

IN THE MATTER OF THE FOOTBALL ASSOCIATION

Case ID : 10397163M

DISCIPLINARY COMMISSION

BETWEEN :

GLOUCESTERSHIRE FOOTBALL ASSOCIATION

and

OSAYAME ALBANGBEE

DECISION AND REASONS

Disciplinary Commission constitution.

Abdul S. Iqbal QC (Chair)

Ellie Menezes

Kishen Patel

Chris Lucker (Secretary)

Date of hearing : 26th May 2021

Attendees

Gloucestershire Football Association

Andrew Kennedy

Stefan Boggis

David Lee

Yame Albangbee

Yame Albangbee

Chris Sweet

Sean Stinchcombe

Luke Haddow

Chris Wilmott (Club Representative of Iron Acton FC present as an observer)

1. This document sets out the written reasons for the decision in this Disciplinary Commission (“the Commission”).

(1) The charges.

2. By “*misconduct charge notification*” dated 7th May 2021 the Gloucestershire Football Association (“FA”) alleged that Osayame Albangbee (“OA”), during a match (“the match”) between Iron Acton FC and Wotton Rovers FC on 1st May 2021, acted in an improper way by deliberately spitting at the referee.

3. The FA alleged that OA was shown a yellow card by the referee (Andrew Kennedy) for dissent but that OA continued using aggressive and abusive language towards the referee that led to a second yellow card (and thereby a red card) being shown to OA by the referee. At this point, the FA alleged that OA deliberately spat at the referee and that some spittle landed on the clothing of the referee.

4. Accordingly, the FA charged OA with :

- i. Assault on a match official on 1/5/21 contrary to rule E3.1 of the Rules of the Football Association 2020/21 ;
- ii. Alternatively, improper conduct against a match official (including physical contact and threatening and abusive language or behaviour) on 1/5/21 contrary to rule E3.1 of the Rules of the Football Association 2020/21 ;

5. The charges brought by the FA are founded on the allegation that OA deliberately spat at the referee. The charge sheet indeed particularises the allegation as being “*Mr Albangbee spat at and on Referee Andrew Kennedy following his dismissal from the field of play*”.

6. Accordingly, the abusive language said to have been used by OA towards the referee do not found the basis of these allegations of misconduct. The behaviour of OA by words and/or behaviour led to two yellow cards (and therefore a red) and therefore have already been the subject of sanction by the referee.

7. In these circumstances, the remit of this Commission is as to the circumstances of if, and why, OA deliberately spat at the referee. The Commission makes no findings of fact beyond the remit of the Commission.

8. OA denied both charges by response dated 10/5/21.

9. Chris Wilmott (Club Secretary of Iron Acton FC) was present throughout the

misconduct hearing as an observer.

(2) The facts.

Evidence adduced by the FA.

10. The FA adduced evidence from the following witnesses.

(i) Andrew Kennedy.

11. The Commission had a brief written statement from Andrew Kennedy dated 4th May 2021. The Chair of the Commission asked questions of the witness to seek clarification of the relevant facts. OA was given the opportunity to ask questions of the witness limited to the remit of the Commission.

12. The evidence of the witness (both in writing and after clarification by questioning at the hearing) can be summarised as follows :

- i. The witness was the referee in the match ;
- ii. The witness had to speak to OA (the number 9 player for Iron Acton FC) at one stage of the match due to dissent from OA ;
- iii. A yellow card was shown to OA that meant he was sent to the “sin bin” ;
- iv. OA kept using abusive language towards the referee ;
- v. The witness showed a second yellow card that meant it was necessary to show a red card to OA and dismiss him from the game ;
- vi. The witness was walking about 2 to 5 yards behind OA as OA walked off the pitch ;
- vii. OA then turned half way towards his right, looked at the witness, and spat at him that ended up on the shorts of the witness. The witness did not know that the spittle had landed on him at that stage but noticed a few minutes later ;
- viii. Photographs of the spittle on the shorts were placed before the Commission ;
- ix. The game continued to completion.

(ii) Stefan Boggis.

13. The Commission had a brief written statement from Stefan Boggis dated 7th May 2021. The Chair of the Commission asked questions of the witness to seek clarification of the relevant facts. OA was given the opportunity to ask questions of the witness limited to the

remit of the Commission.

