had an exemplary record based on the last five years. In his own submission, the manager stated that his exemplary record dates for over fourteen years.

The club denied the charge levied against them and ask for the hearing to be conducted by correspondence. The commission noted that the club fields two teams. Prior to the season just completed, the club had only ever received two misconduct charges, but had received four in the season just completed. In September 2019, they had received a fine of £115-00, followed by a fine in November 2022 of £335-00, when the game was also abandoned. Neither the manager nor the club provided a clear and detailed offence. Much of what was provided was subjective, but also included a vague opinion from an alleged league official, but this person's submissions could not be verified.

The commission found both cases proven.

Sanctions:

- 1. The case against Daniel Brissett was deemed to be a high-level offence, but the commission was impressed by his hitherto unblemished disciplinary record. He is fined a sum of £40 and suspended from all football and all football activities for a period of three matches. This sanction is in addition to any other sanctions that the Amateur Football Alliance may have applied as a result of this fixture.**
- 2. The E20 charge against Jolof Sports FC was deemed to be high-level, and was aggravated by the club's poor record, including events earlier in the season which involved an abandoned game and a significant fine, Jolof Sports FC is fined £240-00. This sanction is in addition to any other sanctions that the Amateur Football Alliance may have applied as a result of this fixture.**

There is a right of appeal against all these decisions in accordance with the relevant provisions set out in the Rules and Regulation of the Football Association.

Bill Stoneham

Chairperson

19 June 2023.