

# **Football Association Disciplinary Commission**

## **The Football Association on behalf of Surrey FA**

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### **Behar Zenuni – Case ID: 10910922 M**

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#### **WRITTEN REASONS**

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1. This is a hearing summary and includes written reasons for the decision of the disciplinary commission (the commission) which sat alone on Monday 17<sup>th</sup> October 2022.
2. The commission was a non-personal hearing chaired by Bill Stoneham (National Serious Case Panel).
3. The following is a written record of the main points considered by the commission. It is a summary of the main evidence presented and is not intended to refer to all the points made in the evidence presented. The absence in these reasons of any particular point, or piece of evidence, should not imply that the commission did not consider any such point or evidence. For the avoidance of doubt, the commission carefully considered all the evidence that was submitted.
4. The charges in question arose following a friendly fixture between Albo United FC First (the club) v Kaizen FC First (the opposition) played on Sunday 4<sup>th</sup> September 2022.
5. Surrey FA issued a charge letter dated 29<sup>th</sup> September 2022. In this letter, it is alleged that Behar Zenuni (club player) used threatening and/or abusive, and/or indecent and/or insulting language/behaviour contrary to FA Rule E3.1 and it is further alleged that this constitutes Threatening Behaviour Against a Match Official as defined in FA Regulations. This refers to the allegation that at the end of the fixture, Behar Zenuni, the captain of Albo United FC, said to the referee: 'If I see you referee another game for us, I will punch you in the face', or similar.
6. Surrey FA provided the following evidence in relation to the charge:

- I. A misconduct report form dated 4<sup>th</sup> September 2022 submitted by Timothy Pinkney (the referee);
  - II. a statement submitted on 19<sup>th</sup> September 2022 by the player;
  - III. various emailed correspondence between the referee and Surrey FA. These emails were dated 5<sup>th</sup> and 6<sup>th</sup> September and were primarily enquiring about the referee's welfare;
  - IV. an email dated 14<sup>th</sup> September sent by Jack Marney (opposition secretary);
  - V. e mails sent by the Surrey FA dated 5<sup>th</sup>, 14<sup>th</sup> and 20<sup>th</sup> September sent to Mikel Ademi (club secretary) seeking further information about the reported incident at the end of the game.
7. The commission reminded itself that the burden of proving a charge falls upon Surrey FA.
8. The applicable standard of proof required for this case is the civil standard of proof, namely the balance of probability. This standard means that the commission would be satisfied that an event occurred if it considered that, on the evidence presented it was more likely than not to have happened.
9. The assessment of the evidence in such cases is entirely a matter for the commission. The commission must assess both the credibility and the reliability of the evidence placed before it.
10. The commission carefully studied the submitted evidence. The following points were noted:
- I. The referee is clear about what was said to him. He added that the comments left him feeling 'anxious'. He was certainly sufficiently perturbed by what happened that he did not seek his match fee from the club, choosing instead to make a quick retreat from the ground. In a later email, the referee says that the player's actions made him feel 'uncomfortable';
  - II. The email submitted by the player is of little help. He states: 'I don't remember quite well what happened...' He does add that he was unimpressed with the referee's performance but does say that he thanked the referee. The player believes that the situation has been 'blown out of proportion'. He offers no reasons for the non-payment of the referee's fee. The player does not offer an account of what took place following the final whistle. He does not report any dialogue between himself and the referee;
  - III. the response from the opposition is a purely factual statement that they were aware of 'a conversation' between the referee and some players and members of the club's management team, but they did not hear what was said;

- IV. Surrey FA made several attempts to seek further comments from the club, including asking for a formal response to the Rule E3.1 charge, but no replies were received;
  - V. no other evidence was presented for consideration.
11. In an occurrence such as this, where no formal response is received, it is deemed that the player is offering, by default, a plea of not guilty.
  12. Based on the balance of probability, the commission deduced that there is sufficient evidence to indicate that the case against the player is proven. The commission accepts that the player used threatening behaviour against a match official.
  13. In reaching this decision, the commission recognised that with the case being dealt with by way of correspondence, the commission was unable to evaluate the evidence through questioning of the witnesses. Thus, it could only consider each witness's account against the totality of the documentary evidence submitted.
  14. The lack of a more detailed and specific response from the player and the complete lack of a response from the player's club, was deemed unhelpful.
  15. Having found the case proven, the commission requested, and was duly provided with the player's offence history for the previous five years.
  16. The player's disciplinary record is exemplary with no misconduct recorded prior to this game.
  17. As neither the player, nor his club had responded to the Surrey FA, the only mitigation that could be offered was the player's exemplary disciplinary record.
  18. The aggravating factors included the fact that the referee was made to feel 'uncomfortable' by the experience, and that he was not sufficiently confident about his safety to collect his match fee. The commission deduced that the threat made was serious and worrying, though there is no indication from the referee's report of the tone of voice used by the player.
  19. As the charge was denied by the player by default, though this does not increase the sanction, the commission was unable to afford any credit that might have otherwise been available.
  20. For a proven charge of this nature, FA Regulations state that a suspension from all football activity for a period of between 112 days and two years shall be imposed. The Regulations further state: 'Suspension from all football activities for a period of between 56 days and 182 days. The recommended entry point, prior to considering any mitigating or aggravating factors is 112 days. A fine of up to £100, with a mandatory minimum fine of £50. An order that the participant completes an education programme before the time-based suspension is served.'

21. Having considered all the facts in this case, the decision of the commission is that **Behar Zenuni** is:

- I. **Suspended from all football activity for a period of 126 days. This sanction is in addition to any sanctions arising from this fixture that may have already been imposed by the player's club or by Surrey FA. This sanction is calculated thus: entry point of 112 days minus 14 days for the player's exemplary record, plus 28 days for the type of threat made and the discomfort caused to the referee;**
- II. **fined a sum of £75-00;**
- III. **warned as to his future conduct;**
- IV. **ordered to complete an online education programme before the time-based suspension is served. Failure to comply with this order will result in a sine-die suspension being issued against Behar Zenuni until he has fulfilled this order in its entirety;**
- V. **ten disciplinary penalty points shall be recorded against the club.**

22. There is a right of appeal against this decision in accordance with the relevant provisions set out in the Rules and Regulation of the Football Association.

Bill Stoneham

Chairperson

17<sup>th</sup> October 2022