

CASE 10091598-M

The Football Association / Berks & Bucks FA

V

Demarlo Smith (56281056) MK Gallacticos FC

Hearing Date Tuesday 28th January 2020 (Personal)

Written Reasons for Decision.

Commission Members

Chair--Michael J Woodhams. (Appointed by the FA)

Peter Sowton (Hampshire FA) (Appointed by the FA)

Peter Fisher (Oxfordshire FA) (Appointed by the FA)

Secretary.

Chris Penny (Berks & Bucks FA)

Date of alleged offence.

MK Gallacticos (Sunday) First v Nags Head (Winslow) First (*)

(*)(Reversed fixture played at Nags Head ground)

Milton Keynes Sunday League Premier Division.

Sunday 5th January 2020

The details of the Charge.

Charge 1 FA Rule E3-Assault on Match Official.

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

Evidence.

Copy of the charge letter dated 8th January sent to the Club Secretary of MK Gallacticos, Zakir Miah.

Because of the nature of the alleged offence player was placed on immediate suspension from all football from the date of the letter 8th January 2020

A copy of the referee's report (dated 7th January 2020).

A copy of email request from the County FA to the referee for clarification of certain points.

A copy of a Statement from Rafe Birch White Assistant Manager and player of Nags Head FC

A copy of the screen shot of an on-line response from the club on behalf of the player-denying the charges and asking for a Personal Hearing.

A Statement from the player himself Demarlo Smith of MK Gallacticos

A Statement from another player Mohammed Mohammed of MK Gallacticos

A Statement from Vasco Diaz Manager/Player of MK Gallacticos.

A statement from Zakir Miah the Secretary of MK Gallacticos. Whilst he was not at the game he sent in a summary of the Clubs responses to the charges and matters surrounding the game.

Preliminary Issue

The Chair had been asked if the referee could bring someone to sit with him. As per FA Regulations the Chair agreed but it would be better if that person was not connected to either Club involved in the case. The referee wanted his Father to come and that was accepted without question.

In Attendance.

The Referee Timothy Brandi who was accompanied by his Father who sat with him during the Hearing but did not play any part in the Hearing as per FA Regulation.

(Rafe Birch White) was unable to attend due to work commitments)

Demarlo Smith the player charged who was represented by his Club Secretary Zakir Miah.

Zakir Miah conducted the case on behalf of the player except when the Commission Members asked questions of the Player when Demarlo answered freely for himself.

Vasco Diaz the Player/Manager of MK Gallacticos was the first witness called by the player.

Mohammed Mohammed of MK Gallacticos was the second witness called by the player.

Hearing-Consideration.

The following is a summary of the key submissions provided for the adjudication. It does not contain reference to all the points or submissions made and the absence of any point does not mean that it has not been considered.

For the avoidance of doubt, the adjudication has been made having carefully considered all the evidence and materials in respect of this case.

Burden and Standard of Proof

The Standard of Proof for County FA Commissions.

The Burden of Proof is on the County FA.

The standard was the normal civil standard of balance of probability.

The Balance of probability means that the Commission is satisfied an event occurred if the Commission considers that, on the evidence, the occurrence of the event was more likely than not.

Clearly there were two incidents which were linked together towards the end of the game.

Mohammed Mohammed had made a remark to the opposing Club Linesman and was being spoken to by the referee who was going to send him to the sin bin for the remark.

Whilst the referee was dealing with this incident there had been some arguing between the players of both sides and the referee says he saw at the same time as dealing with Mohammed Mohammed-Demarlo Smith slap two opposing players.

He blew the whistle and called Demarlo Smith to him to show him the red card for what he believed he had seen. The player denied any such incident occurred and there was much evidence throughout the Hearing that in fact whilst there were arguments there had been no slapping of anyone.

The referee says that Demarlo grabbed him round the neck/shoulder area and then Demarlo was ushered off the pitch by the Assistant Manager.

After more arguments between players of both sides the referee ended the game-although it was not reported as being abandoned as such.

The referee during 50 minutes of questioning was adamant that he had seen the player slap two opponents and that the player had grabbed him round the neck/shoulder when they came together.

The Club raised the issue of the referee getting involved with Demarlo Smith at the end of the first half when the players of MK Gallacticos were talking amongst themselves about various decisions in the first half. As a result of this exchange Demarlo Smith spent the first ten minutes of the second half in the sin bin.

The club raised the issue of the referee dealing with Mohammed Mohammed and stated that he was “in the face/space of both players”-whilst speaking/dealing with them and this had contributed to the tension between the players and the referee.

The Club in their statements and verbal evidence had said they had no problems with the referee other than when they played Nags Head and felt he was a good referee otherwise and often used him for their club friendlies.

The referee confirmed that the players who allegedly had been slapped by Demarlo Smith had not re-acted to this incident nor had any others because by blowing his whistle to call Demarlo Smith over to him it had prevented any further issues.

The player himself was questioned by the Commission Members for 20 minutes and again stated that at no time did he slap anyone. He kept referring to the referee when speaking to him being in his face/space and he felt threatened by this.

