

COUNTY DISCIPLINARY COMMISSION

On behalf of Surrey County Football Association

Correspondence Hearing

Of

Kourosh Heravi - Case ID: 9880631M

THE DECISION AND REASONS OF THE COMMISSION

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

Introduction

1. On 24 March 2019, Xavelhas FC Senior (“Xavelhas”) played Poplar Rovers First (“Poplar Rovers”) in the Surrey FA Sunday Intermediate Cup.
2. Surrey County Football Association (“Surrey FA”) investigated the allegation.

The Charge

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

Kourosh Heravi

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. Heravi 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. Statement from Referee, Mark Sullivan;
 - c. Statement from Bob Dick, Surrey FA Competitions Officer;
 - d. Statement from Marco Faria, Xavelhas Club Secretary;
 - e. Statement from Luis Sousa, Xavelhas player;
 - f. Statement from Kourosh Heravi, Poplar Rovers player;
 - g. Statement from Emma Jones, Poplar Rovers spectator.
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

Kourosh Heravi

12. As the charge was denied, the Commission first had to determine liability. The charge specifies Mr. Heravi said to an opposing player/official *“fuck off tell Surrey FA to pay you, you fucking Portuguese cunts”*.
13. The Commission carefully considered all the evidence submitted. Marco Faria states in his statement:
“I approached Poplar Rovers members to collect their half from the payment of the match expenses. When Poplar Rovers player respond to me: “we are not paying nothing, fuck off tell Surrey FA to pay you, fucking Portuguese cunts”
14. This version of events is supported by Luis Sousa, a Xavelhas player.
15. In response, Mr. Heravi admits not paying his team’s fees:
“I explained to him that I would not be paying due to surrey owing us money and said they could receive it of them...at no time was there any aggressive feelings or attitude in this conversation”.
16. A statement from Emma Jones is made in support of Mr. Heravi’s version of events, *“kourosh just said to him “were not paying you today as Surrey owe us money but if you call them they will sort it out for you”*.
17. The Commission considered why Mr. Faria did not inform the referee at the time, however, it appeared that Mr. Sullivan had departed the venue by that time. If the chronology of events is to be accepted, then Mr. Faria reported the incident within a reasonable time period, the evening of 24th March (approx 19:17).
18. Mr. Heravi acknowledges that he told Mr. Faria that he would not be paying their team’s fees but denied using any offensive language. The Commission, therefore, were presented with two different versions of events. It was incumbent upon the Commission to assess the likelihood of each version, by looking at, inter alia, the context of the circumstances. Mr. Heravi’s team had lost the match, a quarter final by penalty shoot-out. It also appears Mr. Heravi believed there to be an issue regarding outstanding monies owed to Poplar Rovers by Surrey FA.
19. With that in mind, would Mr. Heravi have felt a certain unfairness in the circumstances? It is likely. However, the Commission needed to assess Mr. Heravi’s character to determine if it is likely that he said the alleged comment.
20. During email correspondence with the investigating officer, Ashley Gumbrell, Mr. Heravi demonstrated that he had little regard for the process; leading Mr. Gumbrell to warn him that he was *“wasting my time by sending such a response [Mr. Heravi sent*

a picture of a movie character when asked to identify who had been charged] and the continued behaviour would result in a charge of “*failure to assist an investigation*”.

21. The Commission carefully considered all the evidence available and deliberated at length the likelihood of what was said. It found that on the balance of probabilities, the Aggravated Breach Charge against Kourosh Heravi was proven.

Sanction

22. 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
- iv. Online education course to be completed within four months. Failure to complete it will result in a sine die suspension.

23. 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