

SURREY COUNTY FOOTBALL ASSOCIATION
WRITTEN REASON
Case Number 9753459M Martin Weighill

Introduction

- On 7th January 2019 Epsom Badshot Lea First played Cobham First in the Combined Counties Football League & Youth Cup- (The Match).
- Surrey County Football Association received a report from Shawn Barclay alleging Mr Weighill after being sent off deliberately “Shoulder Charged” the Assistant Referee Mark Kelly before walking into the changing rooms.
- After receipt of this complaint, Surrey County FA investigated the allegation.

The Charge

- On 15th February 2019 Surrey County FA charged Martin Weighill with misconduct for a breach of FA Rule E3 (g).
- It was alleged that: Mr Weighill made contact with the referee by shoulder barging him after being dismissed, and that his conduct was violent and threatening.
- The relevant sections of FA Rule E3 (g) state: Improper conduct against a match official (including physical contact, violent conduct and threatening and / or abusive language / behaviour.
- Although an alternative charge was mentioned in the text there was no alternative charge shown in the charge notification.

The Reply

Mr Weighill responded and denied the charge and asked for a personal hearing,

The Commission

The following members were appointed by Surrey County FA to this Disciplinary Commission to hear this case:

Chair: Les Pharo

Secretary: Adrian Shorter

Member: Sue Aspinwall

Independent: Brian Hurst (Independent)

The Hearing & Evidence

- This matter was dealt with by way of a personal hearing on 5th March 2019 and it was agreed that we all had received and read the bundle of documents from all parties prior to the hearing. There was an issue in respect of three statements apparently being loaded onto the WGS which the commission were not in possession of, the secretary was unable to find a record of these statements.

Burden of Proof:

The applicable standard of proof for this case is the balance of probability. The balance of probability standard means that the Commission is satisfied an event occurred if the Commission considers that, on the evidence, the occurrence of the event was more likely than not.

Witnesses present on behalf of the County:

Shawn Barclay, Referee. Mark Kelly Assistant Referee and Denis Hayes the match observer.

On Behalf of Mr Weighill the following witnesses were in attendance:

James King, Dena Harrison and Ewemade Orobator. Mr Morrison attended as the Club Representative and acted on behalf of Mr Weighill during the hearing.

The following is a summary of the principal submissions considered by the Commission. It does not purport to contain reference to all points 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.

The commission were informed of some issues in respect of Mr Weighill and this was taken into account during the hearing.

Mr Kelly was invited to give his account of the event; he did not wish to change anything in his report. During his questioning from Mr Morrison and the commission he stated that Mr Weighill had leant down and charged into him, he agreed that he did not have to position himself in front of the tunnel and could have moved to avoid any contact but was not sure which way to move. He said he was in that position ready for the restart of the match. When asked about a social media comment he had made Mr Kelly could not recall and then denied making any comment, when asked by the commission he then stated that he had but had forgotten about it when questioned, but that he had commented on social media. He said that he was knocked off balance but did not fall. He agreed that he did not bring this matter to the attention of the referee at the time. He marked on a drawing where people were and the tunnel and the exit route of Mr Weighill.

Mr Barclay the match referee did not wish to change anything in his report and was questioned by Mr Morrison and the commission, where he stated that Mr Kelly was in front of the tunnel, he explained his position and to describe the contact, where he felt that it was deliberate but described the contact as a "Nudge" and that it was shoulder to shoulder, he was asked why Mr Kelly stood in front of the tunnel and he said he was not sure. He drew on a pad the positions of those involved and the exit route of Mr Weighill. He confirmed he was dealing with other issues but did turn around to see the contact.

Mr Hayes was invited to give his account and he stated that he did not wish to change anything in his report. When questioned by Mr Morrison and the commission he said his view was unobstructed from the stand in which he was sitting and he had a clear view, he said that he saw Mr Weighill deliberately shoulder barge Mr Kelly, when asked to indicate where this event occurred he did so on a pad. He was asked to describe the contact and he described it as a shoulder barge. When asked was it forceful he said yes.

In response to the charge Mr Weighill who had submitted a statement gave his account of the incident, which was as per his statement, he said after being sent off he walked straight towards the tunnel and he noticed that Mr Kelly had moved to the tunnel and stopped directly in front of it. He stated that as he stepped around him to go into the tunnel there was a slight contact a shoulder to shoulder brushing further stating that he has more contact on a tube than he did with Mr Kelly. He said that there was no need for Mr Kelly to be in that position for the restart of the match. He apologised for the language used which was the reason for his sending off.

James King then gave his account of the incident he was playing in the match and had also submitted a statement. He said that Martin had been sent off and the referee then came over to talk to him, and that the referee was facing him away from the alleged incident, he said he was facing the tunnel but did not see anything untoward, he believes that due to the referee facing him he (the referee) would not have seen what was alleged to have happened. He said that the linesman (Mr Kelly) did not call the referee over or raise his flag at all at this time. When questioned by the commission his account of the events did not deviate.

Deena Harrison then gave her account of the incident and she had also submitted a statement, she stated that the first time she heard anything of this allegation was when she became aware on social media. The commission questioned Deena and her account did not deviate.

There were submissions from persons not present and the commission put what weight on those submissions they felt appropriate.

In summing up the matter Mr Harrison said the he had presented all the evidence he wished to do in this matter and that it was clear that there had been an accidental touch between Mr Weighill and Mr Kelly solely due to the position Mr Kelly had placed himself in and not

moving away from the exit point, which was the tunnel when Mr Weighill left the field of play.

In considering this matter the commission took into account all matters, and noted that there was differing opinions of the type of contact, even between the county witnesses, it was felt that if this was as described by Mr Kelly a full on shoulder barge where others described it as a nudge or slight contact, it was also noted that Mr Kelly in his own words could have avoided any contact had he stepped away from the tunnel entrance, where Mr Weighill had to exit the pitch. Mr Hayes positioning of the exit route and the point of contact was not the same as where it was clear the incident was alleged to have happened; this was also taken into account by the commission. The failure by the officials to notify the club or the league of this allegation was also a concern to the commission, either by word of mouth at the end of the game or on the "Crime sheet" submitted to the league. There was also the denial by Mr Kelly of the use of Social Media which he eventually agreed he had used after further questioning by the commission.

The commission were in no doubt that some sort of contact took place, but were satisfied that this was not a full on shoulder barge as described, but was more likely to be slight contact as Mr Weighill as he left the pitch, due to the fact that the exit point was blocked by Mr Kelly who did not think it appropriate to move to allow Mr Weighill to leave.

Having taken into account all the above, the commission unanimously found the matter not proved.

Les Pharo

Chair

11-03-19