14. The evidence of the witness (both in writing and after clarification by questioning at the hearing) can be summarised as follows :

- i. The witness is a Committee Member for Wotton Rovers FC ;
- ii. The referee showed the Iron Acton FC Number 9 a yellow card during the match ;
- iii. The player started to walk off towards the side of the pitch. The referee started to follow the player ;
- iv. The player turned around and appeared to spit at the referee. The player moved his head back and then forward as if spitting ;
- v. This perception of spitting was based on the fact the referee stopped and seemed to take evasive action ;
- vi. The spitting appeared to be aimed at the "*referee's feet rather than upper body*" ;
- vii. The witness was about half the length of the football pitch away from the location of the relevant player and the referee at the time.

(iii) David Lee.

15. The Commission had a brief written statement from David Lee dated 5th May 2021. The Chair of the Commission asked questions of the witness to seek clarification of the relevant facts. OA was given the opportunity to ask questions of the witness limited to the remit of the Commission.

16. The evidence of the witness (both in writing and after clarification by questioning at the hearing) can be summarised as follows :

- i. The witness is a Committee Member for Wotton Rovers FC ;
- ii. The referee showed an Iron Acton FC player a yellow card during the match ;
- iii. The player turned around to walk off but then turned back to the referee and it looked like the player spat at the referee ;
- iv. The player did not fully turn around but had turned about two thirds and appeared to spit in the direction of the referee. The player was "*more side on to the referee*" as he spat ;

- v. The player was then shown a red card ;
- vi. The witness was about 40 yards from the incident.

Evidence adduced by OA.

(i) Osayame Albangbee.

17. The Commission had a written statement from Osayame Albangbee by way of email document sent on 10th May 2021. The Chair of the Commission asked questions of the witness to seek clarification of the relevant facts.

18. The evidence of the witness (both in writing and after clarification by questioning at the hearing) can be summarised as follows :

- i. The witness plays as the Iron Acton FC number 9 ;
- ii. During the match, the witness was shown a yellow card by the referee and was sent to the “sin bin” ;
- iii. The witness was frustrated by that decision but obeyed the decision and began to walk off the pitch ;
- iv. As he walked off the pitch, he cleared his throat to spit on the floor to his right hand side. He was unaware at the time that the referee was nearby ;
- v. He turned to his right as he spat and saw the referee brandishing a red card ;
- vi. The referee alleged that the witness had spat at him. The witness stated to the referee that he had not spat at him ;
- vii. The referee showed the witness his boot where he said some spittle had landed ;
- viii. The witness apologised to the referee if he had spat on him and said he had not deliberately spat at him ;
- ix. The witness left the field of play for the rest of the match due to the red card.

(ii) Chris Sweet.

19. The Commission had a written statement from Chris Sweet by way of email document sent on 8th May 2021. The Chair of the Commission asked questions of the witness to seek clarification of the relevant facts.

20. The evidence of the witness (both in writing and after clarification by questioning at the

hearing) can be summarised as follows :

- i. The witness is First Team Manager for Iron Acton FC ;
- ii. OA was shown a yellow card during the match by the referee and sent to the “sin bin”. This meant he began to walk towards the witness ;
- iii. The referee followed OA and was behind OA.
- iv. As OA walked towards the witness to leave the pitch, something must have been said because the referee showed OA a red card and said “*you can have a red for that*” ;
- v. The referee said “*you’ve just spat at me I’m reporting you*” ;
- vi. OA responded by saying “*I was spitting at the floor not at you*” ;
- vii. The witness did not actually see OA spit ;
- viii. The witness was about 5 to 10m away from the incident.

(iii) Sean Stinchcombe.

21. The Commission had a written statement from Sean Stinchcombe by way of email document sent on 9th May 2021. The Chair of the Commission asked questions of the witness to seek clarification of the relevant facts.

22. The evidence of the witness (both in writing and after clarification by questioning at the hearing) can be summarised as follows :

- i. The witness is a Coach for Iron Acton FC ;
- ii. OA was shown a yellow card during the match by the referee and sent to the “sin bin”;
- iii. As OA walked towards the witness to leave the pitch, something must have been said because the referee showed OA a red card ;
- iv. The witness was about 5 metres from the relevant events ;
- v. OA looked at the referee, then turned back towards the witness ;
- vi. OA then turned his head to the right and down towards the floor. By this point, the referee was “*right behind*” OA and said that OA had “*just spat at him*” ;
- vii. The witness did not actually see OA spit ;

viii. OA responded by saying he had not spat at the referee.

(iv) Luke Haddow.

23. The Commission had a written statement from Luke Haddow by way of email document sent on 10th May 2021. The Chair of the Commission asked questions of the witness to seek clarification of the relevant facts.