He said he felt the referee had not been as fair to his team when playing Nags Head as he usually was when refereeing them.

He was adamant and demonstrated how he simply put his hand up to the upper chest of the referee very close to his neck/shoulder to push him away or keep him out of his face.

Twice he admitted during his evidence that he knew what he said was not a wise choice of words to the referee and twice he stated he knew it was wrong to touch the referee but he felt his space was being violated and the referee's manner made him very frustrated. Also being sent off for something which he said did not happen had made him upset.

The Assistant Manager/Player was questioned by the Commission Members for about 20 minutes and again he stated he did not see Demarlo slap anyone and he said he had a clear view. He said that when asking the other team players they too confirmed that Demarlo had not slapped anyone. He said he told the referee this when he paid the referee after the game had come to an end. He again confirmed about how close the referee was to both his players when speaking/dealing with them.

He said he saw Demarlo push the referee away and again demonstrated a pushing motion towards the upper part of the arm/chest. He said as soon as he had seen that he had gone over and lead Demarlo away from the Referee. Opposing players were making comments to Demarlo but he had ensured no further incident took place.

He confirmed he talked to the opposing team and was assured that Demarlo had not slapped anyone of their team and that he had told the referee this when he went and paid him.

He again said the referee was a good referee and they never had any problems with him except when they played Nags Head.

Mohammed Mohammed came in and was questioned for about 8 minutes. He said that the referee was very close to his face and in his space when the referee was dealing with him.

He says he did not see Demarlo slap anyone-he could not see how the referee could have seen anything as he was so close to him and the other players were some way away.

He accepted his choice of words to the linesman were not the best. He said he clearly saw the incident between Demarlo and the Referee. He saw Demarlo push his hands into the upper

part of the chest of the referee to push him away as they were very close indeed and that the referee was right in Demarlo's face/space when talking/dealing with him in the same way as the referee had been when dealing with him.

Zakir Miah then summed up the case on behalf of the player expanding on the points in his original statement from the Club on behalf of the player and referring to various points raised in the Hearing.

Zakir and Demarlo were then asked if they were satisfied they had been given a Fair Hearing-if they had been given every opportunity to put their case. They replied they were.

ADJUDICATION

The Commission Members then considered all the written and verbal evidence.

By a unanimous decision they found the Assault charge NOT PROVEN

By a unanimous decision they found the alternative "physical contact" charge proven on the player's own admission and all the evidence of all the witnesses that he had "pushed" without any force the referee away as he felt the referee was in his "face-space."

DECISION WAS GIVEN TO THE Secretary and Player.

The player confirmed he played Saturdays and Sundays and several times mid-week.

The player's record was then read out-(before this game)

Since 2015-2016 season just 7 cautions (2 being sin-bins) 1 red card which was for 2 cautions before sin-bins came into being.

The Secretary explained he was a good player-that football was his life and gave him an outlet from all the other "pressures/issues" in his life.

Whilst the Club Secretary was given his support to the player we CLEARLY heard the Player say-he knew he should not have touched the referee and was sorry.

Considered aggravating and/or mitigating factors.

The aggravating factors.

Any physical contact against a Match Official is serious.

The mitigating factors.

The player must be given credit for an excellent record despite playing lots of football weekends and during the week.

Despite pleading Not Guilty to the charges the player had admitted in his statement and throughout the Hearing that he had pushed the referee away as he was in his “face-space” and he felt threatened by that.

Clearly the referee involving himself in the conversation between the players at half time had not made things easy between himself and the referee.

Clearly being accused of slapping two players had upset him and frustrated him as he was being sent off for something which he was adamant did not happen and the referee must have been mistaken if that is what he thinks he saw.

Clearly with the “issues-pressures” alluded to by his Secretary he feels his personal space is important to him and finds it difficult to deal with when he feels anyone violates that space.

Reference was then made to the Football Association Sanctions Guidelines Booklet and FA Handbook for the appropriate sanctions in such cases.

Recommended punishment for physical contact against a Match Official is 182 days plus up to £150 fine but a minimum 84 days & £100 fine.

CONSIDERATIONS.

Taking into account the evidence from the referee and all the witnesses that the referee and Demarlo were very close when the contact was made and given the evidence of the player stating that he felt threatened by the referee being in his personal space we accepted that on the balance of probability the action was more a light pushing away of the referee rather than pulling towards him.

Putting together this finding, all the mitigating factors as listed above and the many aspects of evidence presented at the Hearing we felt the most appropriate sanction would be the minimum sanction as laid down in the F.A Regulations.

Sanction decision.

- (1) 84 days suspension from all football (Noted player was suspended from the 8th of January 2020 and the 84 days is counted from then.)**
- (2) £100 fine be imposed.**
- (3) MK Gallacticos will incur 7 disciplinary penalty points.**

The Club and Player were again asked if they were satisfied they had had a Fair Hearing and both replied they were.

RIGHT OF APPEAL.

There is a right of Appeal against this decision/sanction in accordance with the relevant provisions set out in the current Rules and Regulations of the Football Association.

M J Woodhams-P.Sowton-P Fisher

30th January 2020