

THE FOOTBALL ASSOCIATION NATIONAL SERIOUS CASE PANEL

Disciplinary Commission decision in the consolidated cases of:

THE BERKSHIRE & BUCKINGHAMSHIRE FOOTBALL ASSOCIATION

-v-

LEE LONGSTAFF

(Case ID: 10295467M)

&

STUART AUSTIN

(Case ID: 10295469M)

THE COMMISSION'S DECISION AND REASONS

INTRODUCTION

1. This decision concerns the charges brought against Messrs. Lee Longstaff and Stuart Austin by the Berkshire & Buckinghamshire Football Association ("the BBFA") pursuant to charge letters dated 30/10/20. Their cases were consolidated for reasons that will become obvious below.
2. In the absence of a response to charge from either Mr. Longstaff or Mr. Austin, the charges were treated as being denied and were considered by way of a non-personal hearing (i.e. on the papers) by a Chair of the Football Association ("FA") National Serious Case Panel, sitting alone. The independent Chair appointed by the FA in these matters was Mr. Craig Harris, barrister.

CHARGES

3. Mr. Longstaff was charged as follows:

Charge: FA Rule E3 - Improper Conduct against a Match Official (including physical contact and threatening and/or abusive language/behaviour) [Emphasis added]

4. Mr. Austin was charged as follows:

Charge: FA Rule E3 - Improper Conduct against a Match Official (including threatening and/or abusive behaviour)

BACKGROUND

5. The charge(s) related to events in a match between Riverside Rangers First team v Hazlemere Community Association Social Club HCA Dons FC, in the High Wycombe Sunday Football Combination, division Two, on 25/10/20. Messrs. Longstaff and Austin played for Riverside Rangers.
6. By way of a County Association Report Form submitted on 28/09/20, the match referee, Ross Newton, reported as follows:

*“The game was in the 76th minute, and a player from Hazlemere Community Centre C team had just had his shirt pulled by Lee Longstaff (no.14). I had just blown my whistle for a freekick and blew it again to get the players attention as I was about to caution him. He initially ignored this and instead signalled over to the bench to be subbed off. I blew my whistle again to get his attention and verbally requested his presence in a neutral area where I could carry out the formal cautioning procedure. He then turned around and told me to “F*** off”. To which I determined that the appropriate action was to send the player off. He then turned around again, took his shirt off, threw it on the floor, and screamed “F*** off you c***”. Whilst screaming this at me, he aggressively charged over to me and violently attempted to grab my hands and cards. A few of his own players then ran over to push him off me and off the pitch. I then went over to the manager to ask for the players name as at this point, I still hadn’t got his name. The manager told me the players name, and as I was writing the name Lee Longstaff down, I said to the manager, I will carry on when player has left the field of play and its immediate vicinity; to which the managers brother/a registered player of the team called Stuart Austin, turned round to me and said “Just f***ing get on with the game”. I looked up at him, to which he then pointed at me aggressively and said “Its c***s like you who ruin the game, you’re a f***ing c***”. He was stood about 5 yards away from me initially and as I was about to send him off too from the field of play, he then ran and charged at me, whilst trying to use his hands to grab/punch me. 3/4 of the players from Riverside (his own team) quickly stepped in to stop him getting me and he was trying to charge through them all using the force of his body. Luckily, he never made contact with me but it was very close. I then jogged over to the other side of the pitch whilst blowing the final whistle to indicate that at this point I was ending the game and abandoning it, fearing for my ongoing safety. Whilst jogging to the other side, 2/3 of the Hazlemere players then stood in between me and the group of players holding Stuart back to make sure I was safe. Luckily, he never got through the riverside players and didn’t come after me at the other side of the pitch. At this point, a linesman from the other match and Kieran Bailey came over to check I was alright and to make sure I was safe. The match was abandoned in the 76th minute with*

Hazlemere Community Association C winning 4-1. I then explained everything to Kieran after his match had finished and he said I did everything correct and it was the absolutely right decision to call it off and protect myself”.

