

**IN THE MATTER OF DISCIPLINARY PROCEEDINGS**

**BETWEEN**

**THE FOOTBALL ASSOCIATION**

*Sitting on behalf of Gloucestershire Football Association*

**AND**

**FILTON ATHLETIC FC**

**PERSONAL HEARING**

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**THE DECISION AND REASONS**

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These are the written reasons for the FA disciplinary decision made on 18 November 2021.

1. The Panel Members were Mr K. Adjepong (Chair), Mr K. Patel and Ms S. MacRae. Mr O. Powell of the FA acted as secretary to the Panel. The case was heard remotely by WebEx.
2. Filton Athletic FC was charged with a breach of FA Rule E20 - Failure to ensure Players and/or Officials and/or Spectators conducted themselves in an orderly fashion and refrained from improper, violent, threatening, abusive, indecent, insulting and/or provocative words and/or behaviour and made reference to colour. This refers to the comment(s) "black cunt".
3. Filton denied the charge and this case was dealt with as a Personal Hearing.
4. The alleged misconduct occurred during a match between Filton Athletic FC (Filton) and Easton Cowboys Reserves (Easton) on 11 September 2021.

## Relevant FA Rules

5. Rule E20 provides that:

*“Each Affiliated Association, Competition and Club shall be responsible for ensuring:*

*(a) that its directors, players, officials, employees, servants, representatives, spectators, and all persons purporting to be its supporters or followers, conduct themselves in an orderly fashion and refrain from any one or combination of the following: Improper, violent, threatening, abusive, indecent, insulting or provocative words or behaviour, (including without limitation where any such conduct, words or behaviour includes a reference, whether express or implied, to any one or more of ethnic origin, colour, race, nationality, religion or belief, gender reassignment, sexual orientation or disability) whilst attending at or taking part in a Match in which it is involved, whether on its own ground or elsewhere”; and*

*(b) that no spectators or unauthorised persons are permitted to encroach onto the pitch area, save for reasons of crowd safety, or to throw missiles, bottles or other potentially harmful or dangerous objects at or onto the pitch”.*

6. The bundle of written evidence provided included the Charge Notices and statements from: Gerry Witcombe (the Referee), Thomas Maheady (Easton, Manager), Andrew Ewart-Clarke (Player, Easton), Janan Keddi (Player, Easton). In response to the charge, written evidence was provided by Matt Shipsey (Filton, Secretary) Tom Johnston (Reserve Team Captain, Filton), Mark Jones (Reserve Team Manager, Filton), Curtis Reid (Spectator, Filton), Jacob Reid (Spectator, Filton) and correspondence between the FA and the clubs.
7. Having reviewed the submitted statements and evidence, the following observations are made. This decision does not purport to contain reference to all the points made, however the absence in these reasons of any particular point, or submission, should not imply that such point, or submission, was not taken into consideration when the matter was determined. For the avoidance of doubt, all the evidence and materials were carefully considered regarding this case.
8. Gerry Whitcombe (the Referee) reported that: ***“...at the end of the game...I notice a group from both clubs shouting and waving their arms...a player from Easton Cowboys came towards me saying that one of the opposition had call(sic) their player a Black C??t me and one the Easton Cowboys player(sic) got the player to go back to his team another non-***

***player was talking to Filton...to calm the situation down...I was approach (sic) by the Manager of Easton... and explain(sic) that I was too far away to hear what was said and suggested he contacts the league and put in a report about the incident...". (12/09/21).***

9. The Referee and Easton witnesses made written statements about the alleged "black cunt" remark made by Filton. The witnesses from Filton deny that such a remark was made. The alleged remarks were not audible to the Referee but were drawn to his attention at the end of the match.
10. Pursuant to the FA Disciplinary Regulations 2021/22, the standard of proof is the civil standard, namely the balance of probabilities.

## **Hearing**

11. At the hearing Thomas Maheady, the Easton Manager said an Easton player called Boris said he had heard someone call him a "black cunt" and was visibly upset. Mr Maheady said he had heard the comment too, but he was standing 15-20 metres away from the Filton supporters with his back towards them so he was unaware who made the comment. He said that there were approximately 20 Filton supporters who were very loud, compared to between 2-8 Easton supporters. Under questioning, he said that he did not inform the Referee earlier because he got lost in the moment, he had never dealt with this situation before and he was focused on managing his team.
12. Andrew Ewart-Clarke, an Easton player, gave evidence that the game had been played in a respectful manner. There was said to be some shouting and swearing, but no more than any other match and nothing aggressive. However, he had been sin binned during the game and he clearly heard one of the Filton's 6-7 supporters use the words "black cunt". He said that at the time his teammate, Boris, was on the floor having received an injury to his eye. He said that the Filton supporters were shouting at Boris to get up and leave the pitch when the comments were made, although he did not see who made the alleged comment. He said he was 10-15 yards away when he heard the comments. He said Boris would not have heard the comments as he was on the far side of the pitch. He said he was given permission to go onto the pitch to help Boris, who was visibly upset due to the eye injury. After the game Boris was informed that a Filton supporter had called him a "black cunt". Under questioning, he said he did not draw the comment to the Referee's attention when he heard the remarks as he had not dealt with such a situation before.

13. In response to the charge, Oliver Keeble, the Filton Secretary, said Filton were not aware of any racist comments. He said the statements from the Easton witnesses were inconsistent as they suggested that Boris had heard the alleged comments, however it now appears that he did not hear the comments and was informed about them at the end of the match. In addition, he said that no one from Easton had been able to identify the person that made the alleged comments. He said that, as Filton had mixed race players, his team would have raised the issue if the words “black cunt” had been used.
14. Curtis Reid, a Filton spectator, gave evidence that in general the match was a good game and evenly contested. He said an Easton player was injured and was on the floor and a number of Filton supporters thought he was taking too long to get up. He said he was shocked when an Easton player (Boris) said they had been called a “black cunt”. He said that he is of mixed race and would have noticed such abuse, but certainly did not hear such comments. He said it was possible that the Filton supporters had called the injured Filton player a “cunt” and may have sworn at him for taking too long to get up and leave the pitch. However, the support from Filton was not different from any normal football match.
15. Jacob Reid, a Filton spectator, also said that in general the match was a good game but when an injured Easton player was on the floor the Filton supporters told him to get up and may have sworn at him. However, he did not hear anyone call the player a “black cunt”.

## **Decision**

16. Although there were some inconsistencies in the evidence given by the Filton witnesses, the evidence from the Easton witnesses was consistent and was preferred by the Commission. The Commission agreed that it was unfortunate that Boris did not give evidence and that the Referee was not able to comment on whether the alleged remarks were made or not. The Commission found that it was likely that the Easton player that had been injured had been sworn at and called a “cunt” and, it was more likely than not that these comments had been misheard by Easton. However, there was no evidence from the Referee that the Filton players and/or supporters failed to conduct themselves in an orderly fashion (contrary to FA Rule E20). In addition, there was no evidence of the precise identity of the person that made that the alleged comments, but instead that the comments had come from the general area where Filton supporters were standing.

17. As a result of the above, on the balance of probabilities, the Commission found that the E20 charge (Failure to ensure Players and/or Officials and/or Spectators conducted themselves in an orderly fashion etc.) was not proven.

Kwadjo Adjepong (Chairman)

Kishen Patel

Sheryl MacRae

22 November 2021