**Kent Football Association**

**Versus**

**Leon Nicholas**

**Case No: 9625014M**

**Disciplinary Commission – Written Reasons**

**15th January 2019**

**Fixture:** FC Royals First v Eltham Lyons (Youth) Senior – played on 4th November 2018- Woolwich & Eltham Sunday League, Dewar Shield.

1. **INTRODUCTION:**

These are the written reasons for the findings of a Kent Football Association (KFA) disciplinary commission held to consider an appeal by personal hearing by Leon Nicholas, a player registered with FC Royals. Leon Nicholas had been charged by the KFA in response to a written report made by referee Karl Parker alleging that Leon Nicholas made physical contact with him during the above-mentioned fixture. A written report had been received from Karl Parker. Various items of correspondence had been received from Donovan James. Mr James is the manager/secretary of FC Royals. In this correspondence, Donovan James writes on behalf of Leon Nicholas and consistently refutes that any physical contact occurred. The response to the charge levied by the KFA is ‘**not guilty’.**

1. **PARTIES:**

The disciplinary panel members appointed to hear this appeal were:

Bill Stoneham (KFA member) Chairman;

Alex Heselgrave (KFA member);

Mark Tucker JP (Independent panel member).

Mark Bright (KFA Football Services Officer - Discipline) acted as secretary to the commission.

**KFA Witness:**

Karl Parker – Referee;

**Witnesses for the Appellant:**

Donovan James – Manager/hon secretary FC Royals.

Donovan James has been present at the fixture. Karl Parker was unable to attend the commission in person. His evidence was offered via Skype.

1. **Misconduct Charge:**

A charge was laid against Leon Nicholas by the KFA on 16th November 2018 for a breach of FA Rule E3 -Improper Conduct against a Match Official (including physical contact and threatening and/or abusive language/behaviour).

The details of the charge were as follows:

***Details: Leon Nicholas is charged under FA Rule E3 –* Improper Conduct against a Match Official (including physical contact and threatening and/or abusive language/behaviour).**

***FA Handbook page 179 – Offences against match officials states:***

***‘Physical contact or attempted physical contact: examples include but are not limited to: pushing the match official, pulling the match official (or their clothing or equipment), barging or kicking the ball at a match official (causing no injury) and/or attempting to make physical contact with the match official (for example, attempting to strike, kick, butt, barge or kick the ball at the match official).’***

1. **Supporting Evidence:**

Karl Parker submitted a written report to the KFA on 7th November 2018.

1. **Response from the Appellant:**

No direct written correspondence prior to the commission had been received from Leon Nicholas. Three items of correspondence had been received on behalf of Leon Nicholas. In each case, the author was Donovan James – manager/secretary of FC Royals. The items of correspondence were as follows:

* Undated item stating that Leon Nicholas will be pleading not guilty to the charge levied against him.
* E-mail dated 4th December 2018 denying that physical contact had occurred between Leon Nicholas and Karl Parker. In this e-mail it was acknowledged that Leon Nicholas ‘may have used abusive language in the direction of the official…’
* E-mail dated 5th December 2018 again denying that any physical contact between Leon Nicholas and Karl Parker took place but agreeing that abusive language ‘in the context of the game’ might have been used.

1. **Summary of Written Evidence:**

In his report, Karl Parker clearly stated that at the culmination of the game Leon Nicholas approached him and twice called him a ‘cheating fucking cunt’. Karl Parker showed Leon Nicholas a red card at this point. It is then alleged that Leon Nicholas responded by grabbing Karl Parker’s head in both hands in a vice-like grip and wrestled with it. Karl Parker broke free and Leon Nicholas was man-handled away from the immediate scene by some of his own players. Once free from the restraints imposed by his team mates, Leon Nicholas picked up a nearby football and deliberately kicked it towards Karl Parker. The ball narrowly missed Mr Parker because he took evasive action.

The various items of correspondence provided by Donovan James on behalf of Leon Nicholas do no more than deny most of the allegations made by Karl Parker. They do not provide any alternative account. It is twice agreed that abusive language might have been used.