7. In light of that report, Chris Penny of the BBFA requested further detail from the referee, by email dated 30/10/20, focussing on whether there was any contact between Mr. Longstaff and himself and the extent of Mr. Austin’s actions towards him. The referee replied by email of the same date.

8. So far as Mr. Longstaff was concerned, the referee added:

“In terms of Lee Longstaff making contact with myself, he did grab my hand and tried to knock the cards out my hand. He reset my watch in the process of grabbing my hand”.

9. So far as Mr. Austin was concerned, the referee added:

“In terms of Stuart Austin, he started 5 yards away and got to about 1 yard away from me with his hands up, so never made contact with me but was definitely going too. There was threatening words (which I have put in the previous report). So it was threatening behaviour (hands up and charging at me) and threatening language”.

10. In that email, the referee also said, *“I forgot to mention, there was an older referee who saw everything. Kieran would be able to give his name, he was just watching on the sideline”.*

11. An Eliot Ryan, who appears to have been on the Hazlemere Community FC side of the match, also provided a statement to the BBFA by way of email dated 01/11/20, in which he said:

“Report into game 25th October Riverside vs Hazlemere Community (Dons) venue Holmers Farm HW

In the 75min the referee Ross Newton gave a free kick to Hazlemere who were winning 4-1 at the time. The player Lee Longstaff swore at the ref, which upon the referee sent him off after warning both teams before game he would not tolerate swearing towards him, the player then went towards the ref in an aggressive manner and tried to knock the card out of the ref’s hands. After a few minutes the player left the pitch while the ref was talking to riverside manager another player then went for the referee in an aggressive manner and was only stopped by my Hazlemere players. The ref then blew his whistle and abandoned game, my team made sure the ref was safe and was escorted to his car under abuse from some of the Riverside players. This act was undeserved as up to this point Ross Newton had handled the game in a very goodmanner. This act is unacceptable at any one let alone an official.

I would hope we will get the win we deserve. And if the matter goes further, I am happy to be a witness for the referee”.

12. That was the evidential material submitted by the BBFA in support of the charges.

REPLY TO CHARGE

13. The reply due date given in Mr. Longstaff's charge notification letter was 06/11/20.
14. The reply due date given in Mr. Austin's charge notification letter was 13/11/20.
15. Neither filed any response to charge within those dates, or at all. On 16/11/20 Chris Penny, of the BBFA, emailed Gareth Bassett, the Club Secretary of Riverside Rangers, enquiring as to whether there would be a response to the charges from either player and warning Mr. Bassett that the case file would shortly be sent to the FA, but still no response was received.
16. The BBFA was therefore bound to approach the case on the basis that each player denied the charge against them and the Chair in this matter proceeded accordingly, there having been no response – and therefore no admission – of either charge at all.

BURDEN & STANDARD OF PROOF

17. The BBFA bore the burden of proving the charges upon the balance of probabilities.
18. The balance of probability means the Commission (or Chair alone, here) will be satisfied an event occurred if it considers that, on the evidence, the occurrence of an alleged event was more likely than not. The same standard applies to the Commission/Chair's consideration of whether any admitted, or proven act or omission amounts to a violation of the FA rule(s) pursuant to which a charge has been brought, taking account of any applicable defence. The BBFA would also have the burden of disproving any defence upon the balance of probabilities.

APPLICABLE RULES & REGULATIONS

19. FA Rule E3.1 for the 2020/21 season provides:

“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.”

EVIDENCE & THE COMMISSION'S REASONING

20. Proceedings such as these must never be approached by beginning with the question, “Why would the referee (or any other witness) lie?”, for that would be to reverse the burden of proof insofar as it somewhat presumes a charged Participant, Messrs. Longstaff and Austin here, misconducted himself before one even considers the evidence in support of a charge. One is particularly cautious to ensure one does not take that impermissible approach when being asked to consider a case by correspondence alone.

