

FA NATIONAL SERIOUS CASE COMMISSION
DISCIPLINARY COMMISSION

on behalf of the Oxfordshire Football Association

CONSOLIDATED PERSONAL HEARING - VERBAL PLEA

Of

YOUCEF EL-BARHDADI

[Case ID: 11510773M]

And

CORRESPONDENCE HEARINGS

Of

SUMMERTOWN STARS AFC

[CASE ID:11537417M]

And

MATTHEW HILSDEN

[CASE ID: 11510771M]

THE DECISION AND REASONS OF THE COMMISSION

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Introduction

1. On 11 November 2023, Summertown Stars AFC ('the Club') played a fixture against Charlton United Reserves ('Charlton') – collectively the "match".
2. Youcef El-Barhdadi ("Mr El-Barhdadi") is a player for a Club but was acting as an Assistant Referee in this match. Matthew Hilsden ("Mr Hilsden") is a member of the coaching team for Charlton.
3. Oxfordshire Football Association ('OFA') received a report that Mr El-Barhdadi was rude in his gesture and words towards Mr Hilsden, who was in turn alleged to have been rude and abusive, using references to gender towards the Match official. Further it is alleged that a supporter of the Club was abusive towards Mr Hilsden.
4. OFA investigated the reported incidents.

The Charges

5. On 5 January 2024, OFA raised the following charges:

Mr El-Barhdadi:

- Breach of FA Rule E3 – Improper Conduct (including foul and abusive language); it is alleged that after the final whistle, Mr El-Barhdadi said to Mr Hilsden "you fat cunt" or similar;

Summertown Star AFC: E20

- Breach of FA Rule E21 – RTB – Failed to ensure that spectators and/or supporters (And anyone purporting to be its supporters or followers) conducted themselves in an orderly fashion and refrained from improper, offensive, violent, threatening, abusive, indecent, insulting or provocative words and/or behaviour contrary to FA Rule E21.1, that there was a n altercation between a Club linesman, and a spectator or supporter, with Mr Hilsden.

Mr Hilsden:

- Breach of FA Rule E3 – Improper Conduct (including foul and abusive language);
- Breach of FA Rule E3.2 – Improper Conduct - aggravated by a persons Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability.

It is alleged that Mr Hilsden used an abusive and/or indecent and/or insulting language contrary to FA Rule E3.1 in that it is alleged Mr Hilsden said to Mr El-Barhdadi "*wanker*". Further it is further alleged that there is an aggravated breach as defined by FA Rule E3.2 because there is also a reference to gender. This refers to Mr Hilsden's comments '*silly bitch*' and '*that's what you get with a fucking female referee*' or similar towards the Match Official.

6. The relevant section of FA Rule E3 states:

- *“E3: 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.*
- *E3.2: Improper Conduct (aggravated by a persons Ethnic origin, Colour, Race, Nationality, Faith, Gender, Sexual Orientation or Disability).*
- *E21; A Club must ensure that spectators and/or its supporters (and anyone purporting to be its supporters or followers) conduct themselves in an orderly fashion whilst attending any Match and do not:*
 - E21.1 use words or otherwise behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative;*
 - E21.2 throw missiles or other potentially harmful or dangerous objects at or on to the pitch;*
 - E21.3 encroach on to the pitch or commit any form of pitch incursion*
 - E21.4 conduct themselves in a manner prohibited by paragraph E21.1 in circumstances where that conduct is discriminatory in that it includes a reference, whether express or implied, to one or more of ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.*
 - E21.5 it shall be a defence to a Charge in relation to Rules E21.1 to E21.3 (only) if a Club can show that all events, incidents or occurrences complained of were the result of circumstances over which it had no control, or for reasons of crowd safety, and that its responsible officers or agents had used all due diligence to ensure that its said responsibility was discharged. However, when considering whether this defence is made out a Regulatory Commission will have regard to all relevant factors including:*
 - The extent to which the Club has discharged its duty;*
 - The severity of the issues involved;*
 - The extent to which similar issues have occurred previously in which case whether the Club took sufficient action in preventing further such incidences.*
 - E21.6 For the avoidance of doubt Rule E21 shall apply to the conduct of both a Club’s home and/or away supporters.”*

7. OFA included with the charge letters the evidence that it intended to rely on in these cases.

8. Mr El-Barhdadi and Mr Hilsden were required to respond to the charges by 22 December 2023 and the Club was required to respond to the charge by 19 January 2024.

