

Disciplinary Commission ("The Commission")

On behalf of Oxfordshire FA

In the matter of Gustavo Alessi

(Case number 11502167M)

Hearing Summary including Written Reasons

INTRODUCTION

1. This is a hearing summary and includes written reasons for the decision of the Disciplinary Commission (The Commission) which sat on Wednesday 3rd January 2024.
2. The FA appointed Mr. Michael O'Brien as Chair of the Commission.
3. The following is a record of the salient points which the Commission considered. It is not intended to be, and should not be taken to be, a verbatim record of the hearing.

THE CHARGE

4. Following a game between Moreton Rangers Reserves v Leaffield FC First on the 28/10/23, Oxfordshire FA (OFA) raised an E3 charge against Gustavo Alessi (GA) on the 1/12/23:

FA Rule E3 - Improper Conduct (including foul and abusive language)

Improper Conduct - aggravated by a persons Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability

It is alleged that Gustavo Alessi used abusive and/or indecent and/or insulting language contrary to FA Rule E3.1 and it is further alleged that this is an aggravated breach as defined by FA Rule E3.2 because it includes a reference to nationality. This refers to a facebook post on a Witney District League page, which states: "witney British only league".

5. The charge sheet advised that, should the Commission find the charge proven, then the FA's recommended sanction guidelines indicate a suspension of 6 – 12 games. It further stated that, for charges relating to an offence made in writing only or via a communication device (including social media), the Commission will not be bound by the six match minimum if specific exceptions apply. The minimum sanction in these cases will be a suspension of 3 games.
6. No response to the charge was received. A correspondence hearing was therefore arranged in accordance with Paragraph 108 of Section Three of the FA's Disciplinary Regulations.

EVIDENCE

7. The Commission had before it the following evidence and/or statements:
 - A facebook exchange whereby PR, a person connected to Leaffield FC, the same team as GA, posts 'well done to all the refs in this league. I never seen a line man's giving offside and the ref giving the goal'. To which GA responds 'mate it's the majority of refs. This league should be called the Witney British only league'. Giving a ban on one of our players because he clapped at

the referee, like really? Moreton played with 12 men in the second half and everybody saw that. Fair play. It's football. Focus on the next game now'.

8. The foregoing is a summary of the key evidence provided to the Commission. It does not purport to contain reference to all the points made or all evidence considered, however the absence in these reasons of any particular point, or submission, should not imply that the Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Commission carefully considered all the evidence and materials furnished with regard to this case.

DETERMINATION

9. The Commission considered all the evidence presented, and found, using the applicable standard of proof which is balance of probability, that the charge of contravention of FA Rule E3, was not proven. In coming to this decision, The Commission reminded itself that the onus was the the OFA to prove the charge. Whilst it is easy to imagine scenarios in which the comment 'British only league' could be deemed as offensive, indecent and / or insulting, The Commission was not given any additional context to the comments other than being provided with the brief facebook exchange. There is no suggestion within the comment that GA is proposing / wishing that that the league should be 'British only'. Equally, The Commission is unaware of the Nationality of GA and of the referee to whom GA refers. GA states that the league *should be called* a British only league. This may be because he thinks there is a bias shown to British players within the league. It is difficult to ascertain from this brief exchange. Either way, the OFA did not do enough to prove that the comment was abusive and/or indecent and/or insulting due to the Nationality related content.

OUTCOME

10. The Commission found that the charges against GA were not proven.

11. There is a right of appeal against this decision in accordance with the relevant provisions set out in the Rules and Regulations of the Football Association.

Michael O'Brien (Chairman),

3rd January 2024