21. It is obviously difficult, however, to assess the credibility of witnesses (on all sides of a case) when matters are considered on the papers alone. There is no opportunity, for example, for the charged Participant to put his or her case to the witnesses relied upon in support of the charge, to challenge those witnesses so that their response can be scrutinized, or to set out a reason for which it is said they might be wrong in their account; for example, that they might be mistaken because of "X" or are lying because of "Y".
22. One must consider the evidence carefully and ask such questions as are reasonable to scrutinise the accounts given, before making decision as to the charge. For example, might the referee in this case have had reason to lie, or lied to exaggerate Messrs. Longstaff and/or Austin's actions, and might any other witnesses have also lied to support the referee for reasons of their own? Or is it possible that the witnesses are gravely mistaken as to exactly what happened insofar as the allegations upon which each charge is based are concerned? But one must not speculate as to such matters in the absence of any plausible reason as to why the witness(es) might have lied or been mistaken.
23. In this case, the prospect of a mistake having been made by the witnesses as to either Messrs. Longstaff or Austin's actions cannot sensibly be maintained and can, therefore, be ruled out. They either conducted themselves in the manner and circumstances that are vividly described in the referee's report, or they did not – the referee could not realistically be mistaken about that, so there would have to be a realistic prospect that he (and Mr. Ryan) might have lied in his report if either Messrs. Longstaff and/or Austin were to successfully defend the charge, , so as to make it less than likely that events took place as alleged.
24. Whilst each case/charge must be considered alone, if one charge in this case were not proved (e.g because the Chair could not be satisfied to the requisite standard that the referee might not have lied or falsely exaggerated what happened), then the referee's credibility will already have been undermined in respect of that charge, so his evidence would have to be viewed in that context in respect of the other consolidated case/charge too.
25. In this case, however, neither Mr. Longstaff nor Mr. Austin have submitted any response to charge. Neither have indicated whether they even accept or deny the charge, let alone submitted evidence (of their own, or from anyone else) in support of any position they might have taken in response.
26. On the most basic level, therefore, there is no evidence to even begin to contradict what the referee said in his report. Moreover, though, no issue is raised as to how or why the referee might have given an inaccurate or false account of events at the match in question, less still why he would lie about Messrs. Longstaff and/or Austin, and/or why Mr. Ryan would also have done so insofar as his evidence supports the generality of the referee's account (it is not in as much detail as the referee's report of course, the referee having written his report from his own perspective and knowledge from his enquiries as to the players identities).
27. Lest it be thought that the Chair has not at least explored the possibility of the referee having created a false report, all the evidence suggests otherwise. If he were going to lie or

exaggerate matters, he could have taken the opportunity to expressly state in his initial report that Mr. Longstaff, to take one example, had made physical contact with him – but he did not do so. It took the BBFA to ask him for further details to establish that with absolute clarity and the same was true of his account against Mr. Austin.

28. And lest it be thought that the BBFA needing to ask for further detail raises a question as to whether the matters alleged in the charges occurred at all, if important details of the same were left out of the referee's initial report, then the Chair notes that the vital essence of those allegations was still very much implied in his initial report. For example, he spoke of Mr. Longstaff "*violently*" attempting to grab his cards and other players running over to "*push him off me*", which clearly implied there had been contact. The further details provided upon request from the BBFA were simply to add clarity and removed any ambiguity concerning events prior to a charging decision being made and, in any case, the Chair already considered the referee to be a credible witness in the absence of any evidence to contradict his account (for the reasons set out above) such that there would be no basis to conclude he falsified additional details in his account when responding to the BBFA's enquires.
29. On the basis of the referee, Mr. Newton's evidence, supported by that of Mr. Ryan, therefore, both Messrs. Longstaff and Austin are identified sufficiently so as to establish that they were responsible for the actions attributed to them by the referee and there is no reason to doubt any of the detail of their conduct as accounted for in his report.

DECISION ON LIABILITY

30. It follows that for the reasons given above, the charge against Mr. Longstaff AND the charge against Mr. Austin are both proved upon the balance of probabilities.

