

**IN THE MATTER OF
HAMPSHIRE FOOTBALL ASSOCIATION**

-v-

**DEAN GARTON
(CASE REFERENCE 9493826M)**

REASONS FOR DISCIPLINARY COMMISSION DECISIONS

TUESDAY 18th SEPTEMBER 2018

Warning – This document contains offensive and/or discriminatory language.

INTRODUCTION

1. These are written reasons for the findings of a Disciplinary Commission, held on behalf of Hampshire FA (HFA) on Tuesday 18th September 2018, following a misconduct charge raised against Dean Garton (DG) of AFC Burton. The misconduct offence is alleged to have taken place in a game between Bransgore United First and AFC Burton Reserves in the Bournemouth Saturday Football League on Saturday 1st September 2018.

PARTIES

2. The Disciplinary Commission members were Anthony Rock (Chair, HFA Council), Steve Vasey (HFA Council) and Ian Birch (Independent). Mrs Jane Hodge (Observer) was also in attendance throughout the Commission.
3. Jon Fancy (Senior Football Administrator, HFA) acted as Secretary to the Commission.
4. For personal reasons, DG was unable to attend the hearing in person. It was agreed by the Commission, and accepted by DG, that he would present his case and submit his evidence via mobile phone.

MISCONDUCT CHARGE NOTIFICATION

5. By HFA Misconduct Charge Notification, dated 4th September 2018, the following charge was raised against DG: Charge - FA Rule E3 - Improper Conduct against a Match Official (including physical contact and threatening and/or abusive language/behaviour).

FA RULE E3

6. FA Rules of the Association - FA Handbook Season 2018-2019, Part 10, Section E, Paragraph 3(1) states:

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.

CHARGE

7. The details of the charge are that, after approximately 35 minutes of the first half, the Referee awarded AFC Burton a free kick on the centre circle/halfway line intersection. As the ball was rolling from near the goal towards the indicated restart position, the Referee set off towards the likely landing area to his left. He looked over his shoulder to see that the ball was still obviously rolling but DG had run into it and kicked it directly towards the Referee's head, at such an angle to miss all his players. The Referee ducked down and the ball missed his head by inches. DG was sniggering.
8. Immediately after the game as the Referee was making his way back to the car park, DG was deliberately intimidating and insulting and shouted to him during a 2 minute period, "*twat, prick, hope you crash your car*" and showed the Referee a single finger up sign.

PLEA

9. The Commission was informed that on 7th September 2018, via the Whole Game System (WGS), DG had pleaded not guilty to the charge and requested a personal hearing. We noted that, as from 4th September 2018, DG was suspended from all football and football related activities pending the outcome of his personal hearing.

WRITTEN EVIDENCE

10. The written evidence available to us before the hearing consisted of:
 - a. HFA Misconduct Charge Notification (DG) dated 4th September 2018.
 - b. E-mail dated 4th September 2018 from Declan Hellyer (HFA) to Richard Davis (RD) (Secretary, AFC Burton) - notification of the immediate suspension of DG.
 - c. FA Extraordinary Incident Report dated 3rd September 2018 from the Referee.
 - d. WGS screenshot from Declan Hellyer dated 13th September 2018 (confirming DG's not guilty plea).
 - e. E-mail statement from DG, undated.

EVIDENCE IN SUPPORT OF THE CHARGE AGAINST DG

11. We first heard evidence from the Referee, Nicholas Le Feuvre (NLF). Copies of his report were before all parties and it was accepted that they had been received and read by all.
12. By way of questioning, NLF gave oral evidence as follows:
 - a. He confirmed, on a sketch, where the players were stood for the free kick (35th minute), and also confirmed the geographical location of the pitch, dressing rooms, tennis court and car park.
 - b. In reference to the 35th minute, he stated that the ball had not hit him and that at the time he wasn't sure if DG had deliberately kicked the ball at him. As such, he decided to try and manage the situation. However, after the game and following further consideration, he changed his mind and decided to report the incident to HFA. When questioned further, and contrary to his opening comment, he said that he was sure that

DG had kicked the ball at him and that he should have sent the player off. He also felt that, given time to reflect, he had made his decision based on fact and not emotion.

- c. He acknowledged that DG may have been trying to take a quick free kick and that when the kick was taken he was heading towards the probable drop zone, some 20 yards from where the kick was taken from. He thought that the ball had gone directly out of play from the kick.
- d. Immediately following the free kick incident, NFL had ushered both DG and the Burton Captain (James) towards the touchline and asked both the Manager and Assistant Manager to speak with DG. At the time, he heard DG uttering curses. When asked what DG was uttering, NLF said he couldn't remember exactly as he was not listening properly. He was not sure who DG's comments were aimed at although he was sure DG was saying something.
- e. In regard to the incident after the game (1600 hours) he was expecting the Burton Manager, DB, to walk with him to his motorcycle. He didn't realise that DB had only walked a little way and then returned to his dressing room. As he walked towards his motorcycle, DG had subjected him to 2 minutes of verbal abuse. NLF told us that he feared for his safety.

EVIDENCE IN DEFENCE OF THE CHARGE AGAINST DG

13. We next heard evidence from the Appellant, DG. Copies of his report were before all parties and it was accepted that they had been received and read by all.