The Replies

9. Mr El-Barhdadi accepted the charge and requested a personal hearing to make a verbal plea.

10. The Club accepted the charge and elected for a correspondence hearing.

11. Mr Hilsden requested a correspondence hearing. He accepted the E3 charge but denied the E3.2 charge.

The Commission

12. The Football Association ('The FA') appointed John Murphy, as a Chair/member of National Serious Cases Commission, to this Discipline Commission. The two Commission members were Yin Lee, Independent Commission member and Kevin Sanders, Independent Commission member.
13. Justyna Demuth of Lancashire Football Association acted as Secretary to the Hearing ('the Secretary').
14. Mr El-Barhdadi was accompanied by the Club Welfare Officer of the Club.

Mr El-Barhdadi**Previous Disciplinary Record**

15. Mr El-Barhdadi had no prior relevant misconduct in the previous five seasons.

Mitigation

16. Mr El-Barhdadi was given credit for admitting the charge.
17. Mr El Barhdadi explained that he had volunteered to be an Assistant Referee for the match. He reported to the Match Official at half time and full time that Mr Hilsden had been making abusive gender-based comments about her and her competency. Mr Hilsden had also been rude directly about Mr El-Barhdadi . He admitted that he made a rude hand gesture towards Mr Hilsden and that under provocation, he swore at Mr Hilsden. He stated it was a one off, 'heat of the moment' action by him. He had apologised to Mr Hilsden in the bar after the game for his actions and words. also talked about how he had for 3 years helped run the team Oxford Phoenix, a socially responsible and inclusive team.

Aggravation

18. The Commission did not consider any circumstances to be material.

The Sanction

19. The Commission noted the Sanction Guideline for the E3 charge for a player.
20. Ther Commission determined that this charge is a low category offence.
21. After taking into consideration all circumstances in this case, and the mitigation and aggravating factors, Mr El-Barhdadi:

- will receive a sanction of 1 match ban; and
- The Club will receive 5 (five) penalty points.

Summertown Stars AFC

Previous Disciplinary Record

22. The Club had no prior relevant misconduct in the previous five seasons. It was noted that they had over fifty teams.

The Sanction

23. The Commission noted the Sanction Guideline for the E21 charge for a club.
24. The Commission determined that this charge is a low category offence.
25. After taking into consideration all circumstances in this case, the Club:
- will receive a fine of £35 (thirty-five pounds).

Mr Hilsden

The Evidence

26. The Commission noted that Mr Hilsden accepted the E3 charge.
27. The Commission noted the written evidence. The Match Official confirmed that both at half time and full time, she had been informed by respectively a person with the Club and then by Mr El-Barhdadi that Mr Hilsden had been making 'vile' and 'foul' remarks about her, later clarifying that the words reported were 'bitch'. The Match Official did not hear any of these comments directly.
28. Mr El-Barhdadi provided written evidence that whilst running the line in the second half, he heard him refer to the Match Official by calling her a "*silly bitch*" again and said "*that's what you get with a fucking female referee*". In his oral evidence to the Commission, Mr El-Barhdadi repeated this evidence.
29. Mr Roderick Noble ('Mr Noble') provided written evidence but did not refer to the alleged charge against Mr Hilsden.
30. Ms Natalie Williams, ('Ms Williams') stated that "*the comments made by the Assistant manager [Mr Hilsden] that were sexist and degrading beyond football, so I spoke to the*

Referee at half time and asked her to have a word [with Mr Hilsden'] as my eight-year old son was present as well as other children."

