

COUNTY DISCIPLINARY COMMISSION

On behalf of Surrey County Football Association

Correspondence Hearing

Of

Andrzej Zygora - Case ID: 9880640M

THE DECISION AND REASONS OF THE COMMISSION

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

Introduction

1. On 04 May 2019, Woking Corinthians played Old Salesians First (“Old Salesians”) A First in the Guildford & Woking Alliance League.
2. Surrey County Football Association (“Surrey FA”) investigated the allegation.

The Charge

On 24 June 2019, Surrey FA filed the following charge:

Andrzej Zygora

3. Misconduct for a breach of FA Rule E3 – Improper Conduct (including foul and abusive language) (“charge 1”) and that this Improper Conduct was aggravated by reference to a person’s Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Sexual Orientation or Disability, contrary to FA Rule E3(2) (“charge 2”) [Charge 1 and 2 collectively known as the “Aggravated Breach Charge”].

Relevant FA Rules

4. The relevant section of FA Rule E3 (1) and (2) (p.113 of the FA Handbook Season 2018-19) states:

“(1) A Participant shall at all times act in the best interest 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.

(2) A breach of Rule E3 (1) is an “Aggravated breach” where it includes a reference, whether expressed or implied, to any one or more of the following: ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability”.

The Reply

5. Surrey FA received a response on behalf of Mr. Zygora denying the charges. He confirmed that he wished for matters to be dealt with by correspondence.

The Commission

6. The Following members were appointed by The Football Association (“The FA”) to this Disciplinary Commission (“the Commission”):
Bradley Pritchard (Chairman);

Francis Duku; and

Evans Amoah-Nyamekye.

Harley Collyer of Northamptonshire FA acted as the Secretary to the Commission.

The Hearing and Evidence

7. The Commission convened at 0930hrs on 02 August 2019 via videoconference for this Correspondence Hearing (“the hearing”).
8. The Commission received and read the respective bundles of documents prior to the hearing, which included:
 - a. Misconduct charge notification and response;
 - b. Incident Report Form from Match Official, Roy Butler;
 - c. Statement from Mark Lunn, Old Salesians player;
 - d. Statement from Daniel Conibeere, Old Salesians player;
 - e. Statement from Silvili Capela, Woking Corinthians player;
 - f. Statement from Lukasz Moc, Woking Corinthians player;
 - g. Statement from Andre Codreanu, Woking Corinthians player;
 - h. Statement from Andrzej Zygora, Woking Corinthians player;
 - i. Statement from Mateusz Gniewek, Woking Corinthians player;
 - j. Statement from Bogdan Czachor, Woking Corinthians player;
9. The following is a summary of the principal submissions provided to the Commission. 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 the Commission did not take such point, or submission, into consideration when it determined the matter. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished with regards to this case.

Standard and Burden of Proof

10. The Commission reminded itself that the burden of proving a charge falls upon the County FA.
11. The applicable standard of proof required for this case is the civil standard of proof namely, the balance of probability. This standard means the Commission would be

satisfied that an event occurred if it considered that, on the evidence, it was more likely than not to have happened.

Findings and Decision

Andrzej Zygora

12. As the charge was denied, the Commission first had to determine liability. The allegation specifies that Old Salesians player, Mark Lunn was called a “*monkey*” by Mr. Zygora. The Commission carefully considered all the evidence submitted.
13. In his statement, Mr. Lunn states during a corner the two players had tussled for position. Mr. Zygora “didn’t like being muscled away from the ball at which point he turned to me and said “*what you do fucking monkey*”. Mr. Lunn acknowledges he then kicked out as a reaction. He eventually had to be substituted because “*Mark Lunn was unable to compose himself for the remaining time during the first game*”, according to the Old Salesians manager. In the Referee’s Incident Report form, Roy Butler remembers Mr. Lunn’s demeanour; “*Lunn who was foaming at the mouth saying to me “deal with it”*”. This reaction suggests that if a comment was made, it is likely that it was so significant as to cause offense to the recipient.
14. In response, Mr. Zygora provided respective statements from fellow team-mates, Silvili Capela, Lukasz Moc, Andre Codreanu, Mateusz Gniewek and Bogdan Czachor. Each statement confirms that Mr. Zygora told Mr. Lunn to “*fuck off*”, nor was any reference to monkey made by Mr. Zygora.
15. However, the Commission noted the similarities of each statement with regards to content and structure. The similarities were such that it raised implications of a coordinated attempt to construct a narrative in support of Mr. Zygora;

Silivili Capela

“I saw Mark Lunn jumping on Andrzej Zygora back. Andrzej told him “fuck off” and run forward”, “I also meant to say that Mark Lunn play very aggressive and referee gave him red card later in the future”, “I am working during days and I will not be able to attend hearing.”

Lukasz Moc

“Mark Lunn jump on Andrzej...Andrzej told him “fuck off” and run out from our goal”, “in our 2nd game Mark Lunn get red card for being aggressive to referee”

Andre Codreanu

“I saw Mark Lunn foul Andrzej Zygora by jumping on his back...Andrzej said “fuck off” and short running forward”, “In our 2nd match Mark get red card for aggressive behaviour against Referee”, “I don’t want to attend hearing as I work during days and I don’t speak English”

Mateusz Gniewek

“I saw when Mark Lunn jump and foul Andrzej Zygora I heard that Andrzej said “fuck off” to Mark and then Mark kicked Andrzej from back in to his legs when he run”, “Mark was very aggressive player, in results he get red card in a 2nd game for being aggressive to referee”, “I don’t want to attend hearing as I don’t speak English”

Bogdan Czachor

“I saw Mark Lunn pushing and jumping on Andrzej Zygora. I didn’t hear anything”, “Mark get red card in a 2nd game by being aggressive against Referee”, “I can attend hearing but I don’t speak English at all”

16. All evidence in support of Mr. Zygora identify Mr. Lunn jumping on Mr. Zygora’s back first, then kicking out at Mr. Zygora. They all end by mentioning that Mr. Lunn was sent off by the referee for being aggressive.
17. Furthermore, all the statements were written in the same handwriting and on the same day. One explanation for this is that several of the witnesses do not speak English. However, the Commission discussed the credibility of witnesses who remember hearing Mr. Zygora say “fuck off”, but then acknowledge that they do not speak any English. The appropriate weighting to their respective evidence was given.
18. The Commission considered, inter alia, the reaction of Mr. Lunn and the evidence provided in response. It found that on the balance of probabilities, the Aggravated Breach Charge against Andrzej Zygora was proven.

Sanction

19. In deciding the appropriate sanction, The Commission carefully considered both aggravating and mitigating factors. Therefore, the following sanction was decided:
 - i. A five-match ban
 - ii. A fine of £75
 - iii. Six Club Disciplinary Points to be recorded

20. The decisions of the Commission may be appealed in accordance with the provisions in The FA Handbook.

Signed

Bradley Pritchard (Chairman);

Francis Duku; and

Evans Amoah-Nyamekye.

02 August 2019