

ANTI-DISCRIMINATION

DISCIPLINARY COMMISSION

On behalf of Surrey Football Association

PERSONAL HEARING

Of

ANTONY BURTON

Case ID: 9880238M

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THE DECISION AND REASONS OF THE COMMISSION

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## **Introduction**

On Sunday 16 December 2018, Ironside Firsts ('Ironside') played Manor Park Wanderers FC ('Manor Park') in the Division 2 Morden & District Sunday League. The referee, Antony Burton ('Mr Burton') had issued a red card to Mason Foster ('Mr Foster') during the second half, who left the pitch shouting abuse at the referee. When the match ended, Mr Burton was approached by a number of Ironside players, who collectively expressed their disappointment to him about his ending the game, when he did. Mr Burton made his way directly to his car which was in the close by car park, next to the changing rooms at the sports ground. He was accompanied to two spectators with the Manor Park team.

Mr Burton reported that two Ironside players, Messrs Luke Bates ('Mr Bates') and Mr Foster appeared next to him when he was at his car. There was a confrontation between the three of them. Mr Burton alleged that Mr Foster threw at least one punch at him which connected, that both Messrs Bates and Foster swore at him and that Mr Bates kicked a metal post, close to Mr Burton intimidating him. Mr Burton felt threatened. It is also alleged that Mr Burton swore at them and used the phrase 'foreign c\*\*t' directed towards Mr Bates. Mr Burton telephoned the police to report the incident.

## **The Charges**

The FA charged Mr Burton with the following:

- (1) Antony Burton - It is alleged that his swearing towards Messrs Bates and Foster was improper conduct (including foul and abusive language) contrary to Rule E3(1); and further that the phrase said to Mr Bates, 'foreign c\*\*t', is an aggravated feature, being contrary to Rule E3(2), in that it was a reference to nationality;

The relevant section of FA Rules E3(1) and (2) 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**

Mr Burton submitted a communication in which he denied the both the non-aggravated and aggravated breaches and requested a personal hearing.

Messrs Burton and Bates attended the Commission in person on 29 August 2019.

## **The Commission**

The following members were appointed by The FA to this Disciplinary Commission (“the Commission”):

John Murphy (Chair);

Brian Hurst (Independent FA Appointment); and

Bill McKnight (Independent FA Appointment).

Oliver Powell of Sussex FA acted as the Secretary to the Commission.

## **The Hearing and Evidence**

The Commission convened at 7.15pm on 29 August 2019 at Surrey FA.

A preliminary issue for the Commission to address was the presence of Mr Bates, who had informed the Secretary on 29 August 2019 at 7pm, that he was attending in person and wished to represent himself to the Commission in person to provide his evidence to the Commission. The Commission agreed that it was in the best interests of fairness and justice for Mr Bates, if present and willing, to be able to present himself to the Commission. The Commission was aware of the unexpected presence of Mr Bates would heighten the need to ensure that both Messrs Burton and Bates, behave in a respectful manner as to permit the other to present their evidence to the Commission, in a non-threatening atmosphere.

At the hearing, Mr Burton confirmed that he had no objection to any of the above members sitting on the Commission and hearing his case.

### **Mr Burton aggravated charge – Rule E3(2)**

The Commission had received and read the documents prior to the hearing, which included:

#### **On behalf of the FA:**

- (i) Misconduct Charge Notification dated 7 June 2019;
- (ii) Statement from Aaron Harding of Manor Park;
- (iii) Email statement from Luke Bates;
- (iv) Email statement from Mason Foster;
- (v) Email statements from Roger Osborne and Gary Kelly, both of Ironside.

#### **On behalf of Mr Burton**

- (vi) 2 Extraordinary Match Reports plus email statement from Mr Burton.

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 avoidance of doubt, the Commission have carefully considered all the evidence and materials furnished with regard to this case.

Mr Burton informed the Commission that he was changing his plea to the non-aggravated E3 charge of Improper Conduct (foul and abusive language). He now pleaded guilty to that charge.

Mr Burton continued to deny the aggravated E3(2) charge relating to him saying the phrase, 'foreign c\*\*t' to Mr Bates.