31. She continued that *"The Referee said she didn't hear any specifics so couldn't challenge, I said I'm not asking you to challenge specifics but asked that she speak to him and request the vulgar language to be reigned in as the majority was aimed at her. Some of the comments were 'Silly B****h' *That's what you get with a female Ref' 'Stupid little girl' He then drew his attention to our AR (Youceff) where again it was taken a step too far and personal"*.
32. Ms Williams continued that *"The 'Silly Bitch' comment was in the first half and the 'Female Ref' comment was in the second."*
33. Mr Hilsden did not refer to the alleged comments, and did not deny making them, in his witness statement. He provided a second statement in which he denied the E3.2 charge.
34. Mr James McAdam ('Mr McAdam') of Charlton provided a written statement but did not refer to the alleged remarks attributed to Mr Hilsden towards the Match Official. He provided a second statement in which they denied Mr Hilsden made the gender-based remarks to the Match Official.
35. Mr Adam Roberts ('Mr Roberts') of Charlton provided a written statement but like Mr McAdam, did not refer to the alleged gender-based comments attributed to Mr Hilsden.
36. Mr Callum Cooper ('Mr Cooper') of Charlton provided a written statement, but like Mr McAdam, did not refer to the alleged gender-based comments attributed to Mr Hilsden.
37. Ms Sharon Caine ('Ms Caine') provide a statement stating that she was present at the match on the sidelines and did not hear Mr Hilsden make *"any sexist comments towards the ref"*.

Standard of Proof

38. The applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, the Commission would be satisfied that an event occurred if the Commission considered that, on the evidence, it was more likely than not to have happened.

The Findings & Decision

39. The Commission reminded itself that the burden of proving a charge falls upon the County FA, in this cases OFA.
40. In a Commission such as this, the assessment of the evidence is entirely a matter for the Commission. The Commission must assess the credibility of the witnesses, (that is whether a

witness is attempting to tell the truth), and the reliability of a witness, that is whether, even though a witness may be attempting to tell the truth, their evidence might not be relied upon.

41. Where there are discrepancies between witnesses, it is for the Commission to accept which witnesses to accept and which to reject. Even where there are discrepancies between witnesses or within a witness's own evidence, it is for the Commission to assess if the discrepancy is important. Having considered which evidence to accept and which to reject, the Commission then must decide if, on the balance of probabilities, the alleged breach of the FA Rules is established.
42. It should be noted that where direct speech is quoted in a witness statement, the Commission has recorded it in the wording and grammar in which it appears in the witness statement, without making any grammatical or typing alterations in any obvious typo errors.
43. The Commission considered all the evidence presented in the case bundle and noted the following:
 - 1) *The Commission noted that Mr Hilsden denied making the gender-based comments, like "silly bitch" and "that's what you get with a fucking female ref".*
 - 2) *The Commission though were impressed with the evidence heard in person from Mr El-Barhdadi, and considered his evidence credible when he said that he heard Mr Hilsden make the comments alleged and that he reported them contemporaneously to the Match Official at half time and at full time. The Referee's report corroborates Mr El-Barhdadi 's version that he reported to her that Mr Hilsden had made the alleged comments about her.*
 - 3) *The Commission further noted that the evidence from Natalie Williams corroborated the evidence given by Mr El-Barhdadi, that Mr Hilsden made the alleged comments towards the Match Official. The Commission considered the evidence from Ms Williams credible noting that she is female witness to the events and that she was stood with her child so would have had a heightened sensitivity to aggravated abusive comments.*
44. The Commission considered that on the balance of probabilities, Mr Hilsden did make the aggravated gender-based comments about the Match Official, "*the silly bitch*" and "*that's what you get with a fucking female ref*". The E3.2 charge is proven.

Previous Disciplinary Record

45. The Commission considered Mr Hilsden's offence history. He had no prior relevant misconduct in the previous five seasons.

Mitigation

46. There was no mitigation owing to it being a correspondence hearing.

Aggravation

47. Mr Hilsden is in a position of responsibility when he made the remarks to the female referee. There were children in earshot of Mr Hilsden when he made the remarks. He made 2 comments. He denied the charge so receives no credit.

The Sanction

48. The Commission noted the Sanction Guideline for the E3.2 charge. The Commission noted the charges for the E3 charge but decided to apply a sanction that was concurrent.

49. After taking into consideration all circumstances in this case, and the mitigation and aggravating factors, Mr Hilsden, a non-playing participant, is:

- Suspended from all football activities for 8 Matches; this is a ground ban owing to Mr Hilsden's non-playing participant status;
- A requirement to attend an online Education Course to be completed before the expiry of the 8-game suspension, failure to comply with this order will result in Mr Hilsden being banned from all football activities until the course is completed.

50. These decisions are subject to the right of appeal under the relevant FA Rules and Regulations.

Commission

John Murphy – Chair

Yin Lee

Kevin Sanders

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