1. **Verbal Evidence:**

* Karl Parker confirmed when shown a picture of Leon Nicholas, that this was the person who had committed the alleged offences.
* Though Karl Parker gave his evidence clearly and quite confidently, he was vague about some key details including where Leon Nicholas was positioned at the end of the game and Leon Nicholas’ direction of movement immediately prior to the alleged physical contact.
* Karl Parker was not entirely clear about how the alleged physical contact was broken up, or by whom.
* Karl Parker was specially asked why there was a delay from 4th November (when the offence is alleged to have occurred) until 7th November when his written report was submitted. No convincing answer was offered. Indeed, the reasons offered were quite flimsy and lacked conviction. Karl Parker suggested that either he was busy at work or might have had another game. Given the seriousness of the alleged offence, commission members were surprised that a report had not been submitted far quicker.
* Karl Parker, Leon Nicholas and Donovan James were all asked independently to provide positional evidence based on a map of the field of play. Though Leon Nicholas changed his evidence, having initially claimed that Donovan James was acting as an assistant referee to the fact that he had entered the field of play as a substitute player, there was more consistency in the positional evidence offered by Leon Nicholas and Donovan James compared to what was offered by Karl Parker.
* All three commission members separately pressed both Leon Nicholas and Donovan James about events. Both were adamant that the alleged offences did not take place. Both admitted, however, that Leon Nicholas did verbally abuse Karl Parker.
* Though there was a minor difference in the reported language used by Leon Nicholas towards Karl Parker, both Leon Nicholas and Donovan James independently stated that the offending language was muttered as opposed to shouted. Both independently claimed that Leon Nicholas was not overtly angry or out of control. Both denied that his body language was aggressive or threatening.
* When questioned by commission members both vehemently denied that any physical contact took place and that Leon Nicholas never kicked a football at the referee in the manner alleged in the referee’s report.
* As club secretary, Donovan James said that the first he knew about the alleged physical contact was on the afternoon of the game when he received a telephone call from the league secretary. He claimed that at the end of the game no red card was shown by Karl Parker to Leon Nicholas. A point contested by Karl Parker.
* Donovan James was adamant that the first he knew about any incident was some 30 minutes after the end of the game when he received a telephone call from the league secretary asking about a red card incident. Donovan James claimed that he thought that the league secretary was referring to a red card issued to a Royals FC player much earlier in the game.
* Donovan James reported that when he eventually received the referee’s written report his main emotion was one of anger because he did not recognise any of the events reported apart from the verbal abuse uttered by Leon Nicholas. He claimed that Karl Parker had invented and embellished what had happened.
* When giving their evidence to the commission, neither Leon Nicholas or Donovan James criticised the referee or his performance. They did refer to disappointment about the amount of added time at the end of the game. They both continually claimed to be mystified by the allegations made by the referee. When asked directly, Donovan James was resolute in his reply that nothing resembling the alleged offences, apart from the verbal abuse, took place and that any possible issue of wrong identification was not relevant.

1. **Findings:**

* After weighing up all the evidence (both written and verbal) presented, members of the commission were split in their opinion, but all were concerned about disparities and contradictions that existed.
* Commission members were surprised at the delay that had occurred in the referee submitting such serious allegations.
* The panel members, after a considerable discussion, reached a split decision that, on the balance of probability, ***FA Rule E3 – Improper Conduct against a match official (including physical contact and threatening and/or abusive language/behaviour)*** against Leon Nicholas was **NOT PROVEN.**
* Leon Nicholas was recalled and advised of the commission’s decision.

1. **Additional Information:**

* The commission commenced at 18.53.
* Karl Parker gave his evidence via Skype. Karl Parker left the commission at 19.25
* From 19.25 to 19.42 commission members questioned Leon Nicholas.
* At 19.42 Leon Nicholas called his only witness Donovan James.
* Commission members finished their questioning at 20.15. At this juncture Leon Nicholas gave a short summary of his defence before he and Donovan James left the room.
* At 20.36, Leon Nicholas was recalled. He was asked if, in his opinion, he had received a fair hearing. He was critical of the initial arrangements. He said he had not been fully advised beforehand about his role and responsibilities and did not realise that he would be required to ask questions of the referee. He acknowledged that once this issue had been overcome, the hearing had been fair and that the questions asked were both relevant and searching. He thanked commission members for their time. **(In his capacity as secretary to the commission, Mark Bright wished it to be record that a copy of The FA’s Player and Club Guide to Commissions was e-mailed to Donovan James, in his capacity as club secretary, on Thursday 10th January 2019).**
* Leon Nicholas was then informed by Mark Bright of the **not proven** verdict. He was advised about the implications associated with this decision, including the return of all fees and the impact on his disciplinary record.
* The commission closed at 20.43.

Wednesday 16th January 2019.

Bill Stoneham – Commission Chairman

On behalf of the Kent Football Association.