SANCTION

Lee Longstaff

31. Under the County FA Sanctioning Guidelines, the recommended sanction for violations of Rule E3.1 by of physical contact and threatening and/or abusive language/behaviour towards a match official, all of which were proved in this case, is a suspension of 182 days plus a fine of **up to** £150, but no less than an 84-day playing suspension and £100 fine. That does not mean a Commission might not impose a greater sanction than recommended, save that, unlike the sporting sanction (simply recommended at a 182-day suspension) the financial penalty is limited at *up to* £150.
32. The Chair considered Mr. Longstaff's disciplinary record for the past five years, which had not been known at the time of coming to the decision on liability, above.
33. The record showed that Mr. Longstaff had received cautions in the 2016/17 season for adopting aggressive behavior and in the 2017/18 season for a foul tackle, neither of which

were relevant to the sanctioning process in this case. There was nothing on his record of the nature found proved against him by this decision.

34. The charge found proved by this decision is serious. There are no circumstances under which a player may come into physical contact with a referee with hostile intent. The aggravating factors in the case included the level of dissent shown during and following a sending off, a prolonged incident of sorts, involving physical contact towards the referee, and the level of aggression Mr. Longstaff showed generally, which caused other players to come to the referee's protection. The incident also formed part of the general circumstances concerned in this case that led to the abandonment of the match.
35. The only mitigation on the facts of the case is that the physical contact, on both occasions, appears to have been restricted to Mr. Longstaff having attempted to get the referee's cards in anger at having been sent off and there was no greater contact or any assault thereafter – there have been and will be, sadly, worse cases of hostile physical contact upon referees than was displayed in this case, but the seriousness of even doing as Mr. Longstaff did cannot be underestimated.
36. There is no personal mitigation advanced on Mr. Longstaff's behalf and no credit due for the admission of any charges, he having not even replied to the charge.
37. Taking all of the above factors into account, the Chair found no reason to impose a greater sanction upon Mr. Longstaff than is recommended by the guidelines, but equally there was no reason to depart from the recommended sanction given that, under those guidelines, it is recommended for all instances of misconduct involving physical contact upon a match official and this was not a case in which the contact was fleeting, minimal so as to be negligible or otherwise a case in which there was any exceptional mitigation to depart from what is recommended (the bottom end of the sanctioning range are the minimums to which a sanction can be reduced, but not the recommended or entry points for considering sanction).
38. This was essentially a case of purposeful, confrontational contact being caused with the referee that caused others to come to his protection, so whilst it might not be the very worst case of its kind so as to call for an increase in sanction above the recommended level, there is nothing to cause a downward departure from the recommended sanction either.

Decision on sanction: Lee Longstaff

39. The following sanction is therefore imposed upon Mr. Longstaff for his proven violation of FA Rule E3.1:
 - (i) **He is suspended from playing in any FA regulated match or competition for a period of 182 days.**
 - (ii) **He will pay a fine of £135** (given the overall level of his aggression. This is reduced from the recommended maximum of “up to £150” on the basis that there will be

worse cases, but not reduced to the minimum of £100 because there is no basis for such an approach, as explained above. Such a reduction afforded here does not apply to the playing suspension, which has no recommended upper limit in the guidelines to begin with).

- (iii) **He will forfeit any fee paid way of denial of the charge(s) (if there was one); and**
- (iv) **Riverside Rangers Football Club will accrue six penalty points under the FA Respect sanctioning scheme, should it apply.**

- 40. There was no order for costs.
- 41. The playing suspension (and fine if relevant) that was imposed pursuant to Mr. Longstaff being dismissed in the match concerned will NOT count towards the suspension imposed by this decision, above, as the misconduct for which he is sanctioned by this decision came after his being sent off for a preceding use of foul language towards the referee. This was, therefore, a separate and further incident and this sanction is imposed accordingly.
- 42. Any matches Mr. Longstaff missed pursuant to any interim suspension that was imposed by the FA pending resolution of this matter will count towards the playing suspension imposed by this decision, but only from the point after which Mr. Longstaff completed (or completes, if he has not yet) the suspension to which he was subject pursuant to his giving been dismissed in the match, as explained at §41 above.