Mr Burton explains how he had felt so intimidated on blowing the final whistle and being surrounded by Ironside players on the pitch, complaining about his decision to finish the game, in their opinion, early. Mr Burton had already sent off Mr Morton and received vocal threats from Mr Morton as he departed the pitch and shortly thereafter from the touchline. He decided that he wanted to exit the sports ground as quickly as possible after the final whistle, so after escaping the Ironside players who surrounded him on the final whistle, he walked directly to his car to get changed and leave. He was accompanied as he walked to his car by 2 supporters of Manor Park.

While getting changed, he said that Messrs Bates and Foster approached his car from behind the changing rooms, rather than walking up to it directly. He said that Mr Bates angrily kicked a metal post close to where he was stood and that Mr Bates swore at him in terms of why he had refereed as he had done. Further he said that Mr Morton confronted him and using his arms, reached out and threw a punch which caught him on the nose. Mr Burton stated that all three men were verbally abusive to each other, he admitted that he felt intimidated and described falling into the open boot of his car as the two men came closer to him. Mr Burton admitted to the Commission that he swore strongly at both but strenuously denied any mention of the phrase 'foreign c\*\*t' to Mr Bates or anyone else.

There was a report in the bundle from an independent witness, affiliated to Manor Park, who alleges that he saw Mr Burton being pushed into the back of his car and a punch being thrown by either Messrs Bates or Morton. The witness states that Mr Burton threw a shoe at them and called one of the two players a 'foreigner'. The Commission were disappointed that this person did not attend in person to be cross examined on his evidence and accordingly, were reluctant to place too much weight on evidence that could not be tested at the Hearing.

Similarly there was written evidence supplied by two persons affiliated to Ironside which was devoted to explaining that tempers in the car park frayed between Messrs Burton, Bates and Foster owing to the close proximity of their 3 respective cars and people being blocked in inadvertently during the period when the cars were attempting to leave the car park post-game. For the reasons set out the paragraph above, with the two persons not attending the hearing, the Commission were reluctant to place much weight on this evidence.

Finally the Commission heard from Mr Bates. He stated that he approached Mr Burton directly in the car park, and not from behind the hanging rooms. Equally he explained that he was kicking his boots against things to remove mud from his studs. Further he could offer no explanation as to why his conversation with the referee, which he admitted did contain some swear words, about the game

should provoke such an angry and swearsome response from Mr Burton. He did not recall any punch being thrown by Mr Foster. He stated that Mr Burton did say the phrase to him, 'foreign c\*\*t'.

### **Standard of Proof**

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**

The Commission considered all the evidence before them and noted that Mr Burton had admitted the non-aggravated charge at the start of his evidence.

The Commission had to weigh up the testimony from Mr Burton which was at odds with the evidence presented by Mr Bates about whether Mr Burton used the phrase 'foreign c\*\*t' to him. Mr Foster did not attend so the Commission were reluctant to rely on his evidence as it was untested.

The Commission were not persuaded by Mr Bates that the phrase had been used. Commission were not persuaded by Mr Bates' explanation that the swearing by him and Mr Foster should be downplayed but equally he was at a loss to explain what they had done to cause Mr Burton to fear for his safety and to call the police about them. The Commission found Mr Burton credible and noted his honesty from the start of his evidence regarding him swearing but adamant denial about use of the phrase 'foreign c\*\*t'.

The Commission were satisfied, based on the evidence before it, that Mr Burton's improper conduct did not include any aggravated feature under Rule E3(2).

### **Previous Disciplinary Record**

The Commission sought Mr Burton's previous disciplinary record. The Secretary advised the Commission that Mr Burton had no previous matters or charges on his record.

### **The Sanction**

The Commission noted the relevant Disciplinary Regulations.

Mr Burton addressed the Commission on sanction and reminded them of his contrition, early admission, clean record, his long service as a referee. He was aware of the damage to his reputation as a referee.

The Commission duly noted Mr Burton's representations regarding sanction.

After taking all aggravating and mitigating features present, the Commission assessed the charge and imposed the following sanctions:

- (1) A fine of £20 (twenty pounds);
- (2) A suspension of 14 days from the date of the hearing from any/all football related activity.

The decision of the Commission is subject to the right of appeal under the relevant FA Rules and Regulations.

**Commission**

John Murphy - Chair

Brian Hurst

Bill McKnight

5 September 2019