

FA NATIONAL SERIOUS CASE PANEL

DISCIPLINARY COMMISSION

CHAIRMAN SITTING ALONE

on behalf of Surrey Football Association

CORRESPONDENCE HEARING

of

DONNY WILKINS

ALFLECTICO MADRID

[Case ID: 10955662M]

THE DECISION AND REASONS OF THE COMMISSION

Introduction

1. On 2nd October 2022, Alfectico Madrid (“the Club”) played a fixture against Surbiton Town 1st (“Surbiton”) – collectively the “Match”.
2. The Match Referee, Mr Neil Rolland, reported the conduct of Mr Donny Wilkins (“DW”) a player for the Club.
3. Surrey Football Association (“Surrey FA”) investigated the reported incident.

The Charge

4. On 19th October 2022, Surrey FA charged DW:
 - 4.1. with misconduct for a breach of FA Rule E3 - Improper Conduct against a Match Official (including threatening and/or abusive language/behaviour) in that it is alleged that Donny Wilkins 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 by FA Regulations. This refers to the allegation that after being shown a red card for foul & abusive language, threatened the Referee by saying to him “I will fucking do you afterward” or similar which resulted in the abandonment of the Match.

5. The relevant section of FA Rule E3 states:

“E3.1 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.”

6. Threatening Behaviour against Match Officials is defined, under *Offences Against Match Officials*, as:

“96.1 Threatening behaviour; words or actions that cause the Match Official to believe that they are being threatened. Examples include but are not limited to: the use of words that imply (directly or indirectly) that the Match Official may be subjected to any form of physical abuse either immediately or later, whether realistic or not; the raising of hands to intimidate the Match Official; pretending to throw or kick and object at the Match Official”.

7. DW was required to respond to the charge by 26th October 2022.

The Reply

8. On 20th October 2022, DW responded to the charge via the Whole Game System, denying the charge and he requested the case to be dealt with in his absence at a Correspondence Hearing.

The Commission

9. The Football Association (“The FA”) appointed me, Karen Hall, as a Chairman member of National Serious Case Panel, to this Discipline Commission as the Chairman Sitting Alone to adjudicate in this case.

The Hearing & Evidence

10. I adjudicated this case on 24th October 2022 as a Correspondence Hearing (the “Hearing”).
11. I had received and read the bundle of documents prior to the Hearing.

12. The following is a summary of the principal submissions provided to me. 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 I did not take such point, or submission, into consideration when I determined the matter. For the avoidance of doubt, I have carefully considered all the evidence and materials furnished with regard to these cases.
13. The Match Referee, Mr Neil Rolland, submitted a Report, dated 2nd October 2022 in which he stated that in the 70th minute of the Match he warned DW about his persistent infringement of the laws of the game, with his captain present. In the 75th minute DW committed a careless tackle and after being cautioned for persistent infringements of the laws of the game and sent to the sin bin for dissent for saying "you're fucking useless" after the caution he turned towards Mr Rolland and said "you're a fucking racist cunt". Mr Rolland showed RW a red card and dismissed him from the field of play. RW left the field of play and then returned saying to Mr Rolland "I will do you afterwards". Mr Rolland considered this a threat and walked away. RW approached him again and said that he was "shit" and acting aggressively. At this point Mr Rolland collected the ball and advised that the game would not be restarted. He also advised that if RW approached him again he would call the Police.
14. Mr Dan Shortt, a player for Surbiton provided a Statement dated 3rd October 2022 in which he states that after getting a yellow card "the player was getting in the face of the referee in a threatening manner and questioning his decision. He goes on to say that he (the player) received a red card but refused to walk away. He describes the player as making threats of violence but states that he did not hear these first hand.
15. Mr Sam Gaynor, an official for the Club, provided an undated Statement in which he states that he was running the line during the Match. He saw DW get a yellow card for a challenge that he felt was fair. He saw DW say something to the Referee but states that he could not hear what was said. He notes that DW was then sent to the sin bin and again said something to the Referee but that he does not know what that was. This resulted in him being shown the red card and the game being abandoned. When Mr Gaynor queried this with the Referee, he advised that he had been threatened by DW.
16. Ms Kelly Hillard, a spectator for the Club, provided an undated Statement in which she states that in the second half of the Match a challenge was made by a Club player (DW) which was flagged up by the Referee. She says that the player apologised to the Referee and the offended player. She goes on to say that play continued, and the player was then stopped again after a foul which she feels was fair. She says that the player received a yellow card and questioned the Referee's decision. The Referee then changed the card to red. Ms Hillard says that no one could understand the decision made and that she together with both sides management, players and spectators tried to speak to the Referee but he did not want to talk to them. She describes that the player who was dismissed was "irrational and completely stunned...clearly upset and did try to converse with the referee".
17. Ms Hillard concludes by saying that she *saw* (emphasis added) no evidence that the Referee was threatened in anyway.
18. That concluded relevant evidence in this case.