Stuart Austin

- 43. Under the County FA Sanctioning Guidelines, the recommended sanction for violations of Rule E3.1 by use of threatening and/or abusive behaviour towards a match official, all of which was proved in this case, is a suspension of 112 days or 12 matches, plus a fine of **up to £100, but no less than an 56-day or 6 match playing suspension and £50 fine**. That does not mean a Commission might not impose a greater sanction than recommended, save that, unlike the sporting sanction (simply recommended at a 112-day or 12 match suspension) the financial penalty is limited at *up to* £100.
- 44. The Chair considered Mr. Austin's disciplinary record for the past five years, which had not been known at the time of coming to the decision on liability, above.
- 45. The record showed that Mr. Austin had multiple cautions during that period and, on three occasions, had been suspended from playing for three matches following dismissals; once for using violent conduct and twice for serious foul play. But he had nothing recorded against him of the nature of the misconduct found proved by this decision.
- 46. The charge found proved by this decision is serious. There are, again, no circumstances under which a player may threaten a referee with hostile intent. The aggravating factors in the case included the level of dissent and aggression shown towards the referee, including Mr. Austin

running at him and trying to grab/punch him, which caused other players to intervene to protect the referee before he fled across the pitch for his own safety. The incident also followed the referee having been placed in jeopardy by Mr. Longstaff's preceding conduct towards him as above – so he was vulnerable at the time – and formed part of the general circumstances concerned in this case that led to the abandonment of the match.

47. In the context of this case being charged (and proved) only as the use of threatening and/or abusive behaviour towards the referee, there is no real mitigation on the facts. It is difficult to see how much more threatening one could be without actually engaging in physical contact with, or an assault upon the referee. It was said that Mr. Austin did attempt to punch/grab at the referee in this case.
48. There is also no personal mitigation advanced on Mr. Austin's behalf and no credit due for the admission of any charges, he having not even replied to charge.
49. Taking all of the above factors into account, the Chair found no reason to depart from the recommended sanction given that, under the guidelines, it is recommended for all instances of misconduct involving threatening behaviour towards a match official and this was not a case in which the offending behaviour was fleeting, minimal so as to be negligible or otherwise a case where there was any exceptional mitigation to depart from what is recommended (the bottom end of the sanctioning range are the minimums to which a sanction can be reduced, but not the recommended or entry points for considering sanction).
50. This was essentially a case of purposeful, confrontational and, as proved, threatening conduct towards a referee, committed so as to inflame an already hostile situation created by Mr. Longstaff's conduct towards the same official and causing others to come to the referee's protection so that he could flee across the pitch and then abandoned the match – there is nothing to cause a downward departure from either the sporting or financial sanction.

Decision on sanction: Stuart Austin

51. The following sanction is therefore imposed upon Mr. Austin for his proven violation of FA Rule E3.1:
 - (v) **He is suspended from playing in any FA regulated match or competition for a period of 112 days.**
 - (vi) **He will pay a fine of £100.**
 - (vii) **He will forfeit any fee paid way of denial of the charge(s) (if there was one); and**
 - (viii) **Riverside Rangers Football Club will accrue six penalty points under the FA Respect sanctioning scheme, should it apply.**

52. There was no order for costs.
53. Any playing suspension and/or financial penalty imposed upon Mr. Austin pursuant to his having been sent off (for the same conduct as concerned in this decision) during the match will count towards the sanction imposed above insofar as permitted under FA Rules.
54. Furthermore, any matches Mr. Austin missed pursuant to any interim suspension that was imposed by the FA pending resolution of this matter will count towards the playing suspension imposed by this decision, but only from the point after which Mr. Austin has completed the suspension to which he was subject pursuant to his giving been dismissed in the match, as explained at §53 above, in the event that FA Rules dictate that that should not count towards the playing suspension imposed here.

RIGHT OF APPEAL

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

23rd November 2020

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