24. The evidence of the witness (both in writing and after clarification by questioning at the hearing) can be summarised as follows :

- i. The witness is a player for Iron Acton FC ;
- ii. The witness saw OA receive a yellow card from the referee due to using abusive language ;
- iii. OA started to walk away from the referee and was followed by the referee ;
- iv. The referee showed OA a red card ;
- v. OA looked frustrated and spat at the ground at a time when the referee was near OA. The referee appeared to be facing OA as OA spat ;
- vi. The referee was near OA when OA spat towards the ground ;
- vii. The witness was about 10m from the scene of the incident.

25. At the conclusion of the evidence heard by the Commission, OA was invited to make any further submissions he wished to advance.

26. OA was asked to state at this stage frankly whether he felt the remote video hearing had been conducted so as to afford him a fair hearing. He confirmed he believed he had been given a fair hearing and given a fair opportunity to present his case to the Commission.

(3) The Commission's factual findings.

27. The burden of proof is borne by the FA to prove each of these serious allegations upon the balance of probability.

28. The Commission noted that the allegations are plainly serious and cogent evidence is required upon the balance of probability to establish each allegation.

29. Having considered all of the evidence before the Commission and the submissions made on behalf of the FA and OA, the Commission concluded that neither allegation was

proved upon the balance of probability.

30. The reasons for arriving at this conclusion are as follows :

- i. The Commission found the evidence adduced both on behalf of the FA and OA to be credible and straightforward ;
- ii. All the witnesses who appeared before the Commission were plainly attempting to give their best and honest recollection of the material events ;
- iii. Plainly OA's behaviour towards the referee by way of abusive language (met with two yellow cards and thereby a red card) had led to some frustration on the part of OA ;
- iv. That behaviour of OA most probably also caused some frustration to the referee ;
- v. The evidence adduced by OA showed that OA accepted he had spat but that he had not *deliberately* spat at the referee ;
- vi. The witnesses Chris Sweet, Sean Stinchcombe and Luke Haddow all witnessed events at reasonably close quarters. Their evidence, both individually and cumulatively, supported the assertion that the referee had walked close to and behind OA at a time when OA turned partially and spat towards the floor ;
- vii. The Commission concluded that some spittle had landed on the referee. Such a conclusion was not challenged by OA ;
- viii. The evidence adduced by the FA (beyond that of the referee himself) was from witnesses who were either "*half the length of a football pitch*" away (Stefan Boggis) or about 40 yards away (David Lee). Their view was not sensibly as good as that of those witnesses closer to the incident ;
- ix. Stefan Boggis (called by the FA) asserted that OA seemed to spit towards the "*referee's feet rather than upper body*". This supported to a degree the assertion by OA that he was spitting towards the floor ;
- x. David Lee (called by the FA) stated that OA "*did not fully turn around but had turned about two thirds and appeared to spit in the direction of the referee. The player was more side on to the referee as he spat*". This evidence to a degree supported OA's assertion that he spat as he turned his head and that he did not fully face the referee at the point he spat ;

- xi. The Commission concluded that Andrew Kennedy was plainly an honest witness who had genuinely concluded at the time that OA had spat at him ;
 - xii. The issue for the Commission, however, was to determine whether on the balance of probability it concluded that OA *deliberately* spat at the referee intending thereby to spit on him ;
 - xiii. In addition, it was plain that the referee had begun to walk immediately behind OA at a time when OA was walking away and at a time that OA may genuinely not have realised the close proximity of the referee behind him as he turned around ;
 - xiv. In all of the circumstances of this case, the Commission concluded that it could not conclude on the balance of probability that OA deliberately spat at the referee as opposed to spitting towards the floor in the direction of the referee with some spittle landing on the referee's shorts ;
 - xv. The FA did not put their case on the basis of *negligence* or *recklessness* but on the basis of *intent* ;
 - xvi. Accordingly, the Commission concluded that neither charge (both of which relied upon OA committing a deliberate act to spit at and on the referee) were proved on the balance of probability ;
 - xvii. Each charge was therefore found not proven.
31. Accordingly, each allegation pursuant to rule E3.1 was found not proven on the balance of probability.

Concluding comments.

32. Even though no allegation of misconduct was found proven, the Commission deprecates the fact that OA chose to spit on the field of play during a match.
33. Such behaviour of spitting by OA is unattractive, unbecoming, and highly unpleasant even in the absence of a global health crisis.
34. During a global health crisis, such behaviour is not acceptable at all. It is potentially dangerous and likely to cause real anxiety to others. OA should not have spat during the match.
35. The Commission hopes and expects that Iron Acton FC and OA will appreciate that the conduct of OA was inappropriate and unpleasant in the hope it will not be repeated in the

future.

36. There is the right to appeal these decisions in accordance with FA Regulations.

Abdul S. Iqbal QC

Ellie Menezes

Kishen Patel

27th May 2021