14. By way of questioning, DG gave oral evidence as follows:

- a. In the 35th minute he saw the opportunity to take a quick free kick. At no time did he have any intention of deliberately kicking the ball at the Referee. He couldn't remember exactly where NLF was stood when he took the kick, but felt that he was at least 25 yards from the ball. He said that the ball had not gone out of play and that his pass had resulted in a shot from one of his players (he thought that it was the left winger).
- b. At half time he asked to be taken off and played no further part in the game. He thought that NLF had wrongly accused him of swearing, and also felt that NLF was giving him no protection. He also had an injury.
- c. For the second half he stood with some friends and ex-players by the tennis court. The friends left after the game, but he could not remember the exact time.
- d. DG stated that at no time did he have any discussion with or make any comment to the Referee as he was leaving the ground. He also couldn't remember seeing or making any comment to DB after the game.
- e. He informed the Commission that RD had given him a lift to and from the game, and that after the game he was stood by the tennis court waiting for a lift home.

15. We then heard evidence from RD (Burton Secretary, Assistant Manager and player) and DB (Burton Manager and player). Neither party had submitted any written statement. By way of questioning:

- a. RD felt that the Referee was not in control of the game and was certain that DG had not deliberately kicked the ball at the Referee. He felt that there were personal issues between DG and NLF that shouldn't be raised on a football pitch. RD told us that he had been at Burton for some years, and this included the period when NLF was also a Burton player.
- b. When questioned specifically about the free kick, RD could not remember if the ball was moving when the kick was taken or where the ball had landed. He also couldn't remember how far the Referee was from the free kick. He was certain that, after the kick had been taken, the Referee did not approach the Burton 'bench' asking for the Manager or Assistant Manager to speak to DG.
- c. He recalled that after the game, DG was near to the tennis court talking to some ex-players. He confirmed that the Referee had knocked on the Burton dressing room door and that DB had gone outside with the Referee. RD stated that he remained in the dressing room and didn't see or hear any actions/comments DG is alleged to have made to the Referee.
- d. In his evidence, DB confirmed that he did not see the free kick incident. It wasn't until after the game that he was made aware that DG had been accused of deliberately kicking the ball at the Referee. He confirmed that at half time DG had asked to be taken off as the Referee was accusing him of making comments. He was aware that DG was stood by the tennis court for the second half.
- e. DB stated that after the game the Referee had knocked on their dressing room door and had asked for help with one of their players. At no time did the Referee state that the player was DG, although DB assumed that it was (based on what had happened during the game). DB left the dressing room, dressed only in boxers, and from immediately outside the dressing room door shouted to DG to be quiet. He then returned to the dressing room and did not hear any comment DG is alleged to have made in response, or any comment DG is alleged to have made to NLF. He didn't realise that the Referee had wanted someone to walk to the car park with him. Had he known that, then he would have got dressed and done so.
- f. DB was surprised that the Referee had not returned to the dressing room if he felt that DG was a threat. At no time did NLF state that he would be reporting DG for misconduct.

16. DG was asked if he wished to make a closing summary before the Commission determined its findings/decision. DG decided not to comment.

SUMMARY OF EVIDENCE IN THE DG CASE

17. The foregoing is a summary of the evidence provided to us, both in writing and in person. It 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 we did not take such point or submission into consideration.
18. We found elements of the Referee's evidence inconsistent with his written report. We noted that he wasn't sure if DG had deliberately kicked the ball at him, or if the ball had simply been kicked in his direction. There is no evidence to suggest that DG was angry or in a state of frustration immediately before the kick; accordingly we struggled to determine why DG would have taken such action. There is corroborated evidence to suggest that, following the free kick, the Referee did not approach the Burton 'bench' asking for the Manager/Assistant Manager to speak with DG and to calm him down. This is at variance with the Referee's report, which clearly states that he ushered both DG and the Burton Captain (James) towards the touchline and asked the Manager and Assistant Manager to talk to their player. We also noted that, immediately following the free kick, the Referee took no disciplinary action against DG.
19. By his own admission, DB did not witness the free kick being taken and we were not convinced that RD saw the taking of the free kick either. As such, RD would not have been able to state with any certainty that DG had not deliberately kicked the ball at the Referee. We felt that RD was probably being over supportive of his player.
20. We noted DG's written denial that he had any verbal contact with the Referee after the game (as reported by NLF), and there is no corroborating evidence to support either position. We accepted that DB left the dressing room to speak with DG, but then immediately returned to get dressed so did not hear any reply or comments DG is alleged to have made.

FINDINGS

21. We were reminded of the standard of proof required in order to find the charges proven, which is on a balance of probability. We noted that the balance of probability standard means that we would have to be satisfied an alleged event occurred if we considered, based on the evidence, the occurrence of an alleged event was more likely than not to have taken place. [1]
[SEP]
22. We determined that there was insufficient evidence to support the charge that DG had deliberately kicked the ball at the Referee. As such, by a unanimous decision, we found the charge of improper conduct against a match official (including physical contact) NOT PROVEN.
23. In accordance with FA Regulations, there is a right of appeal against the decision.

Thursday 20th September 2018

Anthony Rock (Chair)

Steve Vasey

Ian Birch