Standard of Proof

19. The applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, I would be satisfied that an event occurred if I considered that, on the evidence, it was more likely than not to have happened.

The Findings & Decision

20. It was noted that DW had responded to the charge via the Whole Game System, denying the same.
21. In respect of the Charge against DW, Regulation 96.1 states *“Threatening behaviour; words or actions that cause the Match Official to believe that they are being threatened. Examples include but are not limited to: the use of words that imply (directly or indirectly) that the Match Official may be subjected to any form of physical abuse either immediately or later, whether realistic or not; the raising of hands to intimidate the Match Official; pretending to throw or kick and object at the Match Official”*.
22. In response to the Charge, DW provided a Statement in which he says that he did give away a couple of fouls but he apologised every time. In the second half he says that he made a strong challenge and was shocked to receive a yellow card for it so he questioned the Referee. He was then sin binned to which he said “it was a joke” and the Referee sent him off. He goes on to say that he was then led away by management and players as they could see he was “very upset and angered” by the decision.
23. The evidence from Mr Rolland is that in the 75th minute DW committed a careless tackle and after being cautioned for persistent infringements of the laws of the game and sent to the sin bin for dissent for saying “you’re f***ing useless” after the caution, he turned towards Mr Rolland and said “you’re a f***ing racist c***”. Mr Rolland showed RW a red card and dismissed him from the field of play. RW left the field of play and then then returned saying to Mr Rolland “I will do you afterwards”. Mr Rolland considered this a threat and walked away.
24. The evidence from Mr Shortt is that on receiving the red card, DW did not walk away and although he didn’t hear what was said, he describes DW as getting “in the face of the Referee.
25. Mr Gaynor’s evidence is that after the red card he saw DW say something to the Referee, which resulted in the Match being abandoned. Ms Hillard says that she *saw* (emphasis added) no evidence that the Referee was threatened in anyway, but she doesn’t say what she *heard*, if anything.
26. In order to find this charge proven, I have to be more satisfied than not that the threat alleged was made.
27. I found the evidence of the Match Official to be wholly credible and consistent, his Report being made the day of the incident. This is corroborated by the evidence of both Mr Shortt (seeing DW getting in the face of the Referee) and Mr Gaynor (who saw something being said after the red card was shown). On that basis, the charge against DW namely misconduct for a breach of FA Rule E3 – Improper Conduct against a Match Official (including threatening and/or abusive language/behaviour) is found to be PROVEN.

Previous Disciplinary Record

28. After finding the charges proven, I sought the participants offence history. I note that DW has no other E3 charges in the preceding five years.

Mitigation

29. There is no mitigation within the bundle from DW.

The Sanction

30. In respect of the charge, the relevant FA Disciplinary Regulations on sanction (Regulation 101.7.1) states that in respect of this charge a sanction of a suspension from all football activities for a period of between 56 days and 182 days. There shall also be an order that the participant completes an education programme before the time based suspension is served.
31. Regulation 102 provides factors to be considered when determining sanction. In that regard I note that the threatening behaviour left the Match Official feeling as if he had been threatened and the Match was abandoned. There is no apology offered. I do note the previous disciplinary record.
32. After taking into consideration all the circumstances in this case, Mr Wilkins is:
- 32.1. to serve an immediate suspension from all football and football activities for 112 days;
 - 32.2. fined a sum of £75 (seventy pounds);
 - 32.3. to satisfactorily complete an online mandatory education programme before the time-based suspension is served, or Mr Wilkins be suspended until such time he successfully completes the mandatory education programme, the details of which will be provided to him; and
 - 32.4. 8 (eight) Club Disciplinary Points to be recorded.
33. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed...

Karen Hall F.C.Inst.L.Ex (Chairman)